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Briefings on How To Use the Federal Register—
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WHO: The Office of the Federal Register.

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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.,

WHERE: 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

Contents

Federal Register

Vol. 51, No. 205

Thursday, October 23, 1986

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 51, No. 205
Thursday, October 23, 1986

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Farm Credit System; Effective Date for Merger, Consolidation, Territory Transfer, Conservatorship, and Receivership Provisions

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published amendments to regulations under Part 611 that relate to the topics of mergers, consolidations, territory transfers, conservatorships, and receiverships. These regulations implement a number of sections of the Farm Credit Act of 1971 which were amended by the Farm Credit Amendments Act of 1985.

The final rule was published in the September 12, 1986 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (51 FR 32431). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was October 13, 1986.

EFFECTIVE DATE: The amendments to Part 611, published at 51 FR 32431, September 12, 1986 are effective October 13, 1986.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020.

(Sec. 5.17 (9) and (10), Pub. L. 92-181, as amended by Pub. L. 99-205, 12 U.S.C. 2252(a) (9), (10))

Frank W. Naylor, Jr.,
Chairman, Farm Credit Administration.

[FR Doc. 86-23884 Filed 10-22-86; 8:45 am]
BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 740, 741 and 745

National Credit Union Share Insurance Fund; Advertising, Requirements for Insurance, and Clarification and Definition of Account Insurance Coverage

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA insures accounts of all federally-chartered and many state-chartered credit unions. These revised rules incorporate current practices and clarify and update the current regulations governing advertising, requirements for insurance, and clarification and definition of account insurance coverage. In addition, an Appendix has been added to Part 745 of the regulations. The Appendix sets forth examples of share insurance coverage on various types of accounts.

EFFECTIVE DATE: December 22, 1986.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance, or James J. Engel, Deputy General Counsel, at the above address or telephone: (202) 357-1065 (Mr. Riley) or (202) 357-1030 (Mr. Engel).

SUPPLEMENTARY INFORMATION:

Background

On April 25, 1986, (See 51 FR 16710, May 6, 1986) the NCUA Board issued proposed amendments to Parts 740, 741 and 745 of its Rules and Regulations. These three parts of the regulations are all related to Federal share insurance. The proposed changes to the regulations were made with a view toward clarification and simplification. An Appendix was added to Part 745 of the regulations to provide examples of the insurance coverage provided by the National Credit Union Administration.

A total of forty-one public comment letters was received on the proposed rule. Comment letters were received from: Two credit union trade associations, 1 bankers' trade association, 2 state credit union leagues, 2 share insurers, 1 share insurers' trade association, the Department of the Interior, the Mississippi Department of Banking, the Association of State Credit Union Supervisors, 21 Federal credit unions (FCU's), and 9 state-chartered credit unions. Overall, the comments were favorable. Several commenters specifically noted their approval of the clarity and comprehensiveness of the proposed regulations. They believe that the proposed rules are appropriate and will be better understood by credit unions than the existing rules. Many commenters also noted their approval of adding the Appendix to Part 745 of the Regulations and asked that the brochure, "Your Insured Funds" be updated as well. NCUA's Office of Examination and Insurance will update the brochure in the near future. The following is a discussion of the changes in the final rule and specific comments on the proposed rules. Individual provisions not specifically addressed herein appear as they did in the proposed rules.

Part 740—Advertising

Proposed Part 740 generated less comment than the other two regulations. Overall, commenters were satisfied with the proposed changes. The proposed rule revised the title of this Part from "Advertisement of insured status" to "Advertising" since a federally-insured credit union's advertising in general, as well as advertisement of its federally-insured status, is covered. Only one commenter mentioned this change of title and the commenter supported it. The final rule reflects the change in title.

The issue that generated the most comment was whether NCUA *or* NCUSIF should be used in the rules and in the official sign and advertising statement concerning insurance coverage. Commenters were fairly evenly split on their preferences. Thirteen commenters favored use of NCUA while eleven preferred use of NCUSIF. Commenters in favor of NCUA noted that members are already familiar with NCUA, it is readily identifiable,

and already accepted. Those commenters that preferred use of the NCUSIF in advertising believed that it was more appropriate because the word *insurance* appears in the acronym. They also believed that NCUSIF is more consistent with the other Federal insurers (FDIC and FSLIC) than NCUA. In view of the existing familiarity with and acceptance of NCUA, and the costs and educational efforts involved in making a change, the Board has determined that "NCUA," which is used in the current regulation, should continue to be used in federally-insured credit union advertisements. Accordingly, the term "NCUA" has been retained throughout the final rule.

Other comments received on the various sections of Part 740 are addressed below. No specific comments were received on section 740.0—Scope. That section has been adopted as proposed.

Section 740.1—Definitions

The definition of "account" has been modified in response to a commenter's request. The commenter noted that the definition should not be limited to members only, as certain nonmember accounts will also be insured. The definition has been modified to include "other credit unions, public units, and nonmembers where permitted under the Act." The last reference is to the authority for credit unions serving predominantly low-income members to accept shares from nonmembers. (See sections 101(5) and 107(6) of the FCU Act, 12 U.S.C. 1752(5) and 1757(6).) In addition, the language "as determined by the Board in the case of insured state credit unions" has been added to "or their equivalent under state law." The same definition is also used in section 745.1(a).

The definition of "insured credit union" has been changed from "a credit union insured by the National Credit Union Share Insurance Fund" to "a credit union insured by the National Credit Union Administration (NCUA)," since advertising now refers to NCUA, rather than the National Credit Union Share Insurance Fund (NCUSIF), as explained above. In accordance with that change, the definition of NCUSIF has been dropped from the regulation.

Section 740.2—Accuracy of Advertising.

This section establishes a standard for federally-insured credit unions of accuracy in advertising and in other representations concerning services and financial condition. A proposed addition to this section would have required that any advertising of account insurance provided by a party other than NCUA state, among other things, that the insurer has no affiliation with NCUA or the Federal government. Some commenters felt that this requirement carried a negative implication suggesting that private insurance is of poor quality. This was not the Board's intention. Rather, it was intended to eliminate any possible confusion concerning NCUA's connection with or backing of other forms of insurance. To address the commenters' concerns, the final rule has been revised to require that advertising of non-NCUA insurance "avoid any statement or implication that the carrier is affiliated with NCUA or the Federal government." Also, the final rule has been revised to clarify that the specific requirements with respect to account insurance do not apply to so-called "life savings". insurance or similar forms of life or disability insurance. The requirements are directed at excess insurance which, in the event of the credit union's liquidation, insures payment of amounts in excess of the $100,000 per member account insured by NCUA.

Section 740.3—Mandatory Requirements With Regard to the Official Sign and its Display

This section did not generate much comment. Two commenters thought that requiring the official sign at every window is an unnecessary burden. Any burden is, however, minimized by the fact that the signs are supplied to insured credit unions by the NCUA. Further, this is a longstanding requirement that helps to maintain a high level of confidence among credit union members. Another commenter believed that the color requirement for the official sign was unnecessary. NCUA believes that the blue and white official sign, which is only required to be displayed at each station or window where insured account funds are normally received, is a useful requirement. The blue and white signs are familiar to credit union members. Again, the official signs are supplied by NCUA to all federally-insured credit unions.

The last sentence of proposed section 740.3(a) has been deleted in the final rule. This sentence dealt with variations in official signs used at the credit union. Similar information is found in section 740.3(b)(2) of the proposed rule that applies to variations in signs. Section 740.3(b)(2) has been clarified in the final rule to apply to all signs except official signs (those on display at each station or window).

Section 704.3(c) has been modified essentially as proposed. This Section deals with receipt of payments on shares at tellers' stations or windows where shares are also received by non-NCUA insured credit unions (e.g., at a credit union service counter). According to the current rule, all NCUA-insured credit unions must be listed at each such teller station or window under a notice reading "only the following credit unions serviced by this facility are insured." Obviously, this statement is inaccurate and misleading to the extent that the other credit unions are insured by one of the private, cooperative insurers. To correct this discrepancy, the rule has been revised to require a notice that "only the following credit unions serviced by this facility are federally-insured by the NCUA." As is presently the case, the notice must be placed above or beside the official NCUA sign at each teller station or window. The Board does not intend this requirement, as suggested by one commenter, to carry any implication that other forms of insurance are unsafe and the Board does not believe it will be so construed. Rather, the notice is simply designed to clarify that not all of the credit unions are insured by NCUA. It does not limit the ability of other credit unions to post notices concerning the nature and extent of other insurance coverage.

Section 740.4—Mandatory Requirements With Regard to the Official Advertising Statement and Manner of Use

The preamble to the proposed rule asked for comments on the official advertising sign discussed under section 740.3. The suggestion was made in the preamble that the official sign be modified to include the words "federally-insured." All commenters that addressed this issue agreed that both the official sign and the official advertising statement should reflect that savings and are *federally*-insured in order to make members aware that NCUA insurance is connected with the Federal government. Accordingly, both the official sign and statement have been amended to include reference to Federal insurance.

There were four additional commenters who specifically mentioned section 740.4. Two mentioned the overstamp requirement of section 740.4(a)(2). The proposed rule, taken from section 740.4(a)(3) of the current rule, stated that where advertising copy on hand did not contain the official statement, an overstamp could be used for 6 months or until supplies were exhausted, whichever occurred first. One commenter thought the overstamp would be confusing to members. Another thought there should be a

certain time period before the overstamp was required and thought that six months was not enough time once its use was required. One other commenter believed that a credit union should be able to deplete its existing stock of advertisements before any new advertisements are required to be used. The final rule has been modified slightly from the proposed rule. The six-month limit on the use of the overstamp has been removed. Credit unions may now use an overstamp or modify their advertisements in some other manner until their outdated supplies are exhausted.

Part 741—Requirements for Insurance

The phrase "Voluntary Termination or Conversion of Insurance" has been dropped from the title of this Part. Proposed section 741.9, which was entitled "Notice of voluntary termination or conversion of insurance" has been deleted from this Part and will be contained in a proposal to amend Part 708 of the NCUA Rules and Regulations, which currently deals with mergers. Revised Part 708 will address mergers, conversions of insurance, and voluntary termination of insurance. The Board presently plans to issue proposed Part 708 at its November, 1986 open meeting.

Unlike Part 740, which involves communication with members, Part 741 relates to a credit union's insurance relationship with NCUA and the NCUSIF. The use of the term "NCUSIF" in the regulation will not cause member confusion and therefore it has been retained.

Part 741 generated more comments than Parts 740 and 745. Generally, however, the commenters were in favor of the proposed changes. No specific comments were received on sections 741.0 and 741.1, the Scope and Fidelity bond requirements sections, and no changes have been made to these two sections in the final rule.

Section 741.2—Minimum Period for Verification of Accounts

This section, which is carried over from the current rule, requires that verification be made of member accounts by the supervisory committee when a credit union applies for Federal insurance. Two commenters addressed this section. The first commenter noted that, because many credit unions have nonmember (e.g., public unit) accounts, verification should not be limited to just member accounts. The Board agrees and an appropriate change has been made in the final rule. The second commenter noted that not all federally-insured state-chartered credit unions (FISCU's) have supervisory committees. The final rule has been modified by deleting the words "supervisory committee." This places the requirement for verification on each credit union itself. It is the NCUA Board's understanding that, in most instances, the verification will be made by either the supervisory committee or an outside auditor. As noted in the regulation, methods of verification are set forth in Section 701.12(e) of NCUA's Rules and Regulations. One additional modification has been made to this section in the final rule. The reference to "treasurer" in the proposed rule has been changed to "financial officer" to reflect the current usage in the FCU Act.

Section 741.3—Maximum Borrowing Authority

This section, which is also carried over from the current rule, limits the borrowing authority of credit unions making application for Federal insurance. Only one comment was received on this section. The commenter suggested that we define "paid in and unimpaired capital and surplus" in the regulation. "Paid in and unimpaired capital and surplus" means shares and undivided earnings plus net income or minus net loss and that language has been added as a parenthetic. For Federal credit unions, a more detailed definition of the term is found in Article XVIII of the Standard Federal Credit Union Bylaws.

Section 741.4—Examination

This section, which is new, restates NCUA's statutory authority to examine any insured credit union or credit union making application for Federal insurance. Ten commenters addressed this new section of the regulation. Four commenters thought that an NCUA examination of insurance applicants should be mandatory. One other commenter thought an examination should be mandatory for all applicants with more than $5 million in assets. The reasons given for mandatory examinations were those of safety and soundness and protection of the share insurance fund. It should be noted, however, that NCUA utilization of state examinations, to the maximum extent feasible, is a requirement of the FCU Act. (See section 201(b)(1), 12 U.S.C. 1781(b)(1).) Additionally, it is not possible for NCUA to perform a detailed on-site examination of all insurance applicants in addition to examining all FCU's on a yearly basis. Hence, state examinations are relied upon to the maximum extent possible. The NCUA Regional Directors have the responsibility of determining the need for an NCUA examination. In practice, examinations are performed on most insurance applicants with assets in excess of $5 million.

Several commenters also mentioned the issue of fees for examinations. Most agreed that credit unions applying for NCUA insurance should pay for the examination since the credit union would be obtaining the benefits of NCUA insurance and, as another commenter stated, other credit unions should not be forced to absorb that cost. One commenter asked what triggers the fee and requested that some criteria for fees be set forth. NCUA's current policy is as follows. All insurance applicants are required to pay a nonrefundable $150 application processing fee. If the credit union applicant is examined by the NCUA, it is assessed a $40 per hour examination charge. Thus, neither the NCUA, the NCUSIF, nor any other federally-insured credit union bears the cost of processing an insurance applicant. The applicant bears the entire cost of application and examination. These fee amounts have not been set forth in the regulation, however, inasmuch as they must be reevaluated on a continuous basis and are subject to change if NCUA's costs change.

The provision concerning fees has been revised in the final rule to clarify that it is limited to insurance applicants. It is currently not NCUA's practice to assess specific examination fees in connection with examination of credit unions that are already NCUA insured.

Section 741.5—Criteria

This section of the regulation sets forth the criteria NCUA will use in determining whether or not a credit union will be granted Federal insurance. Nine commenters addressed the various criteria outlined in this section.

The most comments were received on § 741.5(a)—adequacy of reserves. The Board has revised this section, as proposed, to clarify what is required by the current insurance agreement with all state-chartered federally-insured credit unions, i.e., that the credit union meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on Federal credit unions by the FCU Act and NCUA's Regulations, and that credit unions establish an additional reserve for any investments not authorized for FCU's under the FCU Act and NCUA's Regulations. These are basic and longstanding safety and soundness standards that are established as a condition of NCUA insurance and are designed to control the risk to the Insurance Fund. Seven commenters suggested that the

requirement for special reserves for FISCU's should be made applicable to nonconforming loans as well as nonconforming investments. The NCUA Board has not expanded the applicability of the reserves requirement to include nonconforming loans. It should be noted, however, that in the area of member business loans, the Board has recently proposed a regulation that would apply to both Federal and state-chartered federally-insured credit unions. (*See* 51 FR 23234, June 26, 1986.) Any further regulation of loans at this time would contradict the comment process on that proposal. One last commenter suggested a minor modification to this subsection. The proposed rule referred to special reserves for FISCU investments "not authorized in the FCU Act." The commenter suggested that it would be more appropriate to look to both the FCU Act and NCUA's investment regulation in determining whether a special reserve is required. (*See* 12 CFR 703.) The Board agrees and this point has been clarified in the final rule.

Two commenters addressed subsection 741.5(b)(1) which concerns unfavorable trends that may warrant a finding of uninsurability. The first commenter stated that criterion (b)(1) which includes insufficient funds "to permit payment of a nominal dividend" may be an inaccurate criterion. The commenter reasoned that if a credit union is only capable of paying a nominal dividend for several quarters, it is likely to suffer an outflow of shares and NCUA may not want to insure such a credit union. The NCUA Board agrees with the commenter's reasoning but does not believe that there should be a requirement for payment of more than a nominal dividend. NCUA's concern is with a high expense ratio that would prohibit the payment of any dividends.

The second commenter believes that the NCUA does not take into account temporary economic problems, labor problems, etc., so that this criterion is incomplete. This subsection deals with unfavorable trends inherent within a credit union, not external problems such as economic fluctuations. The presence of unfavorable trends due to temporary economic problems could be evaluated under § 741.5(d) regarding undue risk to the NCUSIF. Accordingly, subsection 741.5(b)(1) has not been revised and it appears in the final rule as it did in the proposal.

Subsection 741.5(b)(2) addresses the importance of written lending policies in determining insurability. One commenter requested that a reference be added to subsection (b)(2) to give FISCU's guidance on their lending policies. The current regulation refers to Chapter V of the *Credit Manual for FCU's*. This reference was deleted in the proposal because the Credit Manual is out of date and out of publication. NCUA staff is developing a new Officials Handbook that will be distributed to all federally-insured credit unions upon completion. Reference to the Handbook in the regulation at this time, however, would obviously be inaccurate and inappropriate. A second commenter asked about the applicability of this criterion to unsecured loans since only secured loans are specifically mentioned in the subsection. The proposed subsection required "existence of written lending policies." This applies to both secured and unsecured loans. The subsection goes on, though, to discuss certain aspects of documentation of secured loans.

Various other comments were received on the criteria section. Two commenters noted that § 741.5(c) contains a reference to future adherence to the law ("must adhere to provisions of applicable law . . ."). Since this is a review to determine insurability, NCUA can only look to past adherence to the law, the commenter reasoned. NCUA has modified the language in this section slightly in response to the comments. The phrase "must adhere to" has been deleted and has been replaced with "must have conducted its operations in accordance with. . . ." The other requirements of this section (full and fair disclosure and reserve requirements) are future, rather than past, requirements. The final rule has been modified by clarifying that officials must agree to comply with those requirements. The requirements for full and fair disclosure and reserves are, as previously mentioned, also contained in the Insurance Agreement that all FISCU's enter into with the NCUA when they become federally insured.

Two commenters inquired about subsection 741.5(f) which describes the letter of disapproval of insurance applicants. They asked who issues the letter and whether or not it is appealable. The letter is issued by the Regional Director and any adverse decision is appealable to the NCUA Board. Under current practice, the appeal is presented to the NCUA Board by NCUA's Internal Auditor. Subsection 741.5(f) appears in the final rule exactly as it did in the proposed rule. These same two commenters objected to subsection 741.5(g) which gives the NCUA Board the authority to impose additional terms and conditions pursuant to the Insurance Agreement that FISCU's enter into with NCUA. Both thought it too broad and open-ended. The NCUA Board does not agree and thus has not modified this subsection. The Board believes that, for safety and soundness reasons, it must have the flexibility to modify the Insurance Agreement when warranted.

Proposed Section 741.6—Other Insurance or Guaranty

This proposed new subsection stated that excess insurance coverage would not affect the rights and priorities of the NCUSIF, and that NCUSIF would in fact have priority over all other insurers to a claim against credit union assets. Five commenters addressed this section and all were opposed. These commenters reasoned that private insurers who insure excess shares should have the same priority the members would have had if their excess shares were not insured. (Under current priorities the members would share on a pro rata basis with the NCUSIF.) The Board agrees and has deleted this proposal from the final rule.

New Final Section 741.6—Notice of Termination of Excess Insurance Coverage

Although not a section of the proposed regulation, the preamble requested comment on a requirement that credit unions notify their members of any termination of excess insurance coverage (coverage by insurers other than NCUA). Twelve commenters addressed this issue, all noting their approval. Reasons included that such a requirement is consistent with full and fair disclosure; that many members have accounts in excess of $100,000 only because of the excess coverage; and that such a notice will assist members in structuring their accounts. In light of these comments, the NCUA Board has added a section to Part 741 to require federally-insured credit unions with excess insurance coverage to notify their members if such excess coverage is terminated. This section is numbered 741.6 in the final rule and replaces proposed § 741.6 which was deleted as discussed above.

Section 741.7—Insurance Premium and One Percent Deposit

Section 741 sets forth the requirements for payment of the insurance premium and funding of a credit union's one percent deposit. It also provides an explanation of the method for the return of the deposit to any credit union withdrawing from the NCUSIF.

The definition of "Insurance year" contained in subsection 741.7(b)(i) of the proposal was amended on July 15, 1986, effective August 1, 1986. Although the definition is in subsection 741.5(b)(i) of the current regulations, it appears as subsection 741.7(b)(i) of this final rule.

Proposed section 741.7 did not vary substantially from the current section 741.7 and in general those who commented approved of the section. Some clarifying and technical revisions have been made as a result of suggestions by commenters. For example, section 741.7(b)(2)—Definition of insured shares, has been modified by deleting the clause "exclusive of amounts in excess of insurance coverage as provided in 12 CFR Part 745" and adding the exclusion as a separate sentence at the end of the subsection. "Nonmembers (where permitted under the Act)" has also been added to the list of accounts covered under this subsection. As in the case of the definition of "Account" in subsection 740.1, nonmember accounts are those authorized for low income FCU's. (*See* sections 102(5) and 107(6), 12 U.S.C. 1752(5) and 12 U.S.C. 1757(6).) Public unit accounts refer to those authorized under section 207(c)(2)(A) of the FCU Act, 12 U.S.C. 1787(c)(2)(A). The section has also been simplified by dropping the phrase "and, in the case of a federally insured state-chartered credit union, shall include deposit accounts of members, other credit unions and public units if authorized by state law," and by adding "or their equivalent under state law (which may include deposit accounts)" after the phrase "share, share draft, or share certificate accounts."

Section 741.7(e)—Redistribution of Fund Equity, is carried over without substantive change from the current rule. This section addresses the process whereby the Board declares a dividend "on each insured credit union's 1% deposit for years in which the Fund exceeds its normal operating level (1.3% of total insured shares) after payment of expenses and financial costs." The language of this section is, as noted by some commenters, not exactly the same as the language of the Act. While the section is designed to provide maximum flexibility to the Board, it, of course, is not intended to and does not alter in any way the requirements of the Act concerning the process for maintaining the Fund at its proper operating level.

One commenter believed that subsection 741.7(f)—Form 1308 should be modified. The commenter stated that Form 1308 is actually a bill and that the subsection should be reworded to reflect its true nature. Form 1308 has been replaced by two forms, Form 1304 for FISCU's and Form 1305 for FCU's. All federally-insured credit unions will now receive a precalculated invoice setting forth their insurance capitalization deposit based on insured shares as of the last call report. The invoice will also state the capitalization deposit adjustment; that is, whether there is an amount due to the NCUSIF or a refund due to the credit union. Form 1305 for FCU's also includes the operating fee computation. The NCUA examiner has the responsibility of seeing that each federally-insured credit union in his/her district receives its invoice. If a credit union does not receive the invoice, additional copies may be obtained from the appropriate Regional Office. Changes have been made to subsection 741.7(f) of the final rule to reflect current practice.

Lastly, one commenter inquired if subsection 741.7(j)—Return of Deposit—included mergers and consolidations. It does include mergers and consolidations and the final rule includes that clarification.

Section 741.8—Conversion to a State-Chartered Credit Union

This section requires FCU's converting to FISCU's to reapply for insurance. Seven comments were received on this section. Three approved of the section. One suggested an expedited review process. Another suggested that the Regional Director be able to waive reapplication if the credit union is a healthy one. The third commenter in favor of the reapplication was very positive and reasoned that reapplication was necessary due to the fact that some FCU's convert to state charters in order to escape close Federal supervision. Three commenters opposed the subsection reasoning that it produced a Federal bias and was detrimental to the dual chartering system. One of the commenters stated that the provision would produce a questionable distinction between involuntary insurance termination and discontinuance of insurance in connection with conversions. The last commenter, a state banking department, thought the provision unfair since Federal insurance is mandatory for all state-chartered credit unions in certain states.

The NCUA Board has determined to change this section. It is anticipated that in cases where an FCU wishes to convert to a FISCU, NCUA's Regional Directors will, based on prior Federal examinations and the historical data of the petitioning credit union, be in a position to determine if reapplication is necessary. Therefore, the section has been modified to provide that reapplication "may be required" rather than being mandatory.

Additionally, the second sentence of this section has been revised. In the proposal, if continued share insurance was not approved, the insurance would terminate on the day preceding the date on which the Federal credit union becomes a state credit union. Under the terms of the Act, though, if a state credit union terminates Federal insurance, share insurance remains in effect, with certain limitations on coverage, for a period of one year. The Act does not address termination of insurance by a Federal credit union because a Federal credit union must be federally insured. However, when a Federal credit union converts to a noninsured state credit union, the membership should be entitled to the same protection available when insurance is terminated since the effect is the same. Therefore, in order to provide consistency, section 741.8 has been amended to provide that if continued insurance for a Federal credit union converting to a state charter is denied, insurance will terminate in accordance with section 206(d) of the Act. Of course, if the credit union is to be insured by a private or mutual share insurer, NCUSIF insurance would terminate on the day preceding the effective date of that insurance.

Proposed Section 741.9—Notice of Voluntary Termination or Conversion of Insured Status

As noted in the outset of the explanation under Part 741, this section has been deleted in the final regulation.

Section 741.9—(Proposed Section 741.10) Financial and Statistical and Other Reports

No comments were received on this section, which is carried over from the current rule. It appears exactly as it did in the proposed rule. The section has been renumbered 741.9 in the final rule since proposed section 741.9 has been deleted.

Part 745—Clarification and Definition of Account Insurance Coverage and Appendix

Part 745 contains several definitions concerning account insurance, general principles applicable to such insurance, and specific sections on the various types of insurable accounts. An Appendix consisting of various examples of insurance coverage was added to the regulation in the proposed rule. Part 745 and the Appendix are addressed together in these explanatory

materials since all of the examples in the Appendix are related to one or more of the sections of Part 745 concerning account insurance. Overall comment on Part 745, and especially on the addition of the Appendix, was positive. Comments on each section are addressed separately below.

Section 745.0—Scope

One comment was received on this section. It was suggested that the Board add the words "represent equity and" following "share draft accounts" in the second sentence to clarify our position that shares in federally-insured credit unions represent equity and not debt. The suggested modification has been made in the final rule.

Section 745.1—Definitions

This section sets forth four definitions: account or accounts, member or members, public units, and political subdivision. The section generated little comment.

One commenter asked whether escrow balances for real estate and tax payments are included within the definition of account. Escrow accounts can be insured accounts pursuant to section 745.3(b) of this regulation. (Accounts held by agents or nominees.) For example, if a title company opens an account in a credit union to hold funds in escrow for a member of that credit union, that account would be aggregated with other single ownership accounts of the member and insured up to $100,000.

The definition of account has been somewhat modified. It is now consistent with the definition of account found in section 740.1(a) of the Regulations. (See previous discussion.) The definition of the terms "member" and "members" has also been modified. It now specifically mentions persons within the credit union's field of membership who have been elected to membership in accordance with the Act, or state law in the case of state credit unions. The other two definitions are unchanged from the proposed rule.

Section 745.2—General Principles Applicable in Determining Insurance of Accounts

As the title indicates, this section sets forth various principles applicable in determining account insurance. No specific comments were received on this section of the proposed rule. It is unchanged from the proposed rule.

Section 745.3—Single Ownership Accounts

This section is broken into four subsections. No comments were received on the first two subsections—those titled "Individual accounts" and "Accounts held by agents or nominees." These two subsections are unchanged from the proposed rule.

One commenter asked that we provide some clarification concerning custodial accounts addressed in subsection 745.3(c) of the proposal. Specifically, the commenter asked who must be the member (the custodian or the ward) in order to obtain insurance coverage on a custodial account. The final rule has been modified to clarify that either the party establishing the account, e.g., custodian, or the beneficiary, e.g., minor, may be the member. The custodial account is insured separately from any other accounts of the guardian, custodian, conservator, ward, or minor. In order to accommodate this change, section 745.3 has been reorganized: subsection 745.3(a) now addresses individual, agent and custodial loan accounts (those accounts are aggregated for insurance purposes); and subsection 745.3(b) covers custodian and guardian accounts (insured separately).

The same commenter questioned subsection 745.3(d)—Custodial loan accounts—and Appendix example A–7, concerning loan payments received from a member on a loan which the credit union services but has sold to a third party. The commenter suggested that the credit union takes on a fiduciary role once the funds due and paid are turned over to the credit union. This would seem to be a suggestion that a type of "special deposit" is established. "Special deposit" is generally one where the funds do not become the property or an asset of the institution receiving them, and do not represent capital or shares, but instead are the property of the party on whose behalf they are held. Thus, "special deposits" are not subject to the claims of the receiving institution's creditors. Subsection 745.3(d) states that loan payments received by an FCU prior to remittance to a third party will be considered as funds owned by the member/borrower and will be added to any individual accounts of the member/borrower and insured up to $100,000. This has been NCUA's longstanding position and is based on section 101(5) of the Act which includes such custodial accounts in the definition of "member account." Until funds are remitted to other parties, they remain insured as member's funds. Thus, subsection 745.3(d) is unchanged from the proposed rule.

Section 745.4—Testamentary Accounts

There was only one comment received on this section. The commenter requested clarification of insurance coverage for beneficiaries who are family members and those who are not. Section 745.4(b) states that if the named beneficiary is a spouse, child or grandchild of the owner of the account, the account will not be added to any other individual accounts of the owner but will be insured separately up to $100,000 for each beneficiary. The policy behind this additional insurance coverage is to encourage members to place additional funds in the credit union when the beneficiaries of the accounts are close family members. This subsection has been modified in the final rule to clarify that the account is also insured separately from any individual accounts of the beneficiary and that insurance coverage on the testamentary account is available regardless of the membership status of the beneficiary.

Section 745.5—Accounts Held by Executors or Administrators

Only one comment was received on this section of the regulation. The commenter asked who must be the member in order for this type of account to be insured. The commenter also asked how long such an account can remain insured and if the rule is the same for FCU's and FISCU's. It has been the NCUA Board's position that, for an estate account, the conditions are analagous to the establishment of an irrevocable trust account. When shares are issued in an irrevocable trust, the settlor or the beneficiary must be a member of the credit union. By analogy, in order to establish an estate account, either the decedent (analogous to the settlor) or the beneficiary (or all of the beneficiaries if more than one) must be a member of the credit union. The membership of the executor or administrator is irrelevant to establishing an estate account. This policy applies to FCU's. State law governs for FISCU's. The NCUA does not put a specific time limit on how long an estate account can remain open in the credit union. Estate accounts can remain open until the proceeds are distributed pursuant to state law. This section in the final rule is unchanged from the proposal.

Section 745.6—Accounts Held by a Corporation, Partnership or, Unincorporated Association

One commenter asked that "dba" (doing business as) accounts be addressed in this section or in the Appendix. The NCUA Board does not believe that such accounts need to be specifically addressed. The test for separate insurability under this section

is that the entity (whether it be a corporation, partnership or unincorporated association) be engaged in some independent activity other than one solely directed at increasing insurance coverage. The section is unchanged from the proposed rule.

Section 745.8—Joint Accounts

No comments were received on this section of the regulation. The last sentence of subsection 745.8(b), concerning time certificates of deposit and negotiable instruments, has been deleted. The sentence is generally inapplicable to credit union practices and as a result was unnecessary and confusing. A sentence has been added to subsection 745.8(c) to clarify that minors who do not have withdrawal rights under state law may be a joint owner on a joint account. This will not cause the joint account to be disqualified. The NCUA Board has added a subsection 745.8(f) entitled "Nonmember joint owners" for purposes of clarification. Subsection (f) sets forth NCUA's longstanding position that a nonmember joint owner does receive account insurance coverage provided the joint account is "with right of survivorship." Insurance coverage of nonmember joint owners is an NCUA policy decision based on an FCU's authority to issue shares in joint tenancy with nonmembers with right of survivorship (see section 109 of FCU Act, 12 U.S.C. 1759). Of course, one of the joint owners of the account must be a member of the credit union. A nonmember joint owner's insurance coverage is determined in the same manner as the member joint owner. In the event of the member co-owner's death, the account should be transferred to an account payable at the close of the current dividend period. Should an insurance payout occur between the member's death and the close of the dividend period, the account would receive insurance coverage. However, after the close of the current dividend period and the reversion to an account payable, the funds would not be insured. All other subsections are unchanged from the proposal.

There was one comment on Example F(5) of the Appendix. Example F(5) concerns joint accounts. In this example, A, B and C's names are listed on joint account number 7 with the right of survivorship. Account number 7 has a balance of $90,000. C has failed to execute a signature card for account number 7 and A has provided all the funds in the account. According to the answer in the example, all of the funds in account number 7 are treated, for insurance purposes, as individually owned by A. The commenter believed that B had an insurable interest in the account. Section 748.8(c) states that "an account owned jointly which does not qualify as a joint account for purposes of insurance shall be treated as owned by the named persons as individuals and the *actual* ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate." (Emphasis added.) Account number 7 does not qualify as a joint account for insurance purposes because C failed to execute a signature card. The funds will be insured as owned by individuals—the *actual ownership interest* will determine the amount of available insurance. Since A provided all of the funds for the account, the $90,000 will be aggregated with his/her other individual accounts and insured up to $100,000. Accordingly, no changes are made to the example in the final rule.

Section 745.9–1—Trust Accounts

No comments were received on this subsection of the regulation. Except for an added reference to the definition of trust interests, the subsection appears in the final rule as it did in the proposed rule.

Section 745.9–2—IRA/Keogh Accounts

Three commenters addressed this subsection which sets forth insurance coverage for IRA and Keogh accounts. The proposed subsection and preamble thereto clarified NCUA's position that IRA's are separately insured from Keoghs; that is, a credit union member that has both an IRA and a Keogh account is eligible for $100,000 insurance coverage on each account. One commenter indicated that insurance coverage for IRA's and Keoghs should be aggregated. The commenter reasoned that separate insurance coverage will give credit unions a competitive advantage over banks since the FDIC aggregates such accounts for insurance coverage. It has been NCUA's longstanding position that IRA and Keogh accounts receive separate insurance coverage. The NCUA Board does not believe that this has caused unfair competition and the rule has not been changed.

The second commenter inquired as to how long an IRA or Keogh account is insured after the member's death. The Standard FCU Bylaws indicate that such an account can be held for up to four years after the member's death (see Article III, section 5(e)). Hence, an IRA or Keogh account may remain in the credit union for up to four years after the member's death if the credit union has adopted the appropriate bylaw. State law would be applicable for state credit unions.

The third commenter asked why subsection 745.9–2(b) of the current regulation (which addresses payment of insurance to the trustee of an IRA or Keogh account upon liquidation of the credit union) was deleted in the proposed rule. This was an inadvertent deletion. Subsection 745.9–2(b) has been reinserted in the final rule with one "housekeeping change." The word "Administrator" has been changed to "NCUA Board."

One of the commenters also requested some discussion of the insurance limits on self-directed IRA accounts. In Interpretive Ruling and Policy Statement 85–1 (See 50 FR 48176, November 22, 1985), NCUA established that FCU's may act as trustees or custodians for members' self-directed IRA or Keogh accounts. However, insurance coverage is limited to funds held in share or share certificate accounts in FCU's. In the case of FISCU's authorized under state law to act as trustee or custodian for self-directed IRA or Keogh accounts, the same insurance coverage applies. Only those IRA and/or Keogh funds held in a FISCU share or share certificate account are insured by the NCUA. Explanatory language on insurance of IRA/Keogh accounts has been added to the Appendix. (See Section G of Appendix.) An example setting forth the insurance coverage of self-directed IRA's has also been added to the Appendix. (See example G–5 of Appendix.)

Section 745.9–3—Deferred Compensation Accounts

No comments were received on this subsection of the proposed rule. It is unchanged from the proposed rule.

Section 745.10—Public Unit Accounts

Three commenters addressed this section in their letters. One commenter noted that certain deposits should have been fully insured under the current regulation. The comment addressed an interpretation of the current rule, not the proposed rule, so it is not germane to this discussion. The second commenter stated that public unit accounts should be insured even if the depositor (e.g., local authority) does not have the authority to deposit the funds in the credit union (e.g., under state law). Section 207(c)(2)(A) of the FCU Act (12 U.S.C. 1787(c)(2)(A)) requires that the custodian for public unit funds be *lawfully investing* the funds in a federally-insured credit union to qualify for insurance coverage. The statutory requirement remains as a part of the

regulation. Unless public unit funds are lawfully invested in the credit union, they will not be insured. The last commenter inquired about Examples E (5, 6 and 8) of the Appendix. In Examples 5 and 6, custodians for public units are investing retirement funds where the beneficiaries of the retirement funds are not members of the credit union. Example 8 is similar but the funds are those of Indian tribes (also public units) and the individual Indians are not members of the credit union. In each example, funds are insured up to $100,000 per public unit, they are not insured per individual. The commenter asked if the results would be different if the individuals were each members of the credit union. If the individuals were each members of the credit union, their vested interests in the funds would be insured up to $100,000 per member as beneficiaries if the funds were set up pursuant to an irrevocable trust. (See section 745.9–1 and Example G–3.) Subsection 745.10 appears in the final rule as it did in the proposed rule.

745.11—Accounts Evidenced by Negotiable Instruments

No comments were received on this subsection. It is unchanged from the proposed rule.

745.12—Account Obligations for Payment of Items Forwarded for Collection by Depository Institution Acting as Agent

There was one comment on this proposed section. The commenter set out the following scenario and asked how NCUA would treat an analagous situation. Depositor X has a $100,000 jumbo certificate at an FSLIC-insured institution. An interest check was prepared by the institution for X on day 1. On day 2, X deposited the check in his own bank and on day 3 the FSLIC-insured institution was closed. FSLIC returned the check stating that any item drawn on an account which was in the process of collection on the date of default will be returned unpaid and added to the total amount that depositor X had in the institution. NCUA would treat the situation in the same manner as FSLIC. On the day that the institution was closed, the interest on the jumbo certificate was technically still in the account since the check was in the process of collection. Thus, the depositor had in excess of $100,000 in the account. Only $100,000 is insured.

This is distinguished, however, from the situation where member share drafts are involved. A depository institution that has honored share drafts and makes presentment of those drafts to the credit union after liquidation will be entitled to the insurance available on the share draft account in the amount of the draft. In effect, the institution stands in the shoes of the member as to that draft. The insurance then available to the member would be accordingly reduced. This would only apply during the period between liquidation and the final insurance payout. Share drafts presented after a final insurance payout has been made would be returned. Section 745.12 appears in the final rule exactly as it did in the proposed rule.

Section 745.13—Notification To Members/Shareholders

Two commenters addressed this notification section. Both asked what type of insurance notice would meet the requirements of the section. They inquired if placement of the brochure "Your Insured Funds" in the credit union and its branches was sufficient or if Part 745 of the regulations has to be placed in each office. The credit union should place a copy of Part 745, the Appendix, or copies of "Your Insured Funds" in each of its offices. The final rule has been modified to make this clarification.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that the final rule will not have a significant impact on a substantial number of small credit unions (primarily those under $1 million in assets). Further, these final rules are largely a clarification and simplification of the current rules. Accordingly, the Board has determined that a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Two new paperwork requirements were contained in the proposed rule and were submitted to OMB for approval. Both were granted approval by OMB. The first is found in § 740.2—Accuracy of Advertising. Federally-insured credit unions which offer or provide excess insurance coverage for their accounts must indicate the type and amount of such insurance, the name of the carrier, and a statement that the carrier is not affiliated with NCUA in all advertising that mentions account insurance. This paperwork requirement was inadvertently listed as § 741.6 instead of 740.2 in the Paperwork Reduction Act paragraph in the publication of the proposed rule in the **Federal Register.** This paperwork requirement has been approved for use through July 31, 1989. The OMB control number assigned is 3133–0098. An amendment will be made to Part 795 of NCUA's Rules and Regulations to reflect this new requirement (display of assigned OMB control numbers).

The second paperwork requirement was contained in § 741.9(b) of the proposed rule. It concerned notice of voluntary termination or conversion of insured status. Although the paperwork requirement received OMB approval, the section is deleted in the final rule. The notice requirement may be added to Part 708 of the NCUA Rules and Regulations. Appropriate notice of the requirement will be published at that time.

One additional paperwork requirement has been added in the final rule. Section 741.6 of the final rule requires that federally-insured credit unions notify their members when excess insurance coverage (non-NCUA) is terminated. This requirement only appeared in the preamble to the proposal. It was not submitted to OMB for clearance. It will be submitted to OMB with publication of the final rule. OMB action on the new requirement will be published in the **Federal Register** when it is received by NCUA. This requirement will not become effective until the approval of OMB is received. Any comments on this requirement should be forwarded directly to the OMB Desk Officer indicated below at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 208, Washington, DC 20503, ATTN: Robert Neal

List of Subjects

12 CFR Part 740

Credit unions, Advertisements.

12 CFR Part 741

Credit unions, Requirements for insurance.

12 CFR Part 745

Credit unions, Account insurance coverage.

By the National Credit Union Administration Board on October 15, 1986.

Rosemary Brady,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

1. Parts 740, 741 and 745 are revised to read as follows:

PART 740—ADVERTISING

Sec.

Sec.

Authority: 12 U.S.C. 1766, 12 U.S.C 1781, 12 U.S.C. 1789.

§ 740.0 Scope.

This part applies to all federally-insured credit unions. It prescribes the requirements with regard to the official sign insured credit unions must display and the requirements with regard to the official advertising statement insured credit unions must include in their advertisements. It also prescribes a general requirement that all other kinds of advertisements must be accurate.

§ 740.1 Definitions.

(a) "Account" or "accounts" as used in this Part means share, share certificate or share draft accounts (or their equivalent under state law, as determined by the Board in the case of insured state credit unions) of a member (which includes other credit unions, public units, and nonmembers where permitted under the Act) in a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member.

(b) "Insured credit union" as used in this Part means a credit union insured by the National Credit Union Administration (NCUA).

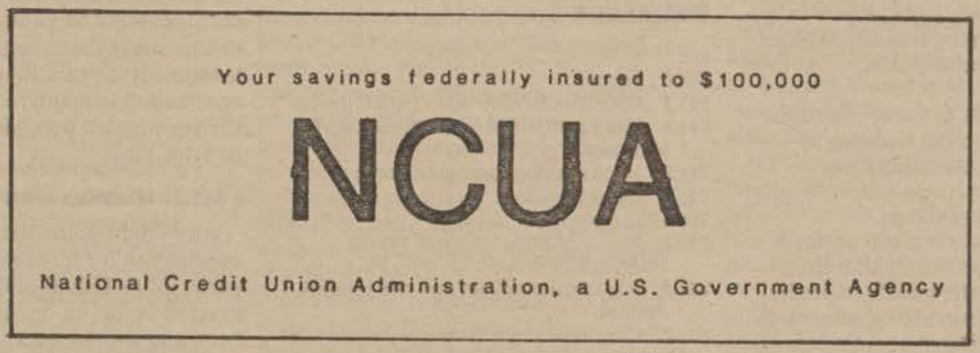
§ 740.2 Accuracy of advertising.

No insured credit union shall use any advertising (which includes print or broadcast media, displays and signs, stationery, and all other promotional material) or make any representation which is inaccurate or deceptive in any particular, or which in any way misrepresents its services, contracts, investments, or financial condition. Any advertising that mentions share or savings account insurance provided by a party other than the NCUA must clearly explain the type and amount of such insurance and the identity of the carrier, and must avoid any statement or implication that the carrier is affiliated with the NCUA or the Federal government.

§ 740.3 Mandatory requirements with regard to the official sign and its display.

(a) Each insured credit union shall continuously display the official sign described in paragraph (b) at each station or window where insured account funds or deposits are usually and normally received in its principal place of business and in all its branches 30 days after its first day of operation as an insured credit union.

(b) The official sign shall be as depicted below, having a blue background with white lettering:



(1) All insured credit unions will automatically be furnished an initial supply of official signs, at no cost, from the Administration for compliance with paragraph (a) of this section. If the initial supply is not adequate, an immediate request for additional signs must be made. Any credit union that does not have an adequate supply but requests additional signs from NCUA shall not be deemed to have violated paragraph (a) unless the credit union shall omit to display the signs after receipt thereof.

(2) Additional signs reflecting variations in color, materials and size, for use other than as prescribed in paragraph (a) of this section may be procured by insured credit unions from commercial suppliers.

(c) An insured credit union shall not receive account funds at any teller's station or window where any noninsured credit union or institution receives deposits. Excepted from this prohibition are credit union centers, service centers, or branches servicing more than one credit union where only some of the credit unions are insured by the NCUA. In such instances there must be placed immediately above or beside each official sign another sign stating "Only the following credit unions serviced by this facility are federally insured by the NCUA _____" (the full name of each credit union insured will follow the word NCUA). The lettering will be of such size and print to be clearly legible to all members conducting share or share deposit transactions.

(d) The Board may require any insured credit union, upon at least 30 days' written notice, to change the wording of its official signs in a manner deemed necessary for the protection of shareholders or others.

(e) For purposes of this section, the terms "branch," "station," "teller station," and "window" do not include automated teller machines or point of sale terminals.

§ 740.4 Mandatory requirements with regard to the official advertising statement and manner of use.

(a) Each insured credit union shall include the official advertising statement, prescribed in paragraph (b) of this section, in all of its advertisements except as provided in paragraph (c) of this section.

(1) An insured credit union must include the official advertising statement in its advertisements thirty (30) days after its first day of operations as an insured credit union unless it has been granted an extension by the Regional Director.

(2) In cases where advertising copy not including the official advertising

statement is on hand on the date the requirements of this section become operative, the insured credit union may cause the official advertising statement to be included by use of an overstamp or by other means until the supplies are exhausted.

(b) The official advertising statement shall be in substance as follows: "This credit union is federally insured by the National Credit Union Administration." The short title "Federally insured by NCUA" and a reproduction of the official sign may be used by insured credit unions at their option as the official advertising statement. The official advertising statement shall be of such size and print to be clearly legible.

(c) The following advertisements need not include the official advertising statement:

(1) Statements of condition and reports of condition of an insured credit union which are required to be published by State and Federal law or regulation;

(2) Credit union supplies such as stationery (except when used for circular letters), envelopes, deposit slips, checks, drafts, signature cards, account passbooks, and noninsurable certificates, etc;

(3) Signs or plates in the credit union office or attached to the building or buildings in which the offices are located;

(4) Listings in directories;

(5) Advertisements not setting forth the name of the insured credit union;

(6) Display advertisements in credit union directories, provided the name of the credit union is listed on any page in the directory with a symbol or other descriptive matter indicating it is insured;

(7) Joint or group advertisements of credit union services where the names of insured credit unions and noninsured credit unions are listed and form a part of such advertisement;

(8) Advertisements by radio which do not exceed thirty (30) seconds in time;

(9) Advertisements by television, other than display advertisement, which do not exceed thirty (30) seconds in time;

(10) Advertisements which are of the type or character making it impractical to include thereon the official advertising statement, including but not limited to, promotional items such as calendars, matchbooks, pens, pencils, and key chains;

(11) Advertisements which contain a statement to the effect that the credit union is insured by the National Credit Union Administration, or that its accounts and shares or members are insured by the Administration to the maximum of $100,000 for each member or shareholder;

(12) Advertisements which do not relate to member accounts, including but not limited to:

(A) Advertisements relating specifically and only to the making of loans by the credit union or loan services;

(B) Advertisements relating specifically and only to safekeeping box business or services;

(C) Advertisements relating specifically and only to traveler's checks on which the credit union issuing or causing to be issued the advertisement is not primarily liable; and

(D) Advertisements relating specifically and only to loan life insurance.

(d) The non-English equivalent of the official advertising statement may be used in any advertisement: Provided, That the translation has had the prior written approval of the Regional Director.

PART 741— REQUIREMENTS FOR INSURANCE

Sec.

Authority: 12 U.S.C. 1766, 12 U.S.C. 1781, 12 U.S.C. 1789.

§ 741.0 Scope.

The provisions of this part apply to Federal credit unions, federally-insured state credit unions, and credit unions making application for insurance of accounts pursuant to Title II of the Act unless the context of a provision indicates its application is otherwise limited. This Part prescribes various requirements for obtaining and maintaining Federal insurance and the payment of insurance premiums and capitalization deposit. As used in this Part, "insured credit union" means a credit union whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

§ 741.1 Minimum fidelity bond requirements.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in § 701.20 of this Chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally-insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the Regional Director not less than thirty-five (35) days prior to the effective date of such termination.

§ 741.2 Minimum period for verification of accounts.

Each credit union which makes application for insurance of its accounts pursuant to Title II of the Act must verify or cause to be verified, under controlled conditions, all passbooks and accounts with the records of the financial officer not less frequently than once every 2 years. If such verification has not been made within 2 years prior to the date of submission of the application for insurance, the credit union concerned shall cause such verification to be completed prior to submission of such application and at least every 2 years thereafter if the application is approved. Information on the verification procedures can be found in § 701.12(e).

§ 741.3 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act, or any insured credit union, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus (shares and undivided earnings, plus net income or minus net loss), in order for such application to be approved or for such insurance coverage to continue.

§ 741.4 Examination.

As provided in sections 201 and 204 of the Act (12 U.S.C. 1781 and 1784) the Board is authorized to examine any insured credit union or any credit union making application for insurance of its accounts. Such examination may require access to all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union, and upon request, such documentation will be provided to the Board. Any credit union which makes application for insurance will be required to pay the cost of such examination and processing. To the maximum extent feasible, the Board will utilize examinations conducted by State regulatory agencies.

§ 741.5 Criteria.

In determining the insurability of a credit union which makes application for insurance of its accounts pursuant to Title II of the Act, the following criteria shall be applied:

(a) *Adequacy of reserves.* The credit union must be solvent. In the case of a state-chartered credit union, that credit union must meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on Federal credit unions by section 116 of the Act and Part 702 of NCUA's Rules and Regulations. State-chartered credit unions are required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments beyond those authorized in the Federal Credit Union Act or the NCUA Rules and Regulations.

(b) *Financial condition and policies.* The following factors are to be considered in determing whether the credit union's financial condition and polices are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of state-chartered credit unions] plus other irrevocable reserves established as a contingency against losses on loans), the presence of special reserve accounts used specifically for charging-off loan balances of deceased borrowers, and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend.

(2) The existence of written lending policies, including adequate documentation of secured loans and the protection of security interests by recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and comakers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Act and Part 703 of this Chapter for Federal credit unions and the laws of the State in which the credit union operates for state-chartered credit unions.

(4) The presence of any account or security, the form of which has not been approved by the Board, except for accounts authorized by state law for state-chartered credit unions.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must have conducted its operations in accordance with provisions of applicable law, regulations, its charter and bylaws, and agree to comply with full and fair disclosure requirements in accordance with Section 116 of the Act and Part 702 of NCUA's Rules and Regulations. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Board.

(d) *Insurance of member accounts would not otherwise involve undue risk to the NCUSIF.* The credit union must maintain adequate fidelity bond coverage as specified in § 741.1. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the NCUSIF is or may be present. For purposes of this section, the term "undue risk to the NCUSIF" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably foreseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the NCUSIF.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit for its members, except as otherwise permitted by law or regulation.

(f) *Letter of disapproval.* A credit union whose application for share insurance is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct its deficiencies and thereby qualify for share insurance.

(g) Nothing herein shall preclude the Board from imposing additional terms or conditions pursuant to the insurance agreement.

§ 741.6 Notice of termination of excess insurance coverage.

In the event of a credit union's termination of share insurance coverage other than that provided by the NCUSIF, the credit union must notify all members in writing of such termination at least thirty days prior to the effective date of termination.

§ 741.7 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of section 202 of the Act (12 U.S.C. 1782) providing for capitalization of the NCUSIF through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares' and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) "Insurance year" means the period from July 1 through June 30;

(2) "Insured shares" means the total amount of a credit union's share, share draft and share certificate accounts, or their equivalent under state law (which may include deposit accounts), authorized to be issued to members, other credit unions, public units, or nonmembers (where permitted under the Act). "Insured shares" does not include amounts in excess of insurance coverage as provided in 12 CFR Part 745; and

(3) "Normal operating level" means a total value of the NCUSIF equity equalling 1.3 percent of the aggregate of all insured shares in insured credit unions as of the end of the preceding insurance year.

(c) *One percent deposit.* Each insured credit union shall maintain with the NCUSIF during each insurance year a deposit in an amount equalling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on or before January 31, or as otherwise directed by the Board.

(d) *Premium.* Each insured credit union shall pay to the NCUSIF, on or before January 31 of each insurance year or as otherwise directed by the Board, an insurance premium for that insurance year in an amount equalling one twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of NCUSIF equity.* When the NCUSIF exceeds its normal operating level, the Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the NCUSIF to its normal operating level. Such adjustment will be in the form determined by the Board and may include a waiver of insurance premiums, premium rebates and/or distributions from NCUSIF equity.

(f) *Forms 1304 and 1305.* A certified copy of Form 1304 will be provided to all federally-insured state-chartered credit unions and Form 1305 to all federally-

chartered credit unions in connection with the computation and funding of their annual premium payment and any change in their one percent deposit. Form 1305 also includes the annual operating fee. Forms 1304 and 1305 are invoices and are precalculated based on the credit union's previous year's insured shares. The Forms provide for any adjustments declared by the Board, resulting in a single net transfer of funds between the credit union and the NCUA. Additional copies of each credit union's Form 1304 or 1305 may be obtained from the appropriate NCUA Regional Office.

(g) *New charters.* A newly-chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on or before January 31 of the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to federal insurance.* An existing credit union that converts to insurance coverage with the NCUSIF during an insurance year shall immediately fund its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from NCUSIF equity declared subsequent to the credit union's conversion.

(i) *Mergers of nonfederally-insured credit unions.* Where a nonfederally-insured credit union merges into a federally-insured credit union, the continuing federally-insured credit union shall immediately pay to the NCUSIF a prorated insurance premium (unless waived in whole or in part for all federally-insured credit unions), and an additional one percent deposit based upon the increase in insured shares resulting from the merger.

(j) *Return of deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any solvent credit union that is closed due to voluntary liquidation shall be entitled to a return of its deposit prior to final distribution of member shares. Any other credit union whose insurance coverage with the NCUSIF terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the NCUSIF. This includes termination of insurance due to mergers and consolidations. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the NCUSIF until the next distribution from NCUSIF equity and will thus qualify for a prorated share of the distribution.

§ 741.8 Conversion to a state-chartered credit union.

Any Federal credit union that petitions to convert to a state-chartered federally-insured credit union may be required to apply to the Regional Director for continued insurance of its accounts and meet the requirements as stated in the Act and this Part. If the application for continued insurance is not approved, such insurance will terminate subject to the conditions set forth in section 206(d) of the Act.

§ 741.9 Financial and statistical and other reports.

(a) Each operating insured credit union shall file with the NCUA on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE AND APPENDIX

Sec.

Authority: 12 U.S.C 1766, 12 U.S.C. 1781, 12 U.S.C. 1789.

§ 745.0 Scope.

The regulation and appendix contained in this part describe the insurance coverage of various types of member accounts. In general, all types of member share accounts received by the credit union in its usual course of business, including regular shares, share certificates, and share draft accounts, represent equity and are insured. For the purposes of applying the rules in this part, it is presumed that the owner of funds in an account is an insured credit union member or otherwise eligible to maintain an insured account in a credit union. These rules do not extend insurance coverage to persons not entitled to maintain an insured account or to account relationships that have not been approved by the Board as an insured account. Where there are multiple owners of a single account, generally only that part which is allocable to the member(s) is insured.

§ 745.1 Definitions.

(a) The terms "account" or "accounts" as used in this part mean share, share certificate or share draft accounts (or their equivalent under state law, as determined by the Board in the case of insured state credit unions) of a member (which includes other credit unions, public units and nonmembers where permitted under the Act) in a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member.

(b) The terms "member" or "members" as used in this part mean those persons enumerated in the credit union's field of membership who have been elected to membership in accordance with the Act or state law in the case of state credit unions. It also includes those nonmembers permitted under the Act to maintain accounts in an insured credit union, including nonmember credit unions and nonmember public units and political subdivisions.

(c) The term "public unit" means the United States, any state of the United

States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, municipality, or political subdivision thereof, or any Indian tribe as defined in section 3(c) of the Indian Financing Act of 1974.

(d) The term "political subdivision" includes any subdivision of a public unit, as defined in paragraph (c) above, or any principal department of such public unit, (1) the creation of which subdivision or department has been expressly authorized by state statute, (2) to which some functions of government have been delegated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation improvement, levee, sanitary, school or power districts and bridge or port authorities, and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

§ 745.2 General principles applicable in determining insurance of accounts.

(a) *General.* This part provides for determination by the Board of the amount of members' insured accounts. The rules for determining the insurance coverage of accounts maintained by members in the same or different rights and capacities in the same insured credit union are set forth in the following provisions of this part. The Appendix provides examples of the application of these rules to various factual situations. Insofar as rules of local law enter into such determinations, the law of the jurisdiction in which the insured credit union's principal office is located shall govern.

(b) The regulations in this part in no way are to be interpreted to authorize any type of account that is not authorized by Federal law or regulation or State law or regulation or by the bylaws of a particular credit union. The purpose is to be as inclusive as possible of all situations.

(c) *Records.* (1) The account records of the insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian, or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

(2) If the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interest of other parties in the account must be ascertainable either from the records of the credit union or the records of the member maintained in good faith and in the regular course of business.

(3) The account records of an insured credit union in connection with a trust account shall disclose the name of both the settlor (grantor) and the trustee of the trust and shall contain an account signature card executed by the trustee.

(4) The interests of the co-owners of a joint account shall be deemed equal, unless otherwise stated on the insured credit union's records in the case of a tenancy in common.

(d) *Valuation of trust interests.* (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is capable of determination, without evaluation of contingencies, except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7).

(2) In connection with any trust in which certain trust interests are not capable of evaluation in accordance with the foregoing rule, payment by the Board to the trustee with respect to all such trust interests shall not exceed the basic insured amount of $100,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor.

§ 745.3 Single ownership accounts.

(a) Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to $100,000 in the aggregate.

(1) *Individual accounts.* Funds owned by an individual (or by the husband-wife community of which the individual is a member) and deposited in one or more accounts in the individual's own name shall be insured up to $100,000 in the aggregate.

(2) *Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to $100,000 in the aggregate.

(3) *Custodial loan accounts.* Loan payments received by a Federal credit union prior to remittance to other parties to whom the loan was sold pursuant to section 107(13) of the Federal Credit Union Act and § 701.23 of NCUA's Regulations shall be considered to be funds owned by the borrower and shall be added to any individual accounts of the borrower and insured up to $100,000 in the aggregate.

(b) Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator are insured up to $100,000 in the aggregate, separately from any other accounts of the guardian, custodian, conservator, ward, or minor.

§ 745.4 Testamentary accounts.

(a) The term "testamentary account" refers to a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.

(b) If the named beneficiary of a testamentary account is a spouse, child, or grandchild of the owner, the account shall be insured up to $100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary.

(c) If the named beneficiary of a testamentary account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured up to $100,000 in the aggregate.

§ 745.5 Accounts held by executors or administrators.

Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of the decedent's estate and deposited in one or more accounts shall be insured up to $100,000 in the aggregate for all such accounts, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

§ 745.6 Accounts held by a corporation, partnership, or unincorporated association.

Accounts of a corporation, partnership, or unincorporated association engaged in any independent activity shall be insured up to $100,000 in the aggregate. The account of a corporation, partnership, or

unincorporated association not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership or unincorporated association and, for account insurance purposes, the interest of each person in such an account shall be added to any other account individually owned by such person and insured up to $100,000 in the aggregate. For purposes of this section, "independent activity" means an activity other than one directed solely at increasing insurance coverage.

§ 745.7 [Reserved]

§ 745.8 Joint accounts.

(a) *Separate insurance coverage.* Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners.

(b) *Qualifying joint accounts.* Joint accounts are insured separately from individual accounts up to a maximum of $100,000 provided that each of the co-owners has personally signed an account signature card and has a right of withdrawal on the same basis as the other co-owners.

(c) *Failure to qualify.* An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate. An account will not fail to qualify as a joint account if a joint owner is a minor and applicable state law limits or restricts a minor's withdrawal rights.

(d) *Same combination of individuals.* All joint accounts owned by the same combination of individuals shall be added together and insured up to $100,000 in the aggregate.

(e) *Different combination of individuals.* A person holding an interest in more than one joint account owned by different combinations of individuals may receive a maximum of $100,000 insurance coverage on the total of his interest in those joint accounts.

(f) *Nonmember joint owners.* A nonmember may become a joint owner with a member on a joint account with right of survivorship. The nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest.

§ 745.9-1 Trust accounts.

(a) For purposes of this section, "trust" refers to an irrevocable trust.

(b) All trust interests (as defined in § 745.2(d)(4)), for the same beneficiary, deposited in an account and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to $100,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§ 745.9-2 IRA/Keogh accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) (Keogh account) or section 408(a) (IRA) of the Internal Revenue Code shall each be insured up to $100,000 separately from other accounts of the participant or designated beneficiary. An IRA account shall be separately insured from a Keogh account.

(b) Upon liquidation of the credit union, any share insurance payment shall be made by the NCUA Board to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing by the plan participant or beneficiary.

§ 745.9-3 Deferred compensation accounts.

Funds deposited by an employer pursuant to a deferred compensation plan (including § 401(K) of the Internal Revenue Code) shall be insured up to $100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer.

§ 745.10 Public unit accounts.

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investments shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union shall be separately insured up to $100,000;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state shall be separately insured up to $100,000;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia shall be separately insured up to $100,000;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, shall be separately insured up to $100,000;

(5) Each official custodian of tribal funds of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof lawfully investing the same in a federally-insured credit union shall be separately insured up to $100,000.

(b) Each official custodian referred to in paragraphs (a) (2), (3), and (4) of this section lawfully investing such funds in a federally-insured credit union outside their respective jurisdictions shall be separately insured up to $100,000; and

(c) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but he shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by holding such funds for different purposes.

(d) For purposes of this section, "lawfully investing" means pursuant to the statutory or regulatory authority of the custodian or public unit.

§ 745.11 Accounts evidenced by negotiable instruments.

If any insured account obligation of a credit union is evidenced by a negotiable certificate account, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such account obligation will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 745.12 Account obligations for payment of items forwarded for collection by depository institution acting as agent.

Where a closed credit union has become obligated for the payment of

items forwarded for collection by a depository institution acting solely as agent, the owner of such items will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such depository institution forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Board and for the purpose of receiving payment on behalf of such owners.

§ 745.13 Notification to members/shareholders.

Each insured credit union shall provide notice to its members concerning NCUA insurance coverage of member accounts. This may be accomplished by placing either a copy of Part 745 of these rules, the Appendix, or one or more copies of the NCUA brochure "Your Insured Funds" in each branch office and main office of the credit union. Copies of these materials shall also be made available to members upon request. For purposes of this section, an automated teller machine or point of sale terminal is not a branch office.

Appendix—Examples of Insurance Coverage Afforded Accounts in Credit Unions Insured by the National Credit Union Share Insurance Fund

The following examples illustrate insurance coverage on accounts maintained in the same federally-insured credit union. They are intended to cover various types of ownership interests and combinations of accounts which may occur in connection with funds invested in insured credit unions. These examples interpret the rules for insurance of accounts contained in 12 CFR Part 745.

The examples, as well as the rules which they interpret, are predicated upon the assumption that: (1) Invested funds are actually owned in the manner indicated on the credit union's records and (2) the owner of funds in an account is a credit union member or otherwise eligible to maintain an insured account in a credit union. If available evidence shows that ownership is different from that on the institution's records, the National Credit Union Share Insurance Fund may pay claims for insured accounts on the basis of actual rather than ostensible ownership. Further, the examples and the rules which they interpret do not extend insurance coverage to persons otherwise not entitled to maintain an insured account or to account relationships that have not been approved by the Board as an insured account.

A. Single Ownership Accounts

All funds owned by an individual member (or, in a community property state, by the husband-wife community of which the individual is a member) and invested by the member in one or more individual accounts are added together and insured to the $100,000 maximum. This is true whether the accounts are maintained in the name of the individual member owning the funds, in the name of the member's agent or nominee, or in the name of a guardian, conservator or custodian holding the funds for the member's benefit.

Example 1

Question: Members A and B, husband and wife, each maintain an individual account containing $100,000. In addition, they hold a joint account containing $100,000. What is the insurance coverage?

Answer: Each account is separately insured up to $100,000, for a total coverage of $300,000. The coverage would be the same whether the individual accounts contain funds owned as community property or as individual property of the spouses (§ 745.3(a) and § 745.8(a)).

Example 2

Question: Members H and W, husband and wife, reside in a community property state. H maintains a $100,000 account consisting of his separately-owned funds and invests $100,000 of community property funds in another account, both of which are in his name alone. What is the insurance coverage?

Answer: The two accounts are added together and insured to a total of $100,000. $100,000 is uninsured (§ 745.3(a)).

Example 3

Question: Member A has $92,500 invested in an individual account, and his agent, Member B, invests $25,000 of A's funds in a properly designated agency account. B also holds a $100,000 individual account. What is the insurance coverage?

Answer: A's individual account and the agency account are added together and insured to the $100,000 maximum, leaving $17,500 uninsured. The investment of funds through an agent does not result in additional insurance coverage for the principal (§ 745.3(b)). B's individual account is insured separately from the agency account (§ 745.3(a)). However, if the account records of the credit union do not show the agency relationship under which the funds in the $25,000 account are held, the $25,000 in B's name could, at the option of the NCUSIF, be added to his individual account and insured to $100,000 in the aggregate, leaving $25,000 uninsured (§ 745.2(c)).

Example 4

Question: Member A holds a $100,000 individual account. Member B holds two accounts in his own name, the first containing $25,000 and the second containing $92,500. In processing the claims for payment of insurance on these accounts, the NCUSIF discovers that the funds in the $25,000 account actually belong to A and that B had invested these funds as agent for A, his undisclosed principal. What is the insurance coverage?

Answer: Since the available evidence shows that A is the actual owner of the funds in the $25,000 account, those funds would be added to the $100,000 individual account held by A (rather than to B's $92,500 account) and insured to the $100,000 maximum, leaving $25,000 uninsured. (§ 745.3(b).) B's $92,500 individual account would be separately insured.

Example 5

Question: Member C, a minor, maintains an individual account of $750. C's grandfather makes a gift to him of $100,000, which is invested in another account by C's father, designated on the credit union's records as custodian under a Uniform Gifts to Minors Act. C's father, also a member, maintains an individual account of $100,000. What is the insurance coverage?

Answer: C's individual account and the custodianship account held for him by his father are added together and would be insured to the $100,000 maximum (§ 745.3(c)). The individual account held by C's father is separately insured to the $100,000 maximum (§ 745.3(a)).

Example 6

Question: Member G, a court appointed guardian, invests in a properly designated account $100,000 of funds in his custody which belong to member W, his ward. W and G each maintain $25,000 individual accounts. What is the insurance coverage?

Answer: W's individual account and the guardianship account in G's name are added together and insured to $100,000 in the aggregate leaving W with $25,000 in uninsured funds. The fact that a guardian has been judicially appointed does not alter the fact that the guardianship funds legally belong to W, the ward, and are insured as W's individually owned funds (§ 745.3(c)). G's individual account is separately insured (§ 745.3(a)).

Example 7

Question: X Credit Union acts as a servicer of FHA, VA, and conventional mortgage loans made to its members but sold to other parties. Each month X receives loan payments, for remittance to the other parties, from approximately 2,000 member mortgagors. The monies received each month total $1,000,000 and are maintained in a custodial loan account. What is the insurance coverage?

Answer: X Credit Union acts as custodian for the 2,000 individual mortgagors. The interest of each mortgagor is separately insured as his individual account (but added to any other individual accounts which the mortgagor holds in the Credit Union) (§ 745.3(d)).

B. Testamentary Accounts

The term "testamentary account" refers to a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. If the beneficiary is a spouse, child, or grandchild of the owner, the funds in all such accounts are insured for the

owner up to $100,000 in the aggregate as to each such beneficiary, separately from any other individual accounts of the owner. If the beneficiary of such an account is other than a spouse, child, or grandchild of the owner, the funds in the account are, for insurance purposes, added to any other individual accounts of the owner and insured up to $100,000 in the aggregate. In the case of a revocable trust account, the person who holds the power of revocation is deemed to be the owner of the funds in the account. If a revocable trust account is held in the name of a fiduciary other than the owner of the funds, any other accounts held by the fiduciary are insured separately from such revocable trust account.

Example 1

Question: Member H invests $200,000 in a revocable trust account with his son, S, and his daughter, D, as named beneficiaries. What is the insurance coverage?

Answer: Since S and D are children of H, the owner of the account, the funds are insured up to $100,000 as to each beneficiary (§ 745.4(c)). Assuming that S and D have equal beneficial interests ($100,000 each), H is fully insured for this account.

Example 2

Question: Member H invests $100,000 in each of four "payable-on-death" accounts. Under the terms of each account contract, H has the right to withdraw any or all of the funds in the account at any time. Any funds remaining in the account at the time of H's death are to be paid to a named beneficiary. The respective beneficiaries of the four accounts are H's wife, his mother, his brother, and his son. H also holds an individual account containing $100,000. What is the insurance coverage?

Answer: The accounts payable on death to H's wife and son are each separately insured to the $100,000 maximum (§ 745.4(b)). The accounts payable to H's mother and brother are added to H's individual account and insured to $100,000 in the aggregate, leaving $200,000 uninsured (§ 745.4(c)).

Example 3

Question: Member H and W jointly invest in a "payable-on-death" account for the benefit of their son, S, and daughter, D. The account is held by H and W with right of survivorship. What is the maximum insurance coverage available on the account?

Answer: Since S and D are the children of H and W, the account will be insured up to $100,000 as to each beneficiary separately from any accounts of the owner, H and W (§ 745.4(b)). H would be entitled to $100,000 insurance for S and $100,000 for D. W would be entitled to the same coverage for a total of $400,000 on the account. However, upon the death of either H or W, insurance coverage would be reduced to $200,000.

C. Accounts Held by Executors or Administrators

All funds belonging to a decedent and invested in one or more accounts, whether held in the name of the decedent or in the name of his executor or administrator, are added together and insured to the $100,000 maximum. Such funds are insured separately from the individual accounts of any of the beneficiaries of the estate or of the executor or administrator.

Example 1

Question: Member A, administrator of Member D's estate, sells D's automobile and invests the proceeds of $12,500 in an account entitled "A Administrator of the estate of D." A has an individual account in that same credit union containing $100,000. Prior to his death, D had opened an individual account of $100,000. What is the insurance coverage?

Answer: The $12,500 is added to D's individual account and insured to $100,000, leaving $12,500 uninsured. A's individual account is separately insured for $100,000 (§ 745.5).

D. Accounts Held by a Corporation, Partnership or Unincorporated Association

All funds invested in an account or accounts by a corporation, a partnership or an unincorporated association engaged in any independent activity are added together and insured to the $100,000 maximum. The term "independent activity" means any activity other than the one directed solely at increasing coverage. If the corporation, partnership or unincorporated association is not engaged in an independent activity, any account held by the entity is insured as if owned by the persons owning or comprising the entity, and the imputed interest of each such person is added for insurance purposes to any individual account which he maintains.

Example 1

Question: Member X Corporation maintains a $100,000 account. The stock of the corporation is owned by members A, B, C, and D in equal shares. Each of these stockholders also maintains an individual account of $100,000 with the same credit union. What is the insurance coverage?

Answer: Each of the five accounts would be separately insured to $100,000 if the corporation is engaged in an independent activity and has not been established merely for the purpose of increasing insurance coverage. The same would be true if the business were operated as a bona fide partnership instead of as a corporation (§ 745.6). However, if X corporation was not engaged in an independent activity, then $25,000 (¼ interest) would be added to each account of A, B, C, and D. The accounts of A, B, C, and D would then each be insured to $100,000, leaving $25,000 in each account uninsured.

Example 2

Question: Member C College maintains three separate accounts with the same credit union under the titles: "General Operating Fund," "Teachers Salaries," and "Building Fund." What is the insurance coverage?

Answer: Since all of the funds are the property of the college, the three accounts are added together and insured only to the $100,000 maximum (§ 745.6).

Example 3

Question: The men's club of X Church carries on various social activities in addition to holding several fund-raising campaigns for the church each year. The club is supported by membership dues. Both the club and X Church maintain member accounts in the same credit union. What is the insurance coverage?

Answer: The men's club is an unincorporated association engaged in an independent activity. If the club funds are, in fact, legally owned by the club itself and not the church, each account is separately insured to the $100,000 maximum (§ 745.6).

Example 4

Question: The PQR Union, a member of the ABC Federal Credit Union, has three locals in a certain city. Each of the locals maintains an account containing funds belonging to the parent organization. All three accounts are in the same insured credit union. What is the insurance coverage?

Answer: The three accounts are added together and insured up to the $100,000 maximum (§ 745.6).

E. Public Unit Accounts

For insurance purposes, the official custodian of funds belonging to a public unit, rather than the public unit itself, is insured as the accountholder. All funds belonging to a public unit and invested by the same custodian in an insured credit union are added together and insured to the $100,000 maximum, regardless of the number of accounts involved and regardless of whether the funds are invested in accounts located in or outside the state. If there is more than one official custodian for the same public unit, the funds invested by each custodian are separately insured up to $100,000. If the same person is custodian of funds for more than one public unit, he is separately insured to $100,000 with respect to the funds of each unit held by him in properly designated accounts. The maximum coverage for an official custodian of funds of the United States would be $100,000.

For insurance purposes, a "political subdivision" is entitled to the same insurance coverage as any other public unit. "Political subdivision" includes any subdivision of a public unit or any principal department of such unit: (1) The creation of which has been expressly authorized by state statute, (2) to which some functions of government have been allocated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control.

Example 1

Question: As Comptroller of Y Consolidated School District, A maintains a $125,000 account in the credit union containing school district funds. He also maintains his own $100,000 member account in the same credit union. What is the insurance coverage?

Answer: The two accounts will be separately insured, assuming the credit union's records indicate that the account containing the school district funds is held by A in a fiduciary capacity. Thus, $100,000 of the school's funds and the entire $100,000 in A's personal account will be insured (§ 745.10(2) and § 745.3).

Example 2

Question: A, as city treasurer, and B, as chief of the city police department, each have $100,000 in city funds invested in custodial accounts. What is the insurance coverage?

Answer: Assuming that both A and B have offical custody of the city funds, each account is separately insured to the $100,000 maximum (§ 745.10(2)).

Example 3

Question: A is Treasurer of X County and collects certain tax assessments, a portion of which must be paid to the state under statutory requirement. A maintains an account for general funds of the county and establishes a separate account for the funds which belong to the State Treasurer. The credit union's records indicate that the separate account contains funds held for the State. What is the insurance coverage?

Answer: Since two public units own the funds held by A, the accounts would each be separately insured to the $100,000 maximum (§ 745.10(2)).

Example 4

Question: A city treasurer invests city funds in each of the following accounts: "General Operating Account," "School Transportation Fund," "Local Maintenance Fund," and "Payroll Fund." By administrative direction the city treasurer has allocated the funds for the use of and control by separate departments of the city. What is the insurance coverage?

Answer: All of the accounts are added together and insured in the aggregate to $100,000. Because the allocation of the city's funds is not by statute or ordinance for the specific use of and control by separate departments of the city, separate insurance coverage to the maximum of $100,000 is not afforded to each account (§§ 745.1(c) and 745.10(2)).

Example 5

Question: A, the custodian of retirement funds of a military exchange, invests $1,000,000 in an insured credit union. The military exchange, a nonappropriated fund instrumentality of the United States, is deemed to be a public unit. The employees of the exchange are the beneficiaries of the retirement funds but are not members of the credit union. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public units nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(1)).

Example 6

Question: A is the custodian of the County's employee retirement funds. He deposits $1,000,000 in retirement funds with the credit union. The "beneficiaries" of the retirement fund are not themselves public units nor are they within the credit union's field of membership. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public units nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(2)).

Example 7

Question: A county treasurer deposits in an insured credit union $100,000 in each of the following accounts:

"General Operating Fund"
"County Roads Department Fund"
"County Water District Fund"
"County Public Improvement District Fund"
"County Emergency Fund"

What is the insurance coverage?

Answer: The "County Roads Department," "County Water District" and "County Public Improvement District" accounts would each be separately insured to $100,000 if the funds in each such account have been allocated by law for the exclusive use of a separate county department or subdivision expressly authorized by State statute.

Funds in the "General Operating" and "Emergency Fund" accounts would be added together and insured in the aggregate to $100,000, if such funds are for countywide use and not for the exclusive use of any subdivision or principal department of the county, expressly authorized by State statute (§§ 745.1(c) and 745.10(2)).

Example 8

Question: A, the custodian of Indian tribal funds, lawfully invests $1,000,000 in an account in an insured credit union on behalf of 15 different tribes; the records of the credit union show that no tribe's interest exceeds $100,000. A, as official custodian, also invests $1,000,000 in the same credit union on behalf of 100 individual Indians, who are not members; each Indian's interest is $10,000. What is the insurance coverage?

Answer: Because each tribe is considered a separate public unit, the custodian of each tribe, even though the same person, is entitled to separate insurance for each tribe (§ 745.10(5)). Since the credit union's records indicate no tribe has more than $100,000 in the account, the $1,000,000 would be fully insured as 15 separate tribal accounts. If any one tribe had more than a $100,000 interest in the funds, it would be insured only to $100,000 and any excess would be uninsured.

However, the $1,000,000 invested on behalf of the individual indians would not be insured since the individual indians are neither public units nor, in the example, members of the credit union. If A is the custodian of the funds in his capacity as an official of a governmental body that qualified as a public unit, then the account would be insured for $100,000, leaving $900,000 uninsured.

F. Joint Accounts

Accounts held under any form of joint ownership valid under state law (whether as joint tenants with right of survivorship, tenants by the entireties, tenants in common, or by husband and wife as community property) are insured up to $100,000. This insurance is separate from that afforded individual accounts held by any of the co-owners.

An account is insured as a joint account only if each of the co-owners has personally executed an account signature card and possesses withdrawal rights. An account owned jointly which does not qualify as a joint account for insurance purposes is insured as if owned by the named persons as individuals. In that case, the actual ownership interest in the account of each person is added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

Any individual, including a minor, may be a co-owner of a joint account provided that, under State law, he may execute a signature card and withdraw funds from the account on the same basis as the other co-owners.

All funds invested in joint accounts owned by the same combination of individuals are first added together and insured to the $100,000 maximum. Where a member has an interest in more than one joint account and different joint owners are involved, his interests in all of such joint accounts are then added together and insured to $100,000 in the aggregate.

For insurance purposes, the co-owners of any joint account are deemed to have equal interests in the account, except in the case of a tenancy in common. With a tenancy in common, equal interests are presumed unless otherwise stated on the records of the credit union.

Example 1

Question: Members A and B maintain an account as joint tenants with right of survivorship and, in addition, each holds an individual account. Is each account separately insured? Answer: If both A and B have executed the signature card and possess withdrawal rights with respect to the joint funds, each account is separately insured to the $100,000 maximum (§ 745.8 (a) and (b)).

Example 2

Question: Members H and W, husband and wife, reside in a community property state. Each holds an individual account and, in addition, they hold a qualifying joint account. The funds in all three accounts consist of community property. Is each account separately insured?

Answer: Yes. An account in the individual name of a spouse will be insured up to $100,000 whether the funds consist of community property or separate property of the spouse. A joint account containing community property is also insured up to $100,000. Thus, community property can be used for individual accounts in the name of each spouse and for a joint account in the name of both spouses, each of which accounts is separately insured up to $100,000 (§ 745.3(a) and 745.8(a)).

Example 3

Question: Two accounts of $100,000 each are held by a member husband and his wife under the following names:

John Doe and Mary Doe, husband and wife, as joint tenants with right of survivorship.
Mrs. John Doe and John Q. Doe (community property).

Are the accounts separately insured?

Answer: No. Both accounts are considered joint accounts owned by the same combination of individuals, regardless of the form of joint ownership. Reversal of names or use of different styles does not change the result, as long as the account owners are in fact the same in both cases. For insurance purposes, the accounts are added together and insured to the maximum of $100,000, leaving $100,000 uninsured (745.8(d)).

Example 4

Question: The following accounts are held by members A, B and C, each of whom has personally executed signature cards for the accounts in which he has an interest. Each co-owner of a joint account possesses the necessary withdrawals rights.

1. A, as an individual—$100,000
2. B, as an individual—$100,000
3. C, as an individual—$100,000
4. A and B, as joint tenants w/r/o survivorship—$90,000
5. A and C, as joint tenants w/r/o survivorship—$90,000
6. B and C, as joint tenants w/r/o survivorship—$90,000
7. A, B and C, as joint tenants w/r/o survivorship—$90,000.

What is the insurance coverage?

Answer: Accounts numbered 1, 2 and 3 are each separately insured for $100,000 as individual accounts held by A, B and C, respectively (§ 745.3(a)). With regard to accounts numbered 4, 5, 6 and 7, the respective interests of A, B and C in such accounts are added together for insurance purposes (§ 745.8(e)). The interest of the co-owners of each joint account are deemed equal for insurance purposes (§ 745.2(c)(4)). Thus, A has an interest of $45,000 in account No. 4, $45,000 in account No. 5 and $30,000 in account No. 7, for a total joint account interest of $120,000, of which $100,000 is insured. The interest of B and C are similarly insured.

Example 5

Question: A, B and C hold accounts as set forth in Example 4. Members A and B are husband and wife; C, their minor child, has failed to execute the signature card for account No. 7. In account No. 5, C cannot make a withdrawal without A's written consent. In account No. 6 the signatures of both B and C are required for withdrawal. A has provided all of the funds for accounts numbered 5 and 7. What is the insurance coverage?

Answer: If any of the co-owners of a joint account have failed to meet any of the joint account requirements, the account is not insured as a joint account. Instead, the account is insured as if it consisted of commingled individual accounts of each of the co-owners in accordance with his actual ownership funds, as determined under applicable state law (§ 745.8(c)). Account No. 5 is not insured as a joint account because C does not possess the right to withdraw the funds in accordance with his purported interest in the account. However, account No. 6 does qualify as a joint account for insurance purposes since each co-owner possesses the right to withdraw funds on the same basis. Account No. 7 is not insured as a joint account since C did not personally execute the signature card. Assuming that, under applicable state law, A has the entire actual ownership interest in accounts 5 and 7, all of the funds in these accounts are treated for insurance purposes as individually owned by A (§ 745.8(c)). Thus, the $180,000 in these accounts is added to the $100,000 in account No. 1, A's individual account, and insured up to $100,000 in the aggregate, leaving $180,000 uninsured. Accounts 4 and 6, the remaining joint accounts, are each insured to the $100,000 limit, since they are owned by different combinations of individuals and no co-owner has an aggregate interest in the two accounts in excess of $100,000 (§ 745.8(e)).

Example 6

Question: The following accounts are owned by members A, B and C, each of whom has personally executed signature cards for the accounts in which he has an interest. Each co-owner possesses withdrawal rights.

1. A, as an individual—$100,000
2. B, as an individual—$100,000
3. A, B and C, as joint tenants w/r/o survivorship—$100,000
4. A, B and C, as joint tenants w/r/o survivorship—$200,000
5. A, and B, as joint tenants w/r/o survivorship—$100,000

What is the insurance coverage?

Answer: Accounts numbered 1 and 2 are each separately insured for $100,000 as individual accounts held by A and B, respectively (§ 745.3(a)). With respect to the joint accounts, accounts numbered 3 and 4 are owned by the same combination of individuals and are added together and insured to a maximum of $100,000 leaving $200,000 uninsured (§ 745.8(d)). A, B and C each have a $33,334 insured interest in accounts 3 and 4. A and B also maintain a joint account, account number 5. Because C has no interest in this account, it is owned by a combination of individuals different from accounts 3 and 4. The interests of A and B in account number 5 are deemed to be equal (§ 745.2(c)(4)). A's $50,000 interest in account 5 is added to his insured interest in accounts 3 and 4, giving him a total of $83,334 insurance coverage for his interests in the various joint accounts, in addition to the insurance in the amount of $100,000 provided for his individual account. B's interests in accounts 3, 4 and 5 are identical to A's and her interests are insured in a like manner.

G. Trust Accounts and Retirement Accounts

A trust estate is the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, that is valid under state law. Thus, funds invested in an account by a trustee under an irrevocable express trust are insured on the basis of the beneficial interests under such trust. The interest of each beneficiary in an account (or accounts) established under such a trust arrangement is insured to $100,000 separately from other accounts held by the trustee, the settlor (grantor), or the beneficiary. However, in cases where a beneficiary has an interest in more than one trust arrangement created by the same settlor, the interests of the beneficiary in all accounts established under such trusts are added together for insurance purposes, and the beneficiary's aggregate interest derived from the same settlor is separately insured to the $100,000 maximum.

A beneficiary's interest in an account established pursuant to an irrevocable express trust arrangement is insured separately from other beneficial interests (trust estates) invested in the same account if the value of the beneficiary's interest (trust estate) can be determined (as of the date of a credit union's insolvency) without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–10 of the Federal Estate Tax Regulations (26 CFR 20.2031–10). If any trust estates in such an account cannot be so determined, the insurance with respect to all such trust estates together shall not exceed the basic insured amount of $100,000.

In order for insurance coverage of trust accounts to be effective in accordance with the foregoing rules, certain recordkeeping requirements must be met. In connection with each trust account, the credit union's records must indicate the name of both the settlor and the trustee of the trust and must contain an account signature card executed by the trustee indicating the fiduciary capacity of the trustee. In addition, the interests of the beneficiaries under the trust must be ascertainable from the records of either the credit union or the trustee, and the settlor or beneficiary must be a member of the credit union. If there are two or more settlors or beneficiaries, then either all the settlors or all the beneficiaries must be members of the credit union.

Although each ascertainable trust estate is separately insured, it should be noted that in short-term trusts the insurable interest or interests may be very small, since the interests are computed only for the duration of the trust. Thus, if a trust is made irrevocable for a specified period of time, the beneficial interest will be calculated in terms of the length of time stated. A reversionary interest retained by the settlor is treated in the same manner as an individual account of the settlor.

As stated, the trust must be valid under local law. A trust which does not meet local requirements, such as one imposing no duties on the trustee or conveying no interest to the beneficiary, is of no effect for insurance purposes. An account in which such funds are invested is considered to be an individual account.

An account established pursuant to a revocable trust arrangement is insured as a form of individual account and is treated under Section B, supra, dealing with Testamentary Accounts.

IRA and Keogh accounts are separately insured, each up to $100,000. Although credit unions may serve as

trustees or custodians for self-directed IRA and Keogh accounts, once the funds are taken out of the credit union, they are no longer insured.

Example 1

Question: Member S invests $45,000 in trust for B, the beneficiary. S also has an individual account containing $90,000 in the same credit union. What is the insurance coverage?

Answer: Both accounts are fully insured. The trust account is separately insured from the individual account of S (§§ 745.3(a) and 745.9-1(a)).

Example 2

Question: S invests funds in trust for A, B, C, D, and E. A, B, and C are members of the credit union, D, E and S are not. What is the insurance coverage?

Answer: This is an uninsurable account. Where there is more than one settlor or more than one beneficiary, all the settlors or all the beneficiaries must be members to establish this type of account. Since D, E and S are not members, this account cannot legally be established or insured.

Example 3

Question: Member S invests $500,000 in trust for ABC Employees Retirement Fund. Some of the beneficiaries are members and some are not. What is the insurance coverage?

Answer: The account is insured as to the determinable interests of each member beneficiary to a maximum of $100,000 per member. Member interests not capable of evaluation and nonmember interests shall be added together and insured to a maximum of $100,000 in the aggregate (§ 745.9-1).

Example 4

Question: Member A has an individual account of $100,000 and establishes an IRA and accumulates $50,000 in that account. Subsequently A becomes self employed and establishes a Keogh account in the same credit union and accumulates $100,000 in that account. What is the insurance coverage?

Answer: Each of A's accounts would be separately insured for up to $100,000. In the example, A would be fully insured for $250,000 (§ 745.3(a) and § 745.9-2).

Example 5

Question: Member A has a self-directed IRA account with $70,000 in it. The FCU is the trustee of the account. Member transfers $40,000 into a blue chip stock; $30,000 remains in the FCU. What is the insurance coverage?

Answer: Originally, the full $70,000 in A's IRA account is insured. The $40,000 is no longer insured once it is moved out of the FCU. The $30,000 remaining in the FCU is insured (§ 745.9-2).

[FR Doc 86-23863 Filed 10-22-86; 8:45 am]
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 44, 111, 203, 207, 236, 290, 511, 570, 571, 850, 880, 881, 882, 883, 884, 886, 892, 941, 968, 970, and 990

[Docket No. N-86-1645]

Audit Requirements for State and Local Governments and Public Housing Agency Fraud Recoveries; Effective Dates

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

ACTION: Notice of announcement of effective dates for certain recent final rules.

SUMMARY: Section 7(o) of the Department of Housing and Urban Development Act requires HUD to wait thirty calendar days of continuous session of Congress before it makes a published rule effective. This notice announces the effective dates for certain recently published final rules. Thirty calendar days of continuous session of Congress have expired in the present Congress since these rules were published. For an explanation of subject matter on the rules, see **"SUPPLEMENTARY INFORMATION".**

DATES: For effective dates see **"SUPPLEMENTARY INFORMATION".**

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

SUPPLEMENTARY INFORMATION: The effective date provisions of the published rules stated that the rules would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the rules' effectiveness would be published in the **Federal Register.** Thirty calendar days of continuous session of Congress have expired in the present Congress since these rules were published.

Accordingly, the purpose of this notice is to announce the effective dates for the rules listed below:

24 CFR Parts 44, 111, 203, 207, 236, 290, 511, 570, 571, 850, 880, 881, 882, 883, 884, 886, 892, 941, 968, 970, and 990: Implementation of the Single Audit Act of 1984 and OMB Circular A-128, Final rule published August 27, 1986 (51 FR 30478), Docket No. R-86 1255; FR-2075. Effective Date: October 8, 1986.

24 CFR Part 892: Public Housing Agency Section 8 Fraud Recoveries, Final rule published August 20, 1986 (51 FR 29633), Docket No. R-86-1056; FR-1692. Effective Date: October 8, 1986.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 15, 1986.

Donald A. Franck,

Acting Assistant General Counsel for Regulations.

[FR Doc. 86-23956 Filed 10-22-86; 8:45 am]
BILLING CODE 4210-32-M

24 CFR Part 3282

[Docket No. R-86-1307; FR-2287]

Revision of Portions of Manufactured Home Procedural and Enforcement Regulations; Correction

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

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule, published in the **Federal Register** on September 29, 1986 (51 FR 34466), that adopted clarifying amendments to HUD's manufactured home procedural and enforcement regulations. The action is necessary to correct §3282.407(b)(2) to add text that was inadvertently deleted from the published final rule.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Hammond, Office of the General Counsel, Program Compliance Division, telephone (202) 755-7184. (This is not a toll-free number.)

Accordingly, the following correction is being made to FR Doc. 86-21993 that appears on page 34466 in the **Federal Register** of September 29, 1986:

1. The authority citation for 24 CFR Part 3282 continues to read as follows:

Authority: Sec. 620, National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

2. On page 34468, third column, § 3282.407(b)(2) is correctly revised to read as follows:

§ 3282.407 Notification and correction pursuant to administrative determination.

* * * * *

(b) * * *

(2) The notice shall inform the manufacturer that the preliminary determination shall become final unless the manufacturer requests a hearing or presentation of views under Subpart D of this part within 15 days of receipt of a Notice of Preliminary Determination of serious defect, defect, or noncompliance, or within 5 days of receipt of a Notice of Preliminary Determination of imminent safety hazard.

* * * * *

Dated. October 15, 1986.

Donald A. Franck,

Acting Assistant General Counsel for Regulations.

[FR Doc. 86-23957 Filed 10-22-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of the Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of this amendment is to require U.S. banking institutions to register in writing with the Office of Foreign Assets Control, on or before November 17, 1986, if they (1) are members of a syndicate of banking institutions and have, or any member of the syndicate has, and intend(s) to assert, claims against the balance remaining (the "No. 1 Account") of the $3.667 billion transferred to the Federal Reserve Bank of New York (the "Fed") pursuant to Paragraph 2(A) of the January 19, 1981 Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran With Respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria (the "Undertakings") or (2) have, and intend to assert, any remaining claims against the account established by the deposit of $1.418 billion in escrow (the "Escrow Account," also known as "Dollar Account No. 2") at the Bank of England pursuant to Paragraph 2(B) of the Undertakings.

All members of a syndicate are precluded from asserting any claim against the No. 1 Account arising out of the syndicate, or participation in the syndicate, unless at least one U.S. banking institution that is a member of the syndicate has registered a claim against the No. 1 Account pursuant to § 535.622(a) and the claim asserted is consistent with information provided in such registration. Except for a claim for interest related to the period after December 31, 1980, on the syndicated loans and credits referred to in Paragraph 2(A) of the Undertakings ("January Interest"), U.S. banking institutions are precluded from asserting any claim against the Escrow Account unless the U.S. banking institution has registered a claim against the Escrow Account pursuant to § 535.622(b) and has previously registered pursuant to § 535.621 and the claim asserted is consistent with information provided in the registration pursuant to § 535.622(b). All members of a syndicate are precluded from asserting any January Interest claim against the Escrow Account arising out of the syndicate, or participation in the syndicate, unless at least one U.S. banking institution that is a member of the syndicate has registered a claim against the Escrow Account pursuant to § 535.622(c) and the claim asserted is consistent with information provided in such registration.

EFFECTIVE DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Loren Dohm, Chief, Census Unit, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Telephone number (202) 376-0968.

SUPPLEMENTARY INFORMATION: There are separate registration requirements for claims against the No. 1 Account and claims against the Escrow Account. The registration of bank claims required not later than December 16, 1981, by 31 CFR 535.621 will no longer suffice as a complete registration for claims against the Escrow Account. An agreement between the United States and the Islamic Republic of Iran allows the Escrow Account to be used for the purpose of paying January Interest. U.S. banking institutions that have January Interest claims should register those claims separately (the "January Interest Registration") pursuant to § 535.622(c) and not include those claims with non-January Interest claims against the Escrow Account.

No. 1 Account Registration. The Iran-United States Claims Tribunal has ordered that the United States and the Islamic Republic of Iran "immediately enter into negotiation and negotiate in good faith with a view to arrive at an agreement on (i) the determination of the claims which are still presently pending against [the No. 1 Account] and of the amount which should consequently be kept in this Account in order to pay such claims [and] (ii) the amount of the funds presently held in [this Account] which is not needed to pay the remaining claims pending against this Account . . . ." Awd. No. ITL 63-A15(I:G)-FT (August 20, 1986). The information, to be obtained through the registration of U.S. banking institutions that are members of a syndicate of banking institutions, is needed to determine the amount that should be kept in the No. 1 Account and thereby determine "the amount of the funds presently held in [this Account] which is not needed to pay the remaining claims pending against this Account."

The $3.667 billion was transferred to the Federal Reserve Bank of New York pursuant to Paragraph 2(A) of the Undertakings "to pay the unpaid principal of and interest through December 31, 1980, on (1) all loans and credits made by a syndicate of banking institutions, of which a U.S. banking institution is a member, to the Government of Iran, its agencies, instrumentalities or controlled entities, and (2) all loans and credits made by such a syndicate which are guaranteed by the Government of Iran or any of its agencies, instrumentalities or controlled entities."

In complying with this registration requirement, syndicates are encouraged to select one U.S. banking institution to assert in its registration the claims of all syndicate members. The registration shall include an identification of the syndicate, the basis for each kind of claim together with the name of each syndicate member on whose behalf the registrant is asserting that kind of claim and the amount of that kind of claim for each such syndicate member, for each kind of claim the total amount claimed for all syndicate members on whose behalf the registrant is asserting that kind of claim, and the aggregate total amount claimed for all syndicate members on whose behalf the registrant is asserting claims. All amounts are to be stated as of September 30, 1986. The registration shall also include the interest rate(s) at which interest would accrue after September 30, 1986, as well as the name, title, and telephone number of an appropriate contact person.

Escrow Account Registration. Paragraph 2(B) of the Undertakings provides that the Escrow Account will be used "for the purpose of paying the unpaid principal of [*sic*] the interest owing, if any, on the loans and credits referred to in Paragraph (A) [syndicated loans and credits] after application of the $3.667 billion and on all other indebtedness held by United States banking institutions of, or guaranteed by, the Government of Iran, its agencies, instrumentalities or controlled entities

not previously paid and for the purpose of paying disputed amounts of deposits, assets, and interests, if any, owing on Iranian deposits in U.S. banking institutions."

This registration of bank claims against the Escrow Account supplements an earlier registration of U.S. banking institutions that have, and intend to assert, claims against the Escrow Account (46 FR 59939 (1981)). U.S. banking institutions and the representative of the Islamic Republic of Iran have met over the last several years to settle claims against the Escrow Account. Thus far, 30 settlements have been reached resulting in payments of $1,490,990,230.20. (An additional $415,555.56 was paid out of the Escrow Account at an early time for a U.S. banking institution that subsequently entered into one of the 30 settlements with the Islamic Republic of Iran.) However, a number of claims that appear to be properly payable out of the Escrow Account remain unsettled.

The registration shall include the basis for each kind of claim together with the amount of that kind of claim, and the total amount claimed. All amounts are to be stated as of September 30, 1986. The registration shall also include the interest rate(s) at which interest would accrue after September 30, 1986, as well as the name, title, and telephone number of an appropriate contact person.

January Interest Registration. In complying with this registration requirement, syndicates are encouraged to select one U.S. banking institution to assert in its registration the January Interest claims of all syndicate members. The registration shall include an identification of the syndicate, for each syndicate the name of each syndicate member on whose behalf the registrant is asserting a claim and the amount of the claim for such syndicate member, for each syndicate the total amount claimed for all syndicate members on whose behalf the registrant is asserting a claim, and the aggregate total dollar amount claimed for all syndicate members on whose behalf the registrant is asserting claims. All amounts are to be stated as of September 30, 1986. The registration shall also include the interest rates(s) at which interest would accrue after September 30, 1986, as well as the name, title, and telephone number of an appropriate contact person.

U.S. banking institutions should not register claims that clearly may not be paid out of the relevant account. For example, under the No. 1 Account registration claims for attorneys' fees in pursuing collection remedies relating to eligible syndicates should not be included since such fees are neither principal nor interest through December 31, 1980, and thus are not payable out of the No. 1 Account. On the other hand, claims for interest on late payments of principal should be included. Interest on late payments of interest should be included but only if the relevant credit agreement provides that interest is payable on late payments of interest. U.S. banking institutions should not register claims arising out of syndicates which have entered into effective full and final settlements. Similarly, U.S. banking institutions should not register nonsyndicated claims if they have entered into effective full and final settlements relating to such claims.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 USC 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 USC 601 *et seq.* does not apply.

Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

These registration requirements are not subject to the Paperwork Reduction Act of 1980, 44 USC 3501 *et seq.*

List of Subjects in 31 CFR Part 535

Iran, Banking institutions, claims, Reporting and recordkeeping requirements.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The "Authority" citation for Part 535 continues to read as follows:

Authority: Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685, unless otherwise noted.

2. Section 535.622 is added to read as follows:

§ 535.622 Registration of bank claims against the No. 1 Account, and the escrow account at the Bank of England (Dollar Account No. 2); registration of January Interest claims.

(a) *Bank claims against the No. 1 Account*— (1) *Registration requirements.* Any U.S. banking institution that is a member of a syndicate of banking institutions and has, or any member of the syndicate has, and intends to assert, a claim against the balance remaining (the "No. 1 Account") of the $3.667 billion transferred to the Federal Reserve Bank of New York (the "Fed") pursuant to Paragraph 2(A) of the January 19, 1981 Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran With Respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria (the "Undertakings") is required to register with the Office of Foreign Assets Control, in writing, on or before November 17, 1986, unless at least one other U.S. banking institution that is a member of the syndicate has properly filed a registration pursuant to this subsection relating to such claim. Each registration shall relate only to one syndicate.

(2) *Contents of registration.* The required registration shall refer to this subsection and contain the following:

(i) Name and address of the registrant banking institution;

(ii) Name, title, and telephone number of person who may be contacted about the registration;

(iii) Identification of the syndicate;

(iv) The basis for each kind of claim together with the name of each syndicate member (including the registrant, if applicable) on whose behalf the registrant is asserting that kind of claim and the dollar amount of that kind of claim for each such syndicate member;

(v) If there is more than one kind of claim, for each kind of claim the total dollar amount claimed for all syndicate members (including the registrant if applicable) on whose behalf the registrant is asserting that kind of claim;

(vi) The aggregate total dollar amount claimed for all syndicate members (including the registrant, if applicable) on whose behalf the registrant is asserting claims; and

(vii) The interest rate(s) at which interest would accrue after September 30, 1986, and, if different rates apply to different portions of the aggregate total dollar amount claimed, the dollar amount to which each rate applies.

All dollar amounts are to be stated as of September 30, 1986. Dollar amounts and other information relating to a claim for interest (including interest thereon) related to the period after December 31, 1980, on the syndicated loans and credits referred to in Paragraph 2(A) of the Undertakings ("January Interest") shall not be included in registrations pursuant to this subsection. If the interest rate(s) referred to in clause (a)(2)(vii) may only be stated with reference to an index, that index and the applicable margin shall be provided. For

all interest rates referred to in clause (a)(2)(vii), the calculation period (*e.g.*, semiannual), the starting date of the first interest calculation period beginning after September 30, 1986, and the calculation basis (*e.g.*, 365/365, 365/360) shall be provided.

(3) *Filing.* One copy of the registration, which shall be in the form of a letter or a telex (Telex No. 710–822–9201), shall be sent to Unit 622(a), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220. Telexed registrations should also include the telephone number of the Census Unit (376–0968). A copy of the registration should be retained for the registrant banking institution's records.

(4) *Failure to register.* All members of a syndicate are precluded from asserting any claim against the No. 1 Account arising out of the syndicate, or participation in the syndicate, unless at least one U.S. banking institution that is a member of the syndicate has registered a claim against the No. 1 Account pursuant to this subsection and the claim asserted is consistent with information provided in such registration and with the purpose of Paragraph 2(A) of the Undertakings.

(b) *Bank claims against the escrow account (Dollar Account No. 2) at the Bank of England.*

(1) *Registration requirements.* Any U.S. banking institution that has, and intends to assert, any remaining claim against the account established by the deposit of $1.418 billion in escrow (the "Escrow Account," also known as Dollar Account No. 2") at the Bank of England pursuant to paragraph 2(B) of the Undertakings is required to register with the Office of Foreign Assets Control, in writing, on or before November 17, 1986.

(2) *Contents of registration.* The required registration shall refer to this subsection and contain the following:

(i) Name and address of the registrant banking institution;

(ii) Name, title, and telephone number of person who may be contacted about the registration;

(iii) The basis for each kind of claim together with the dollar amount of that kind of claim;

(iv) The total dollar amount claimed; and

(v) The interest rate(s) at which interest would accrue after September 30, 1986, and, if different rates apply to different portions of the total dollar amount claimed, the dollar amount to which each rate applies.

All dollar amounts are to be stated as of September 30, 1986. Dollar amounts and other information relating to a January Interest claim shall not be included in registrations pursuant to this subsection. If the interest rate(s) referred to in clause (b)(2)(v) may only be stated with reference to an index, that index and the applicable margin shall be provided. For all interest rates referred to in clause (b)(2)(v), the calculation period (*e.g.*, semiannual), the starting date of the first interest calculation period beginning after September 30, 1986, and the calculation basis (*e.g.*, 365/365, 365/360) shall be provided.

(3) *Filing.* One copy of the registration, which shall be in the form of a letter or a telex (Telex No. 710–822–9201), shall be sent to Unit 622(b), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220. Telexed registrations should also include the telephone number (376–0968) of the Census Unit. A copy of the registration should be retained for the registrant banking institution's records.

(4) *Failure to register.* Except for a January Interest claim, U.S. banking institutions are precluded from asserting any claim against the Escrow Account unless the U.S. banking institution has registered a claim against the Escrow Account pursuant to this subsection and has previously registered pursuant to § 535.621 and the claim asserted is consistent with information provided in the registration pursuant to this subsection and with the purpose of Paragraph 2(A) of the Undertakings.

(c) *January Interest registration*—(1) *Registration requirements.* Any U.S. banking institution that is a member of a syndicate of banking institutions and has, or any member of the syndicate has, and intends to assert, a claim for January Interest against the Escrow Account is required to register with the Office of Foreign Assets Control, in writing, on or before November 17, 1986, unless at least one other U.S. banking institution that is a member of the syndicate has properly filed a registration pursuant to this subsection relating to such claim.

(2) *Contents of registration.* The required registration shall refer to this subsection and contain the following:

(i) Name and address of the registrant banking institution;

(ii) Name, title, and telephone number of person who may be contacted about the registration;

(iii) Identification of syndicate(s);

(iv) For each syndicate the name of each syndicate member (including the registrant, if applicable) on whose behalf the registrant is asserting a claim and the dollar amount of the claim for such syndicate member;

(v) If there is more than one syndicate, for each syndicate the total dollar amount claimed for all syndicate members (including the registrant if applicable) on whose behalf the registrant is asserting a claim;

(vi) The aggregate total dollar amount claimed for all syndicate members (including the registrant, if applicable) on whose behalf the registrant is asserting claims; and

(vii) The interest rate(s) at which interest would accrue after September 30, 1986, and, if different rates apply to different portions of the aggregate total dollar amount claimed, the dollar amount to which each rate applies.

All dollar amounts are to be stated as of September 30, 1986. If the interest rate(s) referred to in clause (c)(2)(vii) may only be stated with reference to an index, that index and the applicable margin shall be provided. For all interest rates referred to in clause (c)(2)(vii), the calculation period (*e.g.*, semiannual), the starting date of the first interest calculation period beginning after September 30, 1986, and the calculation basis (*e.g.*, 365/365, 365/360) shall be provided.

(3) *Filing.* One copy of the registration, which shall be in the form of a letter or a telex (Telex No. 710–822–9201), shall be sent to Unit 622(c), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220. Telexed registrations should also include the telephone number of the Census Unit (376–0968). A copy of the registration should be retained for the registrant banking institution's records.

(4) *Failure to register.* All members of a syndicate are precluded from asserting any January Interest claim against the Escrow Account arising out of the syndicate, or participation in the syndicate, unless at least one U.S. banking institution that is a member of the syndicate has registered a claim against the Escrow Account pursuant to this subsection and the claim asserted is consistent with information provided in such registration and with the purpose of Paragraph 2(B) of the Undertakings.

Dated: October 17, 1986.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved: October 17, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86–2406 Filed 10–22–86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 358

[DOD Directive 5105.41]

Defense Advanced Research Projects Agency

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This part has been updated to add responsibility for the conduct of prototype projects, delegate contracting authority, and reflect current reporting relationships. In addition, changes have been made to update references and to conform to current editorial format. This part was last published on July 28, 1978.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Organization and Management Planning Directorate, Office of the Deputy Assistant Secretary of Defense (Administration), Room 3A326, the Pentagon, Washington, DC 20301, telephone (202) 697–0709.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 358

Organizations and functions.

Accordingly, 32 CFR Part 358 is revised to read as follows:

PART 358—DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

Sec.

Authority: 10 U.S.C. Chapter 4.

§ 358.1 Reissuance and purpose.

Pursuant to the authority vested in the Secretary of Defense under Title 10, United States Code, this part reissues 32 CFR Part 385 to update the responsibilities, functions, relationships, and authorities of the Defense Advanced Research Projects Agency (DARPA).

§ 358.2 Mission.

DARPA shall:

(a) Manage and direct the conduct of selected advanced basic and applied research and development projects for the Department of Defense.

(b) Stimulate a greater emphasis on prototyping in defense systems by conducting prototype projects that embody technology that might be incorporated in joint programs, programs in support of deployed U.S. Forces (including the Unified and Specified Commands), or selected Military Department programs, and, on request, assist the Military Departments in their own prototyping programs.

§ 358.3 Organization and management.

DARPA is established as a separate agency of the Department of Defense under the direction, authority, and control of the Under Secretary of Defense for Acquisition (USD(A)). It shall consist of a Director and such subordinate elements as are established by the Director within resources authorized by the Secretary of Defense.

§ 358.4 Responsibilities and functions.

The Director, DARPA, shall:

(a) Organize, direct, and manage the DARPA and all assigned resources.

(b) Provide guidance and assistance, as appropriate, to all DOD Components and other U.S. Government activities on matters pertaining to the projects assigned to DARPA.

(c) Recommend to the Secretary of Defense, through the USD(A), the assignment of research projects to DARPA.

(d) Arrange for the performance of, and supervise the work connected with, DARPA projects assigned to the Military Departments, other U.S. Government activities, individuals, private business entities, educational institutions, or research institutions, giving consideration to the primary functions of the Military Departments.

(e) Engage in assigned advanced research projects.

(f) Keep the USD(A), the Military Departments, the Joint Chiefs of Staff, and other DOD Agencies informed, as appropriate, on significant new developments, breakthroughs, and technological advances within assigned projects and on the status of such projects in order to facilitate early operational assignment.

(g) Prepare and submit to the Assistant Secretary of Defense (Comptroller), in accordance with established procedures, the DARPA annual program-budget estimates, to include the assignment of appropriation program priorities.

(h) Perform such other functions as may be assigned by the USD(A).

§ 358.5 Authority.

The Director, DARPA, is specifically delegated authority to:

(a) Place funded work orders with the Military Departments and other DOD Components or directly with subordinate echelons of the Military Departments, after clearance with the Secretary of the Military Department concerned.

(b) Authorize the allocation, as appropriate, of funds made available to DARPA for assigned advanced projects.

(c) Establish for DARPA, the Military Departments, and other research and development activities, procedures required in connection with work being performed for DARPA, consistent with policies and instructions governing the Department of Defense.

(d) Serve as head of an Agency and Contracting Activity within the meaning of, and subject to, the limitations of Federal Acquisition Regulation 2.1, April 1, 1984, as supplemented by DOD Federal Acquisition Regulation Supplement 2.1.

(e) Acquire or construct, directly or through a Military Department or other U.S. Government agency, such research, development, and test facilities and equipment required to carry out assignments that may be approved by the Secretary of Defense in accordance with applicable statutes and DOD Directives.

(f) Obtain reports and information, consistent with the policies and criteria of DOD Directive 5000.19[1] and advice and assistance from other DOD Components as necessary to carry out DARPA functions and responsibilities.

(g) Exercise the administrative authorities contained in § 358.8.

§ 358.6 Relationships.

(a) In the performance of assigned functions, the Director, DARPA, shall:

(1) Maintain appropriate liaison for the exchange of information and advice in the field of assigned responsibility with other DOD Components, agencies of the Executive Branch, and non-DOD research and development institutions (including private business entities) and educational institutions.

(2) Ensure that appropriate staff elements of the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the Military Departments, and other DOD Components are kept fully informed concerning DARPA activities with which they have substantive concern.

(3) Make appropriate use of established facilities and services in the Department of Defense or other governmental agencies, wherever practicable, to achieve maximum efficiency and economy.

[1] Copies may be obtained if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

(b) The Secretaries of the Military Departments and Heads of other DOD Components shall:

(1) Provide assistance and support, in their respective fields of responsibility and within available resources, to the Director, DARPA, as may be necessary to carry out the responsibilities and functions assigned to DARPA.

(2) Coordinate with the Director, DARPA, on all matters related to responsibilities and functions assigned to DARPA.

§ 358.7 Administration.

(a) The Director, DARPA, shall be a civilian selected by the Secretary of Defense.

(b) DARPA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(c) The Military Departments shall assign personnel to DARPA in accordance with approved authorizations and procedures for assignment to joint duty.

(d) Administrative support required for DARPA shall be provided by the Director, Washington Headquarters Services, and other DOD Components, as appropriate.

§ 358.8 Delegation of authority.

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DOD policies, Directives, and Instructions, the Director, DARPA, or in the absence of the Director, the person acting for the Director, is hereby delegated authority as required in the administration and operation of DARPA to:

(a) Designate any position in DARPA as a "sensitive" position, in accordance with the provisions of 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and 32 CFR Part 156, "DOD Personnel Security Program," December 20, 1979; as appropriate.

(b) Authorize and approve overtime work for DARPA civilian officers and employees in accordance with the provisions of 5 U.S.C. Chapter 55, Subchapter V, and applicable OPM regulations.

(c) Authorize and approve:

(1) Travel for DARPA civilian officers and employees in accordance with Joint Travel Regulations, Volume 2, "DOD Civilian Personnel."

(2) Temporary duty travel for military personnel assigned or detailed to DARPA in accordance with Joint Travel Regulations, Volume 1, "Members of Uniformed Services."

(3) Invitational travel to persons serving without compensation whose consultive, advisory, or other highly specialized technical services are required in a capacity that is directly related to, or in connection with, DARPA activities, pursuant to the provisions of 5 U.S.C. 5703.

(d) Approve the expenditure of funds available for travel by military personnel assigned or detailed to DARPA for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense, or designee, is required by law (37 U.S.C. 412 and 5 U.S.C. 4110 and 4111). This authority cannot be redelegated.

(e) Develop, establish, and maintain an active and continuing Records Management Program, pursuant to the provisions of section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 3102).

(f) Enter into and administer contracts, directly or through a Military Department, a DOD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment, and services required to accomplish the mission of DARPA. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority shall be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

(g) Establish and use imprest funds for making small purchases of material and services, other than personal, for DARPA, when it is determined more advantageous and consistent with the best interests of the Government, in accordance with the provisions of DOD Instruction 5100.71[1] "Delegation of Authority and Regulations Relating to Cash Held at Personal Risk Including Imprest Funds," March 5, 1973.

(h) Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals as required for the effective administration and operation of DARPA consistent with 44 U.S.C. 3702.

(i) Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DARPA, pursuant to DOD Directive 5200.8,[1] "Security of Military installations and Resources," July 29, 1980.

[1] See footnote 1 to § 358.5(f).

(j) Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DOD Directive 5025.1,[1] "Department of Defense Directives System," October 16, 1980.

(k) In coordination with the Deputy Assistant Secretary of Defense (Administration), enter into support and service agreements with the Military Departments, other DOD Components, or other Government agencies, as required for the effective performance of DARPA functions and responsibilities.

(l) Establish and maintain appropriate property accounts for DARPA and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DARPA property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

The Director, DARPA, may redelegate these authorities as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation. These delegations of authority are effective immediately.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 21, 1986.

[FR Doc. 86-24005 Filed 10-22-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 85-002]

Boating Safety; Certification and Safe Powering Standards

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Certification regulations in Subpart B of Part 181 and the Safe Powering Standard in Subpart D of Part 183 of Title 33, Code of Federal Regulations. The purpose of these amendments is to give those boats, which can clearly operate safely with more horsepower than they currently rate under the Coast

Guard Safe Powering Standard, more reasonable maximum horsepower capacities. In order to allow greater flexibility in the manner in which the maximum horsepower capacity of these boats is determined, these amendments establish an optional performance test method as an alternative to the existing calculation method. An additional editorial change to Subpart A of Part 181 reflects changes in the applicability of the part.

EFFECTIVE DATE: August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–0981, between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on May 29, 1986 [51 FR 19364]. Interested persons were invited to participate in this rulemaking by submitting relevant comments. The Coast Guard extended the comment period for the notice of proposed rulemaking until August 29, 1986. Any comments received were carefully considered. The National Boating Safety Advisory Council was consulted and its opinions and advice have been considered in the formulation of these amendments. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G–BBS), U.S. Coast Guard, Washington, DC 20593–0001.

Drafting Information

The principal persons involved in drafting these amendments are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and Lt. Sandra Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

One comment was received. A State Boating Law Administrator, who did not object to the substance of the proposed amendments, urged the Coast Guard to consider the publication of regulations that would make the use of a larger motor than the maximum horsepower capacity displayed on the boat a violation of Federal law. According to the comment, many States use the values displayed on the U.S. Coast Guard Maximum Capacities label in determining whether an operator has violated State laws concerning overloading and overpowering. The comment further stated that the operators of these overloaded and overpowered boats cite statements made by dealers and the Coast Guard that the use of a larger motor or the carriage of more persons than the values displayed on the U.S. Coast Guard Maximum Capacities label is not a violation of Federal law. The comment concluded by stating that the regulations should clearly and strongly state that the maximum horsepower capacity displayed on a boat is the maximum horsepower an operator may use on the boat. The comment does not pertain to these amendments. Parts 181 and 183 of Title 33 to which these amendments apply, contain only manufacturer requirements. The comment affects the boat and would involve amendments to different Parts in Title 33. The comment also addresses safe loading capacities, but the scope of these amendments is limited to offering an optional means for calculating the maximum horsepower capacity of some outboard powered boats. The Coast Guard will present these comments at the next meeting of the National Boating Safety Advisory Council for their consideration. Since there were no unfavorable comments, the Coast Guard is amending the Certification regulations in Subpart B of Part 181 and the Safe Powering Standard in Subpart D of Part 183. These amendments provide an alternate means for determining the maximum horsepower capacity of outboard powered recreational boats 13 feet or less in length with remote wheel steering, a minimum 19 inch transom height or equivalent and rated for a maximum persons capacity not to exceed two persons.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order No. 12291 and non-significant under the DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). The economic impact of this proposal has been found to be minimal. The proposal to offer an optional method for determining the maximum horsepower capacity for the boats subject to these amendments is a relief from the application of the current standard. There is no increased cost per boat. Since the impact of this final rule is expected to be minimal, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects for 33 CFR Parts 181 and 183

Marine safety.

For the reasons set out in the preamble, Title 33, Chapter I, Parts 181 and 183 of the Code of Federal Regulations are amended as follows:

PART 181—MANUFACTURER REQUIREMENTS

1. The authority citation for Part 181 is revised to read as follows and all other authority citations in Part 181 are removed:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Section 181.1 is revised to read as follows:

§ 181.1 Purpose and applicability.

This part prescribes requirements for the certification of boats and associated equipment and identification of boats to which 46 U.S.C. Chapter 43 applies.

3. Section 181.5 is revised to read as follows:

§ 181.5 Purpose and applicability.

This subpart prescribes requirements for the certification of boats and associated equipment to which 46 U.S.C. Chapter 43 applies and to which a safety standard prescribed in Part 183 of this chapter applies.

4. Section 181.15 is amended by adding a new paragraph (f) to read as follows:

§ 181.15 Contents of labels.

* * * * *

(f) Each boat which displays a maximum horsepower capacity determined in accordance with § 183.53(b) must, in addition to the information required by paragraphs (a), (b) and (d) of this section, display on the certification label, the following statement in letters no less than one-quarter of an inch in height: "THIS BOAT IS INTENDED FOR RACING AND OTHER HIGH PERFORMANCE ACTIVITIES. THE SKILL REQUIRED MAY EXCEED THE ABILITIES OF SOME OPERATORS."

PART 183—BOATS AND ASSOCIATED EQUIPMENT

5. The authority citation for Part 183 is revised to read as follows and all other authority citations in Part 183 are removed:

Authority: 46 U.S.C. 4302; 49 CFR 1.46(n)(1).

6. Section 183.1 is revised to read as follows:

§ 183.1 Purpose and applicability.

This subpart prescribes requirements for the certification of boats and associated equipment to which 46 U.S.C. Chapter 43 applies and to which certification requirements in Part 181 of this subchapter apply.

7. Section 183.3 is amended by adding three new paragraphs (l), (m) and (n) to read as follows:

§ 183.3 Definitions.

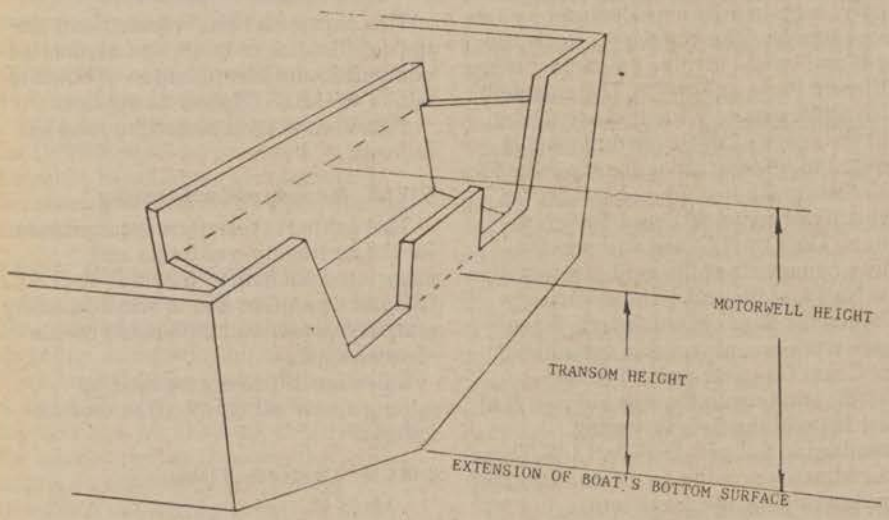
* * * * *

(l) "Transom height" means the vertical distance from the lowest point of water ingress along the top of the transom to a line representing a longitudinal extension of the centerline of the boat's bottom surface, excluding keels. This distance is measured as a projection on the centerline plane of the boat. See Figure 183.3.

(m) "Motorwell" means any arrangement of bulkheads or structures that prevents water from entering the passenger carrying area of the boat through any cutout area in the transom for mounting an outboard motor.

(n) "Motorwell height" means the vertical distance from the lowest point of water ingress along the top of the motorwell to a line representing a longitudinal extension of the centerline of the boat's bottom surface, excluding keels. This distance is measured as a projection on the centerline plane of the boat. See Figure 183.3.

Figure 183.3.—Transom and Motorwell Height



8. Section 183.53 is revised to read as follows:

§ 183.53 Horsepower capacity.

The maximum horsepower capacity marked on a boat must not exceed the horsepower capacity determined by the computation method discussed in paragraph (a) of this section, or for certain qualifying boats, the performance test method discussed in paragraph (b) of this section.

(a) The maximum horsepower capacity must be computed as follows:

(1) Compute a factor by multiplying the boat length in feet by the maximum transom width in feet excluding handles and other similar fittings, attachments, and extensions. If the boat does not have a full transom, the transom width is the broadest beam in the aftermost quarter length of the boat.

(2) Locate horsepower capacity corresponding to the factor in Table 183.53.

(3) For a boat with a factor over 52.5, if the horsepower capacity calculated in Table 183.53 is not an exact multiple of 5, it may be raised to the next exact multiple of 5.

(4) For flat bottom hard chine boats with a factor of 52 or less, the horsepower capacity must be reduced by one horsepower capacity increment in Table 183.53.

TABLE 183.53—OUTBOARD BOAT HORSEPOWER CAPACITY

[Compute: Factor = Boat Length X Transom Width]

If factor (nearest integer) is	0-35	36-39	40-42	43-45	46-52
Horsepower Capacity is	3	5	7.5	10	15

[Note: For flat bottom hard chine boats, with factor of 52 or less, reduce one capacity limit (e.g. 5 to 3)]

If factor is over 52.5 and the boat has	Remote steering and at least 20" transom height	No remote steering, or less than 20" transom height	
		For flat bottom hard chine boats	For other boats
Horsepower capacity is (raise to nearest multiple of 5)	(2 X Factor) − 90	(0.5 X Factor) − 15	(0.8 X Factor) − 25

(b) For boats qualifying under this paragraph, the performance test method described in this paragraph may be used to determine the horsepower capacity.

(1) *Qualifying criteria.*

(i) Thirteen feet or less in length;

(ii) Remote wheel steering;

(iii) Transom Height

(A) Minimum 19 inch transom height; or,

(B) For boats with at least a 19 inch motorwell height, a minimum 15 inch transom height;

(iv) Maximum Persons Capacity not over two persons;

(2) *Boat preparation.*

(i) The boat must be rigged with equipment recommended or provided by the boat and motor manufacturer and tested with the highest horsepower production powerplant for which the boat is to be rated, not to exceed 40 horsepower.

(ii) Standard equipment must be installed in accordance with manufacturers' instructions.

(iii) The lowest ratio (quickest) steering system offered on the boat model being tested must be installed.

(iv) The outboard motor must be fitted with the manufacturer's recommended propeller providing maximum speed.

(v) Standard permanently installed fuel tanks must be no more than one-half full. Boats without permanent tanks must be tested with one full portable tank.

(vi) Portable tanks must be in their designated location or placed as far aft as possible.

(vii) The outboard motor must be placed in the lowest vertical position on the transom or, if mounting instructions are provided with the boat, at the height recommended.

(viii) Boat bottom, motor and propeller must be in new or almost new condition.

Note.—The use of the following special equipment should be considered because of the potential for exceeding the capabilities of the boat while performing the test:

Racing Type Personal Flotation Device
Helmet.

(3) *Test conditions.* Testing must be conducted on smooth, calm water with the wind speed below 10 knots. The test must be conducted with no load other than a driver who must weigh no more than 200 pounds. The motor trim angle must be adjusted to provide maximum full throttle speed short of excessive porpoising or propeller ventilation or "cavitation", so that there is no loss of directional control.

(4) *Quick turn test procedure.* Set throttle at a low maneuvering speed and steer the boat straight ahead. Turn the steering wheel 180° in the direction of least resistance in ½ second or less and hold it at that position without changing the throttle or trim settings during or after the wheel change. The boat completes the maneuver successfully if it is capable of completing a 90° turn without the driver losing control of the boat or reducing the throttle setting. Gradually increase the boat's turn entry speed incrementally until the boat does not complete the Quick Turn Test successfully or successfully completes it at maximum throttle.

Note.—It is recognized that operator skill and familiarity with a particular boat and motor combination will affect the test results. It is permissible to make a number of practice runs through the quick turn test at any throttle setting.

(5) *Test course method.* Set throttle for 30 miles per hour boat speed and run the test course set up in accordance with Figure 183.53, passing outside the designated avoidance marker for 35 to 37.5 miles per hour without contacting any of the course markers. If the boat successfully completes this run of the test course, increase the throttle setting to 35 to 37.5 miles per hour boat speed and run the course passing outside the designated avoidance marker for that speed without contacting any of the course markers. If the boat successfully completes this run of the test course and the motor was not at full throttle, increase the throttle setting to 37.5 to 42.5 miles per hour boat speed and run the course passing outside the designated avoidance marker for that speed without contacting any of the course markers. If the boat successfully completes this run of the test course and the motor was not at full throttle, increase the throttle setting to 42.5 miles per hour or more and run the course passing outside the designated avoidance marker for that speed without contacting any of the course markers. If the boat successfully completes this run of the test course and the motor was not at full throttle, continue to increase the throttle setting and run the test course passing outside the designated avoidance marker for 42.5 miles per hour or more until the boat fails to complete the test successfully or the boat completes the test course maneuvers successfully at full throttle. The boat successfully completes the test course if the driver is able to maneuver it between the designated avoidance markers without striking the markers and without losing control of the boat or reducing the throttle setting. There must be no change in position of any equipment on board and there must be no change of position of personnel in order to influence the test results. There must be no instability evidenced by oscillating motion in the roll or yaw axes exhibited while negotiating the course.

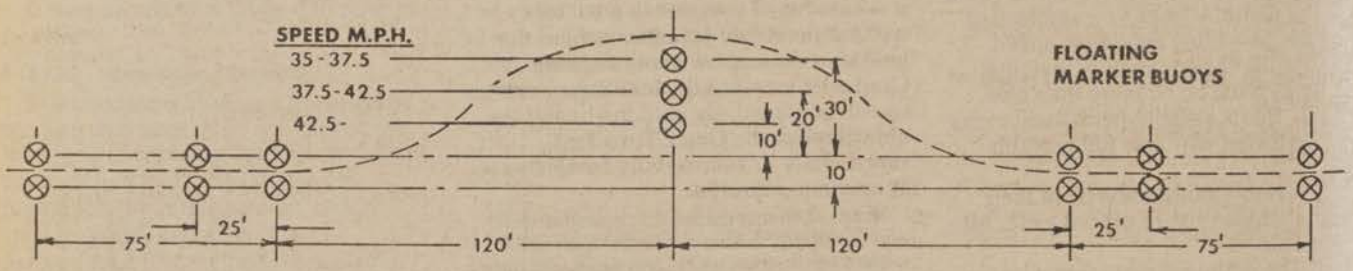
Note.—It is recognized that operator skill and familiarity with a particular boat and motor combination will affect the test results. It is therefore considered permissible to make a number of practice runs through the test course at any throttle setting.

(6) *Maximum horsepower capacity.* (i) For boats capable of less than 35 miles per hour, the maximum horsepower capacity must be the maximum horsepower with which the boat was able to successfully complete the Quick Turn Test Procedure in § 183.53(b)(4) at full throttle or the maximum horsepower determined under the calculations in § 183.53(a) of this section.

(ii) For boats capable of 35 miles per hour or more, the maximum horsepower capacity must be the maximum horsepower with which the boat was able to successfully complete both the Quick Turn Test Procedure in § 183.53(b)(4) and the Test Course Method in § 183.53(b)(5) at full throttle or the calculations in § 183.53(a) of this section.

(iii) The maximum horsepower capacity determined in accordance with § 183.53(b) must not exceed 40 horsepower.

Figure 183.53.—Boat Horsepower Capacity Test Course—35 mph or more



Dated: October 14, 1986.

[FR Doc. 86-23639 Filed 10-22-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 183

[CGD 85-059]

Boating Safety; Ventilation Standard

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Ventilation Standard in Subpart K of Part 183 of Title 33, Code of Federal Regulations. The Coast Guard undertook a review of its regulations governing construction standards which apply to the manufacture of recreational boats in an effort to reduce the burden of existing regulations, while ensuring that boats are built to an adequate level of safety. Based upon the review effort, it has been determined that two of the requirements for natural ventilation do not contribute to improved boating safety. The intended effect of the amendments is to relieve the regulatory burden upon recreational boat manufacturers.

EFFECTIVE DATE: August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 267-0981, between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on June 23, 1986 (51 FR 22830). Interested persons were invited to participate in this rulemaking by submitting relevant comments. All of the comments received were carefully considered. The National Boating Safety Advisory Council was consulted and its opinions and advice have been considered in the formulation of these amendments. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BBS), U.S. Coast Guard, Washington, DC 20593-0001.

Drafting Information

The principal persons involved in drafting these amendments are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and LT. Sandra Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

The Coast Guard proposed removing the requirement for ventilation openings to face forward and the requirement for testing to show airflow contained in Part 183 because these requirements have virtually no impact on achieving the necessary ventilation. Twenty-seven comments were received. All were in favor of the proposal. Therefore, the Coast Guard is amending Part 183 by removing these requirements.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order No. 12291 and non-significant under the DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). The economic impact of this proposal has been found to be minimal. The proposal to eliminate the requirement that supply openings face forward and the requirement for testing to show airflow is a relief from the application of the current standard. There is no increased cost per boat. Since the impact of this final rule is expected to be minimal, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 183

Marine safety.

For reasons set out in the preamble, Title 33, Chapter I, Subchapter S of Part 183, Code of Federal Regulations, is amended as follows:

PART 183—BOATS AND ASSOCIATED EQUIPMENT

1. The authority citation for Part 183 is revised to read as follows (all other authority citations in the subparts of Part 183 are removed):

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Section 183.620(b) is revised to read as follows:

§ 183.620 Natural ventilation system.

* * * * *

(b) Each supply opening required in § 183.630 must be located on the exterior surface of the boat.

* * * * *

Dated: October 14, 1986.

W.P. Hewel,

Captain, U.S. Coast Guard Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 86-23640 Filed 10-22-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General

42 CFR Ch. V

Medicare and Medicaid Programs; Establishment of Chapter V for OIG Regulations

Correction

In FR Doc. 86-21751 beginning on page 34764 in the issue of Tuesday, September 30, 1986, make the following corrections:

§ 1001.221 [Corrected]

1. On page 34771, in the third column, in § 1001.221(b), third line, "as" should read "all"; and

§ 1003.116 [Corrected]

2. On page 34780, in the second column, in § 1003.116(b), second paragraph, first line, insert "(2)" before "(i)".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 51, No. 205
Thursday, October 23, 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

Agricultural Marketing Service

7 CFR Part 994

[Docket No. EMO-1]

Egg Marketing Order; Termination of Surplus Removal Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rulemaking proceedings in part.

SUMMARY: This action pertains to the rulemaking proceedings convened to consider an egg marketing agreement and order and terminates the proceedings with respect to the proposed surplus removal provisions. The termination is based on a lack of sufficient evidence to demonstrate that this aspect of the proposed marketing agreement and order would effectuate the purposes of the Agricultural Marketing Agreement Act of 1937.

DATE: The termination of the proposed surplus removal provisions is effective October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Poultry Division, AMS, USDA, Washington, DC 20250, Phone (202) 382–8132.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing published in the December 16, 1985, issue of the **Federal Register** (50 FR 52344), as corrected in the December 23, 1985, issue (50 FR 52332).

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

A public hearing was held in Atlanta, Georgia, January 8–10, 1986; Little Rock, Arkansas, January 15–16, 1986; San Francisco, California, January 29–30, 1986; Philadelphia, Pennsylvania, February 5–6, 1986; and Chicago, Illinois, February 27–March 1 and March 3, 1986. The Notice of Hearing, published on December 16, 1985, contained a proposal submitted by an industry task force, composed of producers, handlers, and processors. The proposal contained provisions which would have established a program for the voluntary removal of laying hens by producers during periods of extreme egg surpluses. It also contained provisions which would establish a research and promotion program. The Agricultural Marketing Service proposed certain modifications of the proposal which included provisions requiring a public member on the proposed Egg Marketing Board; providing for a periodic continuance referendum; and authorizing establishment of regulations to implement a surplus removal program. There were no provisions for any inspection, grade, size or container regulations.

The hearing record reflects significant opposition within the industry and from other interested persons to the surplus removal provisions of the proposed order. Owners of various sizes of egg production operations, ranging from contract producers to large integrated firms proferred evidence in opposition to the concept of surplus removal in general and to the program as proposed.

The basic position of the proponents claimed that the egg industry is characterized by chronic surpluses and that removal of laying hens during periods of surpluses would, in their view, alleviate an egg surplus and stabilize egg prices. The proponents asserted that various indicators could be used by the Egg Marketing Board to determine the quantity of hens to be removed and the most propitious time to do so.

As indicated above, the hearing consisted of thirteen days of testimony and presentation of evidence at five locations across the country. Twenty briefs and seventy comments were received concerning the proposed egg marketing agreement and order. Notwithstanding this lengthy record, the record evidence does not demonstrate that the proposed surplus removal program would effectuate the purposes of the Agricultural Marketing Agreement Act of 1937 (Act).

The desirable degree of price stability was never specified, nor does the economic analysis and other similar evidence entered in the record establish that a predictable egg price cycle exists or that, even if it does exist, a surplus removal program would be effective in correcting problems associated with such a cycle. In addition, there was insufficient evidence to demonstrate that the Board could determine either that a surplus existed or the quantity of hens which would have to be removed in order to stabilize prices.

Furthermore, an appropriate administrative mechanism suitable to achieve the objectives of a surplus removal program was not clearly or adequately specified.

Therefore, it is determined that the surplus removal provision as published in the Notice of Hearing will not effectuate the declared policy of the Act and that the proceedings with respect to these provisions are hereby terminated. The rulemaking proceedings with respect to the provisions concerning the research and promotion program are not terminated.

List of Subjects in 7 CFR Part 994

Marketing agreement and order, Eggs.

Copies of this termination document may be obtained from: Janice L. Lockard, Poultry Division, AMS, USDA, Washington, DC 20250.

Signed in Washington, DC on October 20, 1986.

William T. Manley,

Deputy Administrator Marketing Programs.

[FR Doc. 86–23962 Filed 10–22–86; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70 and 74

Reporting of Special Nuclear Material Physical Inventory Summary Results

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing amendments to its regulations on special nuclear material control and accounting to require the reporting of summary results of physical inventories of special nuclear material. The affected licensees have been providing this information on a voluntary basis for the reporting of special nuclear material physical inventory data by licensees to provide

information for the NRC inspection program and to provide inventory difference information to the public. Incorporating special nuclear material inventory reporting into the NRC regulations is the most cost-effective way to obtain the necessary information.

DATES: Submit comments by November 24, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H. Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of the regulatory analysis, OMB Clearance Supporting Statement, and comments received may be examined at: The NRC Public Document Room (PDR), 1717 H. Street NW., Washington, DC. Copies of NUREG–0430 are also available for inspection or copying for a fee in the PDR. Copies of this report may be purchased from the U.S. Government Printing Office (GPO) by calling 202–275–2060 or by writing the GPO, P.O. Box 37082, Washington, DC 20013–7082. They may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Darrell A. Huff, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7077.

SUPPLEMENTARY INFORMATION:

Background

The current material control and accounting (MC&A) regulations for fuel facilities require the performance of physical inventories of special nuclear material (SNM) on a periodic basic by licensees. However, the regulations do not require licensees to report physical inventory results to the NRC unless certain thresholds prescribed in 10 CFR Part 74 are exceeded. The NRC needs this information to assess the material accounting performance of licensees and to monitor and assess licensee investigatory activities in response to inventory data which exceed specified limits.

In 1975 the Office of Inspection and Enforcement (IE) instituted a voluntary reporting system known as the Safeguards Status Report System (SSRS) whereby licensees were requested to report to the NRC physical inventory results in a prescribed format. Currently, 12 affected licensees make a voluntary commitment as part of their operating plan to report physical inventory results to the appropriate NRC regional office. The information provided by these voluntary reports is also used as input by the NRC for NUREG–0430, "Licensed Fuel Facility Status Report/Inventory Difference Data," which was initiated by the Director of IE in 1977 in response to congressional and public concerns. NUREG-0430 reports licensed fuel facilities physical inventory difference data following agency review of the information and completion of any related investigations.

Recognizing the need for the reporting of physical inventory reporting system. On August 23, 1976 (41 FR 35537), the NRC published in the **Federal Register** proposed amendments to 10 CFR Part 70 that would have required the reporting of the results of each ending physical inventory and any associated material accounting and measurement error data. The proposed amendments from seven respondents. Final action on the reporting requirements was postponed, pending initiation of a separate but related rulemaking effort (the MC&A reform amendments). The delay in implementing the MC&A reform amendments caused IE to request, in a memo dated June 2, 1982, that the Office of Nuclear Regulatory Research (RES) publish an amendment to 10 CFR Part 70 requiring reporting of physical inventories of SNM. However, due to the unavailability of resources within RES, completion of this rulemaking was referred back to IE by the EDO in a memo dated May 21, 1986.

In 1983, a decision was made to create a new Part 74 which would pertain solely to MC&A safeguards requirements. When 10 CFR Part 74 was published on February 28, 1985 (50 FR 7575), it contained the MC&A regulatory requirements for licensees authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance. Certain safeguards-related recordkeeping and reporting requirements, formerly found in Part 70, were also moved to new Part 74 in order to separate them from safety reporting requirements. Therefore, the reporting requirement for SNM physical inventory results is also being included in Part 74.

Because of the time lapse since the reporting requirements were published as a proposed rule, the NRC is republishing the requirements in proposed form. The newly proposed amendments reflect comments and suggestions received when the amendments were first proposed in 1976 as well as comments and suggestions that were solicited from the NRC regional offices in 1983 and 1984. These proposed amendments would require each licensee subject to the physical inventory requirements of 10 CFR 70.51(e) and 74.31 to report the results of these inventories to the appropriate NRC regional office.

The impact of the reporting requirements on the affected licensees should be minimal because they have been reporting the information requested on a voluntary basis since 1975. The requirements for performing the physical inventories and keeping appropriate records of those inventories have been in place since 1973. Although the completion of the reporting form (NRC–327) will require an estimated 4 hours of effort per licensee per report, this will not be an additional effort since the affected licensees have been reporting voluntarily. The alternative to the licensees reporting the data is sending NRC inspectors out to collect it, which would have an adverse impact on the inspection and enforcement program in terms of increased costs and staff time.

Environmental Impact: Categorical Exclusion

The NRC has determined that the proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the analysis may be obtained from Darrell A. Huff, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7077.

Regulatory Flexibility Certification

As required by the Regulatory Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. Currently, 12 licensees, who are composed of low enriched uranium and high enriched uranium fuel manufacturing facilities, will be affected by these amendments. The proposed rule codifies a reporting procedure that has been a licensee practice since 1975. Accordingly there is no new, significant economic impact on these licensees, nor are the licensees within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects

10 CFR Part 70

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

10 CFR Part 74

Accounting, Material control and accounting, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 70 and 74.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5841).

2. In § 70.53, paragraph (b) is revised to read as follows:

§ 70.53 Material status reports.

* * * * *

(b) Each licensee subject to the requirements of § 70.51(e) shall follow the requirements set out in §§ 74.13(b) and 74.17(b) of this chapter.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

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

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 74.17, 74.31, 74.81, and 74.82 are issued under secs. 161b and 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(b) and 2201(i)); and §§ 74.11, 74.13, 74.15 and 74.17 are issued under sec 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart B—General Reporting

4. In Subpart B, § 74.17 is added to read as follows:

§ 74.17 Special Nuclear Material Physical Inventory Summary Report.

(a) Each licensee subject to the requirements of §74.31 shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 60 calendar days from the start of the physical inventory required by § 74.31(c)(5). The licensee shall report the inventory results by plant and total facility to the appropriate NRC regional office listed in Appendix A of Part 73 of this chapter.

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC From 327 not later than 30 calendar days from the start of the physical inventory required by § 70.51(e)(3) of this chapter. The licensee shall report the inventory results by plant and total facility to the appropriate NRC regional office listed in Appendix A of Part 73 of this chapter.

Dated at Bethesda, Maryland, this 6th day of October, 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86-23971 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 129

Small Business Development Center Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration proposes the following comprehensive rule to govern the operations of the Small Business Development Center Program, a small business assistance delivery program. The increased size of the Small Business Development Center program over the last few years has necessitated the promulgation of regulations to ensure that the program operations are uniform nationwide. It is SBA's intent that these rules, if promulgated in final form, will provide a framework for the operations of the program to be more efficient and effective.

DATES: Comments must be received on or before December 22, 1986.

ADDRESS: Written comments should be addressed to: Johnnie Albertson, Deputy Associate Administrator for Business Development/Small Business Development Centers, 1441 L Street, NW., Room 317, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Freddie Collins, Special Assistant to the Deputy Associate Administrator for Business Development/Small Business Development Centers, (202) 653-6768.

SUPPLEMENTARY INFORMATION: The Small Business Development Center (SBDC) Program was originally established in 1980 by Pub. L. 96-302 which amended Section 21 of the Small Business Act (15 U.S.C. 648). It was later amended by Pub. L. 98-395 in 1984. Many of the requirements set forth in this proposed rule are contained in one of the Public Laws or have stemmed from the operations of the program since its inception. While the rule is too lengthy to describe every section in detail, the major issues will be highlighted below. SBA welcomes public comment on any of these issues or anything contained in the proposal which is not described below.

Section 129.10: Purposes

This section describes the purposes of this program and its relationship to certain other SBA management assistance programs. Generally, the SBDCs should have cooperative relationships with the other SBA management assistance providers to best serve the small business community.

Section 129.11: Definitions

This section sets forth definitions of key terms used in this Subpart. While most definitions need no further explanation, some clarification of the following terms may aid the public in evaluating the regulatory provisions in which they appear.

Cash match: Since the inception of this program, the organizations sponsoring SBDCs have been statutorily required to contribute to the operation of the SBDC an amount equal to that of the Federal contribution. It could be in the form of cash, indirect costs, or overhead costs, or in-kind contributions. The Small Business Development Center

Improvement Act of 1984 (Pub. L. 98–395) amended the "matching requirement" requiring further that organizations sponsoring SBDCs contribute cash for at least one-half of their matching contribution. The statute allowed for a period of time in which to phase in the cash match requirement for all SBDCs, *see* paragraph 129.20(b)(2).

Conflict, dispute, financial disagreement: Under this proposal there are three types of disagreements which can arise relating to the operations of an SBDC: a conflict, a dispute and a financial disagreement. Subsection 129.11(d) defines "conflict" as "any programmatic disagreement or problem, whether pre- or post-award, between an SBDC, an applicant organization or a recipient organization and SBA regarding any matter not addressed in the Cooperative Agreement." This definition refers to any non-financial problem which arises before the annual Cooperative Agreement is entered and to those problems which arise after the Cooperative Agreement is entered which are not covered by the Cooperative Agreement. Under this proposed rule, conflicts would be resolved using the Conflict Resolution Policy set forth in subsection 129.14(j).

Subsection 129.11(f) defines "dispute" as "any disagreement or problem between an SBDC or the recipient organization and SBA concerning one or more elements of the SBDCs Cooperative Agreement." This definition refers to disagreements concerning elements of the Cooperative Agreement which arise after the Cooperative Agreement has been entered by SBA and the recipient organization. Under this proposed rule, disputes would be resolved using the Disputes Resolution Procedure set forth in subsection 129.15(c).

Subsection 129.11(g) defines "financial disagreement" as a problem or disagreement relating to the budget proposal of an SBDC or applicant organization which arises prior to the award of the Cooperative Agreement. This definition refers only to disagreements of a financial nature which arise before the Cooperative Agreement has been awarded. Under this proposed rule, such problems would be resolved using the procedures set forth under subsection 129.14(k).

These separate procedures have been developed as a result of circumstances which have arisen in the operation of the program since its inception. SBA recognizes that a more consolidated approach might be more efficient and would serve the same end of quickly resolving problems that hinder the effective operation of the program. SBA welcomes public comment on these procedures and on a consolidated approach to this issue.

Lobbying: Subsection 129.11(r) defines "lobbying" for purposes of subparagraph 129.20(c)(1)(v) which, as a matter of law and Government-wide policy, prohibits lobbying with Federal funds. This definition of lobbying borrows its key elements from Office of Management and Budget Circulars addressing this issue and includes a description of the types of activities which are excepted from the definition and are therefore, permissible expenditures of Federal funds.

Section 129.12: Eligible Program Applicant

This section describes the entities which are eligible to establish an SBDC. The authorizing statute (15 U.S.C. 648, as amended by Pub. L. 96–302 and Pub. L. 98–395) is explicit that these entities and only these entities are eligible to enter a Cooperative Agreement with SBA for the purpose of establishing an SBDC. Subsection 129.12 (b) imposes no restrictions on SBDC subcenters, which is consistent with the statute.

Section 129.13: Allocation of SBDC Program Funds

Section 129.13 describes the process by which program funds are allocated among the SBDCs nationwide. The statute assigns this responsibility to the Deputy Associate Administrator for Business Development /Small Business Development Centers (DAA/BD/SBDC). This proposed section would require that program funding be allocated based on an SBDCs ability to provide services in five service categories. Each SBDCs ability to provide the various services would be evaluated by the DAA/BD/SBDC, with recommendations from the appropriate SBA Regional Administrator.

The most important service category is maintenance of existing services to areas already served by the SBDC. Beyond that, the ability of an SBDC to provide services in the remaining four service categories would be evaluated based on the needs of the area served, as mutually determined by the SBDC Director and the SBA Project Officer. Their recommendations would also be considered by the DAA/BD/SBDC in allocating program funds nationwide. Under this proposed regulation the four service categories would be: (1) Provision of services to new areas in states and regions already served by an SBDC; (2) increases in services provided to areas already served by SBDCs which had been established within the previous three years; (3) increases in services to areas already served by SBDCs that had been established more than three years earlier; and (4) the establishment of service to areas in states and regions not already served by an SBDC.

This section also sets forth factors which the DAA/BD/ SBDC will consider when allocating funds among established SBDCs (applicants for refunding) and new SBDCs (applicants for funding). The first factor reflects a cap on Federal funding imposed by the authorizing statute, which limits annual Federal funding to the greater of $200 thousand or the pro rata share of a $65 million SBDC program. The appropriate ratio to be applied to an annual program budget of $65 million would be determined by comparing the population to be served by the SBDC with that of the entire United States.

The second factor which the DAA/BD/SBDC would consider would be the ability of the applicant organization to contribute matching funds. The third and fifth factors apply only to applicants for refunding. The third factor would have the DAA/BD/SBDC consider the amount or percentage of funds allocated by that SBDC to each of the five service categories in the previous funding year. The fifth factor would have the DAA/BD/SBDC consider the quality of the SBDCs performance under the previous year's Cooperative Agreement. The final factor would be the amount of funding already provided, or in the case of new SBDCs, to be provided, to the area served as calculated on a per capita basis.

Section 129.14: Application Procedures

This section sets forth the procedure for applying to participate in the program as well as the various requirements of the application. Each requirement is described more fully in a subsequent subsection of this rule. Although there is a presumption in favor of current participants continuing to participate in the program, each sponsoring organization would be required to submit a separate application each year which responds to that year's program objectives as contained in the annual program announcement.

Amendments to the Application

Subsection 129.14(c) addresses amendments to the application. Although an applicant is encouraged to submit a completed application, this subsection would allow authorized SBA officials at the district, regional or central office levels to request one or more amendments to the application. In

order to be effective, any amendment would have to be signed by the SBDC official authorized to sign the original application.

Competing Applications

Subsection 129.14(d) describes the procedure that would be followed if SBA received more than one application for a particular region or state. The appropriate district office would review both applications and pursue the application which, in their judgment, more closely responded to the needs of the small business community of the area to be served. The Project Officer would encourage the competing applicants to work together to operate one SBDC for that area. This subsection clarifies that, barring a clear showing of nonperformance, poor performance, a disregard for or violation of these regulations or actions constituting any of the causes of termination (subsection 129.16(b)) by the SBDC, an existing SBDC will be refunded to serve an area it has served in the previous year, even if SBA receives a competing application. This presumption in favor of the continued operation of an existing SBDC arises because there is approximately a three year startup period between the time that the SBDC is first funded and the time it is fully operational and providing comprehensive assistance to the entire area it is intended to serve. Therefore, generally, it would be too disruptive to change SBDCs after one SBDC had been in operation only a year or two. The regulation recognizes, however, that the existence of the circumstances mentioned above could warrant the establishment of a new SBDC rather than continuing the operations of an existing SBDC.

Non-Refunding of an SBDC

Subsection 129.14(e) sets forth the procedures that would be followed in a case where, based on the circumstances listed above, SBA intends not to refund an existing SBDC. Generally, five months prior to the expiration of the current Cooperative Agreement, the District Office would notify the SBDC of SBA's intention not to refund it and the reasons for the decision. The SBDC would then be allowed 60 days to correct its operations. If, at the close of the 60 days, the operations have not been adequately corrected, the District Office would describe the operational deficiencies in writing and submit it to the Regional Office. The Regional Office would then have 15 calendar days to work with the SBDC and to resolve the deficiencies. If its efforts were unsuccessful, the Regional Office would then submit the issue and its position in writing to the DAA/BD/SBDC along with any supporting documentation.

The DAA/BD/SBDC would finally resolve the issue and, within 15 calendar days, transmit the final written resolution to the recipient organization, the SBDC Director, the Project Officer and other appropriate Regional and District personnel. If the final resolution determines that there has been nonperformance, ineffective performance or an unwillingness to implement suggested improvements in performance, the SBA District Office will pursue proposals from other eligible entities interested in sponsoring an SBDC for that service area.

Disclosure of Information

Subsection 129.14(f) notes that SBA's disclosure of any information submitted by the SBDC or its sponsoring organization concerning the SBDC is subject to the provisions of SBA's regulations found at Part 102 of this title. Part 102 implements the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552(a)).

Intergovernmental Review—Executive Order 12372

Subsection 129.14(g) describes the procedures SBA must follow to comply with Executive Order 12372 and its implementing regulations (13 CFR Part 135) which relate to Intergovernmental Review of Federal Programs. Basically, prior to funding a given SBDC, SBA is required to publish a notice in the **Federal Register** notifying the public of each pending application for SBDC funding or refunding and allowing time for comment, particularly from the state in which the SBDC is located.

Application Review

Subsection 129.14(h) sets forth the division of responsibility and the procedures for review of an application by SBA's District, Regional and Central Offices. The regulation notes that, in addition to the review responsibilities of the Office of SBDCs at the Central Office level, the Office of Procurement and Grants Management is responsible for ensuring that the application conforms to the various statutory and other requirements which it administers.

The Project Officer has the authority to negotiate programmatic aspects of the application, and to recommend SBA final approval of the application including the commitment of Federal dollars. His recommendations are subject to the approval of the District and Regional offices and the Central Office of SBDCs. The obligation of funds may be made only by the Office of Procurement and Grants Management.

Pre-award Audit

Subsection 129.14(i) notifies the public that under this proposed rule any SBDC might be subject to a pre-award audit and that each applicant organization proposing to establish a new SBDC would be required to undergo a pre-award audit prior to issuance of a Cooperative Agreement. As specified in this subsection, the purpose of a pre-award audit is to verify the adequacy of the SBDCs accounting system, the allowability of the proposed costs and the proposed matching contribution, including the sources of the matching contribution.

Conflicts Resolution Policy

Subsection 129.14(j) describes the procedures that implement the Conflicts Resolution Policy, a policy for resolving programmatic problems arising pre-award or post-award if not included in the Cooperative Agreement. The Conflicts Resolution Policy was developed jointly by the SBA and representatives of the SBDCs.

It is SBA's intent that programmatic conflicts be resolved at the district level whenever possible. Since 1983, the SBDC program has been decentralized placing the bulk of the day-to-day decisionmaking and operational responsibility on the SBA District and Regional Offices. It is consistent with this policy of decentralization that conflicts be addressed, and resolved whenever possible, at the District level.

The Conflicts Resolution Policy also sets forth the procedures that would be followed in those infrequent cases where the District Office is unable to resolve the conflict within 15 calendar days and the District Office and the SBDC have not agreed to extend the time for resolution. In those cases, the Project Officer, the SBDC Director or the proposal developer would submit the conflict in writing to the appropriate Regional Office for resolution. Once the Regional Office has determined that good faith efforts had been made in at the District level, the Regional Office would confer with the supervisor of the SBDC Director in order to resolve the issue within 15 calendar days. If no resolution is forthcoming, the conflict would be referred in writing to the DAA/BD/SBDC for final resolution. Again, the DAA/BD/SBDC would ensure that good faith efforts to resolve the issue had been made at the Regional level before attempting to resolve it at the Central Office level. If so, the DAA/BD/SBDC would confer with the person associated with the sponsoring organization which has supervisory

authority over the supervisor of the SBDC Director.

This procedure would purposefully escalate the conflict both within the SBA and within the host organization of the SBDC, in an attempt to implement SBA's intent that all conflicts be resolved at the most decentralized level possible. It is for the same reason that SBA's officials at each level above that of the District Office would be required to ensure that good faith efforts were made to resolve the issue.

Pre-award Financial Disagreements

Subsection 129.14(k) addresses procedures for resolving Pre-award Financial Disagreements. The procedures are intended to provide a means for expeditiously resolving financial disagreements arising before the Cooperative Agreement is awarded which, if left unresolved, would stymie the application review process. Any financial disagreement arising after the award of the Cooperative Agreement would be considered a dispute and would be resolved according to the procedures set forth in subsection 129.15(c) of this Part.

This subsection would permit any applicant that wishes to resolve a financial disagreement concerning its application to seek review of the matter by a Central Office Grants Management Officer after the applicant and SBA had attempted to resolve the matter for 30 days. This proposed procedure would permit such an applicant to submit a written statement of the disagreement to the SBA Grants Management Officer who has been assigned to work with the applicant by the Office of Procurement and Grants Management, with a copy of the statement to the appropriate Project Officer.

The Grants Management Officer would then be required to respond to the disagreement in writing within 15 calendar days of its receipt. If the applicant receives an unfavorable response, the applicant would then be permitted to make a written appeal to the SBA Grants Management Branch Chief within 15 calendar days of receipt. The Grants Management Branch Chief would, in turn, have 15 days to issue a final written determination to the Regional and District offices, which would be relayed to the applicant.

Section 129.15: Cooperative Agreement

Section 129.15 describes the Cooperative Agreement which is the funding vehicle for the SBDC program. It also addresses revisions to the Cooperative Agreement as well as the disputes resolution procedure. Generally, the Cooperative Agreement sets forth the programmatic and fiscal responsibilities of the host organization which will be receiving SBDC funding and defines the substantive and financial scope of the project to be undertaken by the SBDC that budget year. This section also incorporates Office of Management and Budget Circulars A–110 and A–102 which govern administrative requirements for programs administered by educational institutions and non-profit organizations and by State and local governments, respectively. OMB Circulars A–21 and A–87 govern the cost accounting principles, respectively.

Revision of the Cooperative Agreement

Subsection 129.15(b) describes the procedure which both SBA and the recipient organization would be required to follow in order to revise a Cooperative Agreement. Usually such revisions will relate to funding or the scope of work stated in the Cooperative Agreement. A recipient organization wishing to transfer funds from one line item category to another would not be required to use the procedure set forth in this subsection if the amount transferred, when added to any other amounts transferred during that budget year, would not exceed 5 percent of the total approved budget. However, the recipient organization would be required to notify the Project Officer and the SBA Office of Procurement and Grants Management of the transfer.

If the proposed revision, together with any other revisions would exceed a cumulative 5 percent of the approved budget, the party seeking the revision must describe the intended transfer in a written request which must receive written approval of the appropriate SBA District and Regional offices, the DAA/BD/SBDC and the Office of Procurement and Grants Management. Only after written approval is granted and the Grants Management Office has issued a written revision to the Cooperative Agreement would an SBDC be permitted to transfer funds exceeding 5 percent of the total budget, singly or together with other transfers.

Disputes Resolution Procedures

Subsection 129.15(c) describes the procedure to be followed when a recipient organization or an SBDC wishes to resolve a disagreement or problem relating to one or more aspects of the Cooperative Agreement, technically termed a "dispute." The recipient organization or the SBDC would be required to prepare a written statement describing the dispute and submit it and any evidence relating to the dispute to the appropriate Grants Management Officer with a copy of the entire submission to the appropriate Project Officer. The Grants Management Officer would be required to respond in writing to the statement within 30 calendar days of receiving it.

If the response were unfavorable to the SBDC or the recipient organization, it could submit a written appeal to SBA's Grants Management Branch Chief within 20 calendar days of receiving the response. The Grants Management Branch Chief would then have 30 calendar days to issue a written determination to the appealing party and to the appropriate SBA offices.

If the result of the appeal were unfavorable to the appealing party, then the recipient organization or the SBDC could make a final written appeal to the Grants and Cooperative Agreement Disputes Resolution Committee (the Committee) within 15 calendar days of receiving the unfavorable disposition. The appealing party would be required to submit the written appeal and any supporting documents to the Grants Management Branch Chief who would transmit it to the Committee.

The Committee would consider all the documents relating to the dispute and prepare a written recommendation in which at least two of the three voting members of the Committee had concurred. The Committee would then forward their recommendation and any related documents to the SBA Administrator for a final decision. The final decision would be prepared by the Committee and would be sent to the appealing party by the Grants Management Branch Chief within 45 days of the date when the Committee received the written final appeal. Copies of the final decision would also be sent to the appropriate Regional Office and to the Project Officer.

Expedited Disputes Appeal Process

Subsection 129.15(c) also describes an Expedited Dispute Appeal Process which would be used in cases which could affect the refunding of an existing SBDC and which arise within 120 days of the end of that SBDCs budget year. At any point in the regular dispute resolution process the SBDC, the recipient organization or the Project Officer would be permitted to submit a written request to the Committee to shorten all response times set forth in subsection 129.15(c) as necessary to enable the dispute to be resolved in time to issue a new Cooperative Agreement on schedule. An affirmative vote of two Committee members, after consultation with the Office of Procurement and Grants Management, is required to

approve the use of the Expedited Dispute Appeal Process.

Section 129.16: Suspension or Termination of the Cooperative Agreement

Section 129.16 addresses circumstances and procedures under which SBA may suspend or terminate the Cooperative Agreement. At any time SBA may terminate the Cooperative Agreement for the convenience of the Government. Additionally, when there are circumstances which constitute any of the causes discussed below, SBA may decide to institute procedures to terminate the Cooperative Agreement, including suspending the Cooperative Agreement, and therefore, stopping the operations of the SBDC, when it is in the best interests of the Government to do so. Under the proposed regulations, the Cooperative Agreement of an SBDC may only be suspended (thereby suspending that SBDCs program operations) when termination for cause proceedings have been initiated and when, in SBA's judgment, continued operations of the SBDC pending the outcome of the termination proceedings would not be in the best interests of the Government.

Causes for Termination

Subsection 129.16 (c) sets forth the following causes for which SBA could decide to terminate the Cooperative Agreement with a recipient organization, after considering the seriousness of the acts or omissions underlying the cause and any mitigating factors which may be present.

(1) A willful or material failure to perform under the Cooperative Agreement or under these regulations.

(2) Conduct within an SBDC indicating a lack of business integrity or honesty which affects the present responsibility of that SBDC. This cause refers to conduct which indicates that because of dishonesty or lack of business integrity the SBDC is unfit to continue its operations with Federal funding.

(3) Conviction of or civil judgment against the SBDC Director, any Subcenter Director or any key SBDC employee for:

(i) Fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public or private agreement; or

(ii) Bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, or theft. This cause would allow SBA to terminate a Cooperative Agreement where a Director, Subcenter Director or key employee had been convicted of a crime or had a civil judgment imposed for fraudulent actions relating to obtaining or performing a contract or agreement or for offenses recognized as indicating various degrees of dishonesty. The term "key employee" is defined in subsection 129.11(p) as "any employee of an SBDC having managerial, oversight or substantive control over the activities of the SBDC or any SBDC subcenter."

(4) The existence of a conflict of interest or of self-dealing on the part of an SBDC Director, Subcenter Director or any key employee. This subparagraph lists two broad categories of actions which would be considered conflicts of interest: first, where an SBDC provides any type of assistance to a small concern in which the SBDC, any subcenter or any SBDC employee has any financial interest; and second, where an SBDC requires a client to purchase any type of property or to use any services of the SBDC, any subcenter, any SBDC employee or any designee of the SBDC or its employees. However,the list is not intended to be exhaustive and SBA retains the authority to examine any potential conflicts of interest on a case-by-case basis.

(5) Any improper use of the letter of credit would be grounds for termination of the Cooperative Agreement.

(6) Failure of the SBDC Director to work at the SBDC on a full-time basis. In order to ensure the most effective program delivery, SBA believes it is essential that the SBDC Director devote full-time to the administration and management of the SBDC. Moreover, since it is a statutory requirement that the SBDC Director work at the SBDC on a full-time basis, any failure to do so would be grounds for termination of the Cooperative Agreement.

(7) Failure of the the recipient organization, the SBDC or any subcenter to consent to audits and investigations, as described more fully in subsection 129.21(e) of the proposed regulations, or to maintain documents and records required by the Cooperative Agreement or these regulations, once they are adopted in final form.

(8) This final cause for termination authorizes SBA to terminate the Cooperative Agreement for any actions on the part of the SBDC or its personnel which seriously and adversely affect the operation or integrity of the SBDC or the SBDC program.

Termination Procedures

Subsection 129.16(d) sets forth the procedures which would be followed under these proposed regulations to terminate the Cooperative Agreement with an SBDC for one of the causes listed in subsection 129.16(c). When a Project Officer becomes aware of circumstances relating to any possible cause for termination he or she would refer the matter to the Office of Procurement Grants Management through the appropriate Regional Office and the DAA/BD/SBDC. In those instances where the cause would relate to actual or suspected fraudulent or criminal conduct, the appropriate information would be required to be forwarded to the Office of Inspector General, which would conduct or supervise or coordinate an investigation or audit, where appropriate, and forward its findings to the Office of Procurement and Grants Management and to the DAA/BD/SBDC.

After reviewing the information which might serve as the basis for a termination and considering any mitigating factors, the DAA/BD/SBDC would decide whether or not to proceed with the termination. If the DAA/BD/SBDC decides to proceed, he or she would request the Grants Management Officer to send a cure notice to the SBDC, which specifies the inappropriate conduct or the impropriety and would give the SBDC a specific, reasonable time to remedy the situation. If the basis of the proposed termination is a conviction or a judgment against the SBDC Director, Subcenter Director or key employee, the remedy would be required to include removal of such employee(s) from his (their) position(s) within the SBDC.

If the SBDC does not respond to the cure notice or does not correct the inappropriate conduct or impropriety, the Grants Management Officer, in consultation with the DAA/BD/SBDC, could terminate the Cooperative agreement for convenience or could issue a notice of proposal to terminate for cause. The notice would be required to specify the factual basis for the termination and the reasons that the SBDCs response to the cure notice was inadequate. The SBDC would have 30 calendar days from receipt to submit in writing or in person through a representative to the DAA/BD/SBDC information or argument in opposition to the proposed termination. Written submissions would be made to the DAA/BD/SBDC through the Grants Management Officer.

Within 30 calendar days of argument or written submission by the SBDC, the DAA/BD/SBDC would decide any proposed termination based on a conviction or civil judgment or about which there is no genuine dispute over material facts. The decision would be

based on all information contained in the administrative record including responses from the SBDC, and recommendations of the Project Officer and the Regional Office.

In cases where disputed material facts must be resolved, the DAA/BD/SBDC would refer the matter to SBA's Office of Hearings and Appeals for findings of fact pursuant to Part 134 of title 13, Code of Federal Regulations. Within 20 working days of receiving the findings of fact from the Office Of Hearings and Appeals, the DAA/BD/SBDC would consider the findings and the balance of the administrative record and make the final decision concerning the proposed termination. The final decision will be promptly communicated to the SBDC by the Grants Management Officer by certified mail, return receipt requested.

Duration and Effect of Termination

Subsection 129.16(e) would require the period of termination to be for any reasonable time, commensurate with the action upon which it is based. In no case would the period be less than one year and generally, it would not exceed three years. The effect of termination, as set forth in subsection 129.16(f), would be to require the SBDC to cease its SBA-funded operations totally. Once the SBDC had stopped its SBA-funded operations, any other eligible organization wishing to establish an SBDC could submit an application to SBA for serving the area formerly served by the terminated SBDC. If, at the end of the termination period, the recipient organization wished to sponsor an SBDC, it would be permitted to submit a new application. Provided that it is clear to the Project Officer that all the reasons for termination had been overcome, its application would be considered along with any other new applications submitted at the same time. If, however, during the termination period, another SBDC had been funded for the same service area, the application for refunding of the then-existing SBDC would be given preference as outlined in paragraph 129.14(d)(3).

Any application submitted by a former SBDC or applicant organization which proposes to employ an SBDC Director, Subcenter Director or key employee of a terminated SBDC would be considered only if such individual were not involved in the cause of the SBDCs termination.

Upon termination of an SBDC, SBA may exercise its right to reclaim any equipment purchased with SBA funds, which was valued at $1,000 or more at the time of purchase.

Section 129.17: Programmatic and Physical Requirements of an SBDC

Section 129.17 sets forth substantive, organizational and physical requirements which must be adhered to when establishing an SBDC. Generally, the area to be served by an SBDC is the state in which it is located, although in certain circumstances, the DAA/BD/SBDC, in consultation with the Regional Administrator, may approve the establishment of more than one SBDC in a given state. In such cases the DAA/BD/SBDC, again in conjunction with the Regional Administrator, would furnish each SBDC with a written description of the area it is expected to serve. Similarly, after consultation with the Regional Administrator, the DAA/BD/SBDC may authorize an SBDC to provide assistance to small businesses located outside its state if the small concern is located within close geographic proximity of the SBDC or one of its subcenters.

SBDCs, their subcenters and satellite locations must be located so as to provide maximum accessibility and benefits to the small businesses of the SBDCs service area. Such locations would be mutually determined annually by the SBDC Director and the SBA Project officer. If, during the course of the Cooperative Agreement, an SBDC wished to add a subcenter or satellite location not contained in the Cooperative Agreement it would be required to submit the proposal as an amendment, which would be treated pursuant to subsection 129.14(c).

SBDC Staffing and Access Requirements

Subsection 129.17(b) details staffing and access requirements. Each SBDC would be required to operate as a separate and independent entity within its sponsoring organization and to employ a full-time Director and full-time staff. In addition, each SBDC would be required to have access to the following: (1) Business analysts, (2) technology transfer agents with familiarity of the state of the art technology data sources, (3) information specialists, (4) part-time professional specialists capable of conducting research or providing counseling assistance, and (5) laboratory and adaptive engineering facilities.

This subsection of the regulations also sets forth certain requirements of the SBDC Director's position. In addition to devoting full-time to the management of the SBDC, the SBDC Director would be required to be the highest full-time management position within the SBDC organization accountable directly to an official at a Dean's level or higher, or its equivalent in non-academic settings. The SBDC Director would also be required to have the authority to make expenditures under the SBDC' budget and to implement and manage the activities and services of the program.

All paid staff positions would be required to be essential to operate the program as determined by whether they would be required by the SBDC to: (1) Direct or maintain the efficient operation of the program, (2) provide counseling and training not otherwise readily available to small business clients, or (3) further individual program objectives. Each year as part of the SBDCs application, current resumes of key employees would be required to be submitted.

For all part-time SBDC and subcenter employees, the SBDC would be required to maintain daily time and attendance records. For full-time SBDC employees, including the Director and Subcenter Directors, the SBDC Director would be required to certify in each quarterly report that each employee had worked full-time for the SBDC program during that quarter. Generally, a forty hour work week, or the customary work week of the sponsoring organization would be considered a full-time schedule, provided that the customary business hours were adequate to insure that the SBDC services were delivered to the small business community. Similarly, vacation and holiday schedules would be required to be arranged so as not to disrupt the operations of the SBDC.

Resources

Subsection 129.17(c) addresses the SBDCs responsibility to develop and coordinate the varied resources of the university system, the private sector, and the Federal, State and local governments which are not currently readily available to small businesses in the service area of the SBDC. Resources refers to SBDC or subcenter staff, professional consultants, Chambers of Commerce, members of professional associations, qualified student counselors, qualified SBI student teams, university faculty, SCORE/ACE participants, other volunteers and qualified Federal, State or local personnel. Provided that funding, recordkeeping and client awareness of other Federal and state small business programs is kept separate, the SBDC is encouraged to make full use of those programs. Further, it would be the responsibility of the SBDC Director to ensure that any new resource was not being compensated by the SBDC for services previously provided to the

service area through another local, state, Federal or other payment arrangement.

The SBDC would also be required to use qualified small business vendors, such as private management consultants, who would be compensated for their services. This requirement would implement a congressional concern that the SBDCs cooperate with rather than compete with small business assistance providers of the private sector.

This subsection of the regulations also would implement several statutory provisions. The first authorizes Federally funded laboratories to make available to the SBDC facilities, including library and technical information processing facilities, equipment and professional staff for experimentation. Any use of such facilities, staff or equipment would be reimbursed by the SBDC. The second and third authorize SBA and the SBDC to request the cooperation of the National Science Foundation and the industrial application centers of the National Aeronautics and Space Administration in developing and establishing programs to support the SBDCs.

Services

Subsection 129.17(d) discusses the services to be provided by the SBDC. The SBDC would be required to provide services tailored as closely as possible to the needs of the small business community in the service area, and to upgrade and modify those services as required to meet the changing needs of the small business community. The following are the primary services that an SBDC would be expected to provide: long- and short-term counseling, training in basic small business management subjects as well as in specialized areas of interest to small businesses, and technology transfer and research assistance. In addition, the SBDC would be required to provide and maintain a library containing current information of interest to small businesses, to maintain lists of local and regional private small business consultants and to conduct in-depth surveys to determine, among other things, strengths and weaknesses of the local small business community. The SBDC is authorized to provide basic business law information but not to provide any legal advice which would be used to represent any client in any action. Moreover, any legal services that go beyond providing business law information would be required to have the approval of SBA and the endorsement of the State Bar Association.

International Trade Centers

When the Project Officer and the SBDC Director determine it would be appropriate, the SBDC could establish an International Trade Center aimed at increasing the export capabilities of the small businesses located within its service area, without duplicating services provided by the International Trade Administration or the Department of Commerce. In such cases the International Trade Center should be capable of: (1) Evaluating a client's export capability, (2) identifying and analyzing a client's international trade needs; (3) providing counseling in international trade issues and opportunities, (4) establishing relationships with appropriate international trade related Federal, State, and local organizations, (5) developing and conducting seminars on exporting, importing, joint ventures in international trade and licensing, and (6) providing a manual of step-by-step procedures for entering and functioning in the international trade arena.

Research

Any research projects performed by the SBDC would be required to be described in the Cooperative Agreement and to be of direct benefit to the small business community served by the SBDC. Under no circumstances should one or more research projects be the primary focus of the SBDC, and no research should be undertaken unless the SBDC and the Project Officer have reviewed the SBDC national research projects to ensure that the proposed project would not duplicate a previous project.

Section 129.18: SBDC Clients and Priorities of Service Delivery

Section 129.18 discusses eligible SBDC clients and the priorities which should be considered by the SBDC in providing assistance. Within the scope of the annual funding of an SBDC, it is authorized to provide assistance to any potential or actual owner or primary officer of a small business. The Small Business Act authorizes SBA funding of small business programs in order to serve *small* businesses, as defined by SBA in Part 121, Title 13 of the Code of Federal Regulations. Therefore, this regulation would require that the SBDC ensure that each business that receives assistance from the SBDC is small according to SBA's standards.

When determining the appropriate balance among the various services the SBDC would provide in a given year, the SBDC Director and the Project Officer should follow the national priorities set by the SBA Central Office through the annual Program Announcement as well as the Regional and District priorities established for the service area of the SBDC.

Section 129.19: Advisory Boards

Section 129.19 describes three types of Small Business Development Center Advisory Boards: national, state (or regional, in those states having more than one SBDC), and local. The composition of the national advisory boards is mandated by statute. The National SBDC Advisory Board (Board) must consist of nine members appointed by the SBA Administrator from outside the Federal Government. Three members must be from universities or affiliates of universities and six members must be from small businesses or associations representing small businesses. Each member serves a three year term and may also be a member of a state/regional or local SBDC advisory board. The Board is required to meet at least twice a year with the DAA/BD/SBDC, as scheduled by the Chairman of the Board who has been elected by a majority of the entire Board. The purpose of the Board is to confer and advise the DAA/BD/SBDC on policy matters pertaining to the operation of the SBDC program.

Each SBDC is required to establish an advisory board within its second budget year, which will advise and confer with the SBDC Director on SBDC policy matters, including how local and regional private consultants may participate with the SBDC. Generally, such advisory boards are called "State Advisory Boards" except in those states having more than one SBDC. Under those circumstances, the advisory board would be called a "Regional Advisory Board." State or regional advisory boards are required to represent the entire service area of the SBDC and must be predominantly composed of small business owners or representatives of small business associations. The SBDC should endeavor to have a representative from SCORE or ACE and SBI on each State or Regional Board.

SBDC subcenters are encouraged to establish local advisory boards to serve a function analogous to that served by the State/regional advisory board at the SBDC level.

The travel costs of any advisory board member for official Board activities may be paid for by the SBDC.

Section 129.20: Financial Aspects of the SBDC Program: Budgeting

Section 129.20 governs the financial aspects of the SBDC program. Subsection 129.20(a) addresses annual budgeting of the SBDC. Within nine months of the close of the SBDCs prior budget year, the Project Officer would be required to send the Program Announcement to the SBDC. There are two budget years permissible under the SBDC statute: one that coincides with the Federal fiscal year and one that coincides with the calendar year. In order to ensure timely funding of an existing SBDC, the Director of an SBDC funded on the Federal fiscal year would be required to submit a draft budget proposal to the Project Officer by March 15 and an acceptable final budget proposal by June 1 of the previous budget year. A Director of an SBDC funded on the calendar year would be required to submit a draft budget proposal by June 15 and an acceptable final budget proposal by September 1 of the preceding budget year.

Upon occasion, timely refunding of an SBDC becomes impossible through no fault of the SBDC. In such cases, where the Office of Procurement and Grants Management has received appropriate programmatic and budgeting approvals, it would be authorized to issue a letter of continuation advising the SBDC of continued refunding. The letter would be required to be mailed in sufficient time for the SBDC to receive it within two weeks of the close of the previous budget year. A letter of continuation would lapse 120 days after issuance if the recipient organization and SBA had not entered a new Cooperative Agreement.

General Budget Requirements

With the exception of the following, additional explanation of most of the general requirements of the budget proposal is unnecessary. These regulations would require that 80 percent of the Federal program dollars be allocated to the direct costs of program delivery. However, in a case where the applicant organization has waived the indirect costs of the SBDC in order to meet the matching requirement, 100 percent of the Federal dollars must be used for program delivery. Otherwise, Federal dollars would be subsidizing the recipient organization's matching contribution. In a case where some, but not all of the SBDCs indirect costs are waived by the sponsoring organization to meet the matching requirement, the lesser of the following could be allocated as indirect program. costs: 20 percent of the Federal funding or the amount remaining after the waived portion of the indirect costs is subtracted from the total indirect costs.

The SBDC would be required to include separate subcenter budgets indicating individual subcenter costs charged to the recipient organization as well as their applicable indirect cost base and rate, and the amount of Federal cash, in-kind and indirect costs for each subcenter.

Closures

All anticipated closures of the SBDC or any subcenter should be listed in the final budget proposal. In those instances where the sponsoring organization would not have finalized its holiday schedule for the upcoming year in time for its inclusion with the final budget proposal, the SBDC would be required to submit the closure dates to the Project Officer as soon as possible. Except for unusual, unanticipated circumstances, closures above and beyond those enumerated in the budget would result in a proportionate reduction in the SBDCs annual budget. The SBDC Director would be required to note in the quarterly report any closure not included in the budget and its cause. In any case where it appeared that the SBDC closure would be for three days or more, the SBDC Director would be required to notify the Project Officer within 24 hours of learning of the closure.

Budget Revisions

Although a revision to the budget may be requested at any time, any revision must conform to the requirements of the appropriate OMB Circular and would be required to be approved by the appropriate District and Regional offices and SBA's Central Office of SBDCs and Office of Procurement and Grants Management. No SBA approval would be required for an SBDC to make a line item transfer which, together with any other line item transfers made that budget year, did not exceed 5 percent of the approved total budget, unless the transfer related to out-of-state travel or capital equipment. Transfers relating to such items and transfers exceeding a cumulative 5 percent of the approved budget would require prior written approval of the Grants Management Officer.

Carry-over of Federal Funds, Matching Funds and Overmatch

In general, an SBDC could not carry over unobligated, unexpended Federal funds from one budget year to the next and such funds would be deobligated from the letter of credit for return to the United States Treasury at the end of the budget year. However, carrying over such funds would be legally permissible in cases where the Offices of Procurement and Grants Management and General Counsel have determined that the funds were originally budgeted to cover a *bona fide* need of the SBDC which would not normally continue from one budget year to the next or recur in subsequent budget years. An example of Federal funds that could be carried over would be those budgeted for start-up costs of a new subcenter whose opening was unexpectedly delayed from one budget year until the next. An example of budgeted funds which could not be legally carried over would be those allocated to training, counseling or the continued operation of any already established subcenter.

The SBDC could carry over unobligated, unexpended matching funds, however, provided that the matching funds and Federal funds were expended on a one-to-one ratio during the budget year. This one-to-one expenditure requirement would not apply to funds provided by the recipient organization in excess of the required matching amount (overmatch). Unobligated, unexpended overmatch may be carried over without restriction to the succeeding budget year.

Federal Funding

Subsection 129.20(b) describes various types of SBDC funding and restrictions on that funding, including matching funds, overmatched amounts, program income and fees. This subsection of the regulations would implement the statutory requirement that no recipient of SBDC funds receive more than its pro rata share of a $65 million program calculated by comparing the population to be served by the SBDC to that of the total population of the United States or $200,000, whichever is greater. The statute adopts the definition of United States found in section 4(a) of the Small Business Act (15 U.S.C. 633(a)). The result of this provision is that after several years in the program certain SBDCs are not eligible for any increase in funding. In order to expand their services as required by the law, those SBDCs would be required to attract funding from other sources.

Matching Funds

The statute also requires, as a condition of any Federal SBDC funding, that a recipient organization provide additional funding equal to the amount of the Federal grant. These "matching funds" would be subject to the following restrictions under the proposed regulations: (1) They would be required

to be provided from sources other than the Federal Government and could not include indirect costs or in-kind contributions paid for under any Federal program; (2) they could not include any fees collected from recipients of assistance, or other program income; (3) if they consisted of indirect costs or in-kind contributions, they could not exceed 50 percent of the matching amount; and (4) 50 percent of the matching amount would be required to be cash outlay for program operation, including no indirect or in-kind contributions.

Cash Match

This last requirement was imposed by Pub. L. 98–395 which allowed for the following grace periods, after which time, the recipient organization could not participate in the program unless it provided cash as 50 percent of its matching contribution: (1) If the state in which the sponsoring organization is located received its first SBDC funding before August 1, 1984, then that organization would be required to provide 50 percent of its matching contribution in cash beginning in the budget year begun on or after October 1, 1987. (2) If the state in which the sponsoring organization is located received its first SBDC funding after August 1, 1984 but prior to October 1, 1986, then the cash match requirement would begin in the budget year entered on or after October 1, 1988. (3) If, however, the state in which the sponsoring organization is located received its first SBDC funding after October 1, 1986, then the cash match requirement applies to the first Cooperative Agreement and any subsequent cooperative agreements.

Acceptable Sources of Matching Funds

The Office of Procurement and Grants Management would be responsible for determining acceptable match, the sources of which would be required to be identified as specifically as possible in the budget proposal. The cash contribution would be required to be identified by name and account number and the appropriate official of the applicant organization would be required to certify to its availability for the SBDC program. If the State were providing all or part of the cash contribution, the SBDC would be required to verify that the funds have been appropriated prior to the award of the Cooperative Agreement. The cash account would not need to be a separate account established solely for the purposes of the SBDC program. In order to satisfy the requirement of identifying the name and account number, the SBDC would need to only list the name and account number or numbers of the account(s) in which the cash resided within the accounting system of the sponsoring organization. The cash account allocated to the SBDC program, as is true of the entire SBDC budget, would be required under the direct management of the SBDC Director.

The following are impermissible sources of the matching contribution: (1) Uncompensated student labor; (2) SCORE, ACE or SBI volunteers; (3) program income; (4) Pre-existing courses or programs, unless the SBDC plans to expand or enhance them; (5) any type of contribution from any other Federally funded program, including SBA supported companies or corporations, even if the legislation establishing those programs allows for program funds to be used in other Federal programs.

Overmatch

This section also would establish certain requirements on the use of overmatch, non-Federal contributions which exceed the equal match requirement. Once approved, overmatch would become part of the SBDCs budget for that budget year. If they were used for program delivery that year, then they could not be used as part of the matching contribution of any subsequent year. If, however, they were not used during that budget year, they could be carried over in the budget proposal for the next year and may become part of the matching contribution for that year or any subsequent year. Overmatch funds which were verified and unspent at the close of a budget period could be used as a credit to offset any confirmed audit disallowance. This would not be the case with matching funds because such credit would diminish the required equal match which is a condition of the Cooperative Agreement. If part or whole of the overmatch contribution is used to offset an audit disallowance, those dollars would then be considered obligated, and as such, would not be permissible as part of the SBDCs matching contribution in any year.

Funding

This subsection also addresses the details of funding an SBDC. Generally, a letter of credit is used to fund an SBDC. When cash is withdrawn from the U.S. Treasury in the form of advances to the recipient SBDC organization, these regulations would require that the recipient organization deposit the cash in an interest bearing account and, if the recipient organization were not a State government, the recipient organization would be required to report annually any interest earned on the deposit and return it to SBA at the close of the budget year. In certain cases, an SBDC could operate without a letter of credit and could be funded by the reimbursement method. This would occur where SBA determines that the Government's interests would be better protected by using the reimbursement method, or where the recipient organization submits a written request to the Project Officer are to be funded by reimbursement for work performed and specifying why the letter of credit method would be inappropriate.

Program Income

Another financial aspect of the program addressed in this subsection to the regulations is program income. "Program income" is the gross income earned by the recipient organization from federally-supported activities, as income from service fees, any revenues from SBDC clients, the sale of commodities, user or rental fees or royalties on patents and copyrights. Program income would not include interest earned on advances to the program from the U.S. Treasury. Program income would be treated according to the provisions of the applicable OMB Circular: Attachment D of Circular A–110 for university or nonprofit recipient organizations and Attachment E of Circular A–102 for State or local government recipient organizations.

Program income and any interest earned on program income would be required by the regulations to be used to further the objectives of the SBDC program. "Furthering program objectives" is defined as expanding the quality and quantity of services, resources and outreach provided by the SBDC, but would not include using it to satisfy the non-Federal match requirements either in the year it is earned or in subsequent years. Its receipt and use must be reported in detail to SBA using SBA Standard Form 269. Any unused program income may be carried over to the subsequent budget year until it has been fully expended.

Fees

The proposal would allow SBDCs to charge a fee or to receive compensation from clients for counseling services, provided that they obtain prior approval from SBA's Central Office of SBDCs. This represents a change from SBA's current policy which prohibits SBDCs to charge fees for counseling. The proposed regulation also allows SBDCs to charge clients a reasonable fee in connection with training activities sponsored or cosponsored by the SBDC or associated

with specialized services. Such fees are permissible under current SBA policy.

SBDC Expenses

Subsection 129.20(c) addresses how expenses of the SBDC are to be treated. The cost principles used by SBA in determining allowable costs are designed to ensure that the the Federal Government bears its fair share of the total program costs in accordance with generally accepted accounting principles. SBA relies on cost principles set forth in OMB Circular A–21 for recipient organizations that are educational institutions, A–87 for recipient organizations that are State or local governments and A–122 for recipient organizations which are nonprofit organizations.

Lobbying

This subsection of the regulations also implements a statutory requirement (18 U.S.C. 1913) and the related Government-wide Federal policy that Federal funds not be used for lobbying or political activities because to do so would not be an appropriate or cost-effective use of Federal tax dollars. Activities which constitute lobbying and those which are excepted from the definition of lobbying are set forth in the Definitions section, subsection 129.11(r). On similar grounds of public policy, the definition exempts certain activities which, at first blush, may appear to be lobbying. For example, since any SBDC anticipates joint funding from the Federal Government and other entities, it would be inconsistent with the purposes of the program to prohibit program funds to be used for persuading potential co-funders of the benefits the program could provide to their constituents. A recipient organization seeking reimbursement for indirect costs or reporting on Federal funds expended for indirect costs would be required under this subsection to separately identify costs associated with lobbying as defined in subsection 129.11(r) of this Part. The recipient organization would also be required to maintain adequate records to demonstrate that the funded activities do not represent unallowable costs. Generally, time logs and similar records documenting the portion of an employee's time which is treated as an indirect cost would not be required in order to comply with this paragraph. Such records would be required, however, if: (1) The employee engaged in lobbying for more than 25 percent of his compensated employment hours during any one calendar month, or (2) if the organization had materially misstated allowable or unallowable costs within the preceding five years.

Salaries

Salaries of the SBDC Director, Subcenter Directors and SBDC staff is another financial issue addressed by this subsection. Generally, the salary of the various SBDC personnel should be comparable to the annualized salaries for similar positions in the service area of the SBDC. Although the salary of an SBDC Director may be set lower when SBA determines that the circumstances so warrant, the salaries of most SBDC Directors in SBDCs based in educational institutions would generally be comparable to those of full professors, taking also into consideration: (1) The Director s longevity in the program, (2) the number of subcenters included in the SBDCs network, and (3) the professional background of the person who would occupy the position. Recruitment activities and salary increases for SBDC personnel would be required to be consistent with the personnel policies of the recipient organization.

Travel

This subsection would also establish some restrictions on travel funded by the SBDC budget. Transportation would be required to be at coach class and each authorized traveler would be reimbursed for meals and lodging costs up to the per diem rates authorized for Federal employees by the Federal Travel Regulations or for employees of the host institution by the written travel policies of that institution.

The SBDCs proposed budget would be required by these regulations to separately identify in-state and out-of-state travel as well as an estimated amount for unplanned travel based, where possible, on the past experience of the SBDC. In order to be approved by SBA, travel funded by SBDC dollars must be reasonable, justified in writing, consistent with the written travel policies of the sponsoring organization and directly related to specific work of the SBDC or its administration. The written justification would be required to show the estimated cost, the number of persons traveling, and the benefit to be derived by the small business community. Any unplanned out-of-state travel that is to be funded by the SBDC and that exceeds the budgeted amount for unplanned travel would be required to be proposed to the Office of Procurement and Grants Management through the Project Officer along with a written explanation of the need for the travel and its relation to the efficient and effective operation of the SBDC. Any travel outside the United States sponsored by the SBDC would be required to be previously approved by the SBA Administrator.

Dues to Professional or Business Association

This subsection of the regulations would establish some guidelines for determining the allowability of the payment of dues with Federal dollars for membership in civic, business, technical, and professional organizations. Most such dues would be allowable, reimbursable expenses of the SBDC provided that SBA's Office of SBDC and SBA's Office of Procurement and Grants Management had determined that they were reasonable and realistic in relation to the benefits derived and that no portion of them had been used for impermissible lobbying. The SBDC Director or, where appropriate, the SBDCs Chief Financial Officer and the Director, would be required to certify in the budget proposal that no portion of the dues paid for with program funds were being used directly or indirectly for lobbying activities.

The regulation would place a cap of $2,000 upon the amount of dues which an SBDC may pay to such organizations in a given year, absent a more detailed written explanation of the benefits to the small business community to be derived from the expenditure. The cap is being proposed as the best solution SBA has been able to develop for obtaining a detailed and individualized explanation of the benefits to be derived from the payments of dues exceeding $2,000 per year. The $2,000 figure was selected as the appropriate amount after studying the dues structures of other organizations of SBA program participants and adopting the dues maximum of the organization most like the Association of SBDCs, which is the recipient of the vast majority of SBDC dues. The average and the maximum annual dues paid in the other associations surveyed were significantly lower than 2,000 paid by existing SBDCs. Since SBA is primarily interested in receiving adequate information to make a determination that each payment of dues is reasonable and realistic in relation to the benefits derived by the SBDC and the small business community, SBA invites comments on the cap as well as suggestions on alternatives to the cap which would provide SBA with sufficient information to evaluate each Payment of dues.

Section 129.21: Evaluation of the SBDC Program

Section 129.21 sets forth various aspects of SBA's program review and

evaluation authority. Generally, the SBDC would be required to submit one annual and three quarterly performance and financial reports which will be reviewed in conjunction with SBDC client evaluations to determine the quality of the services provided, to assess the completeness and accuracy of the SBDCs records and to compare the actual SBDC accomplishments with the SBDCs performance objectives as detailed in the cooperative agreement. SBA is also authorized to make on-site visits to the SBDCs and the subcenters. As a courtesy it is expected that SBA representatives would advise the SBDC Director or Subcenter Director of an impending visit two weeks or more before their arrival.

Client Control Records

Subcenters and lead SBDCs which provide services directly to small businesses would be required to maintain client control records for each client which, among other things, would identify the client's management problems, specify which services had been provided to the client, and note the client's evaluation of the services received. Similarly each SBDC would be required to report to SBA the number of training programs and the number of attendees at each program and to submit client evaluations of the training or a summary of those evaluations.

The specific requirements of the performance and financial reports are clearly detailed in the regulations. When reports are due, the SBDC should submit an original and two copies of each report. Quarterly reports would be required to be postmarked no later than the 30th day of the month following the end of the quarter; preliminary annual reports would be required to be postmarked no later than 90 days following the end of the budget year; and final annual reports would be required to be postmarked no later than 180 days following the close of the budget year.

Audits and Investigations

Subsection 129.21(e) advises the public of SBA's authority to conduct audits and investigations as well as of procedures relating to such audits and investigations. Generally, at any reasonable time, SBA has the authority to inspect, examine and copy any and all documents, records or other materials relating to SBA's Small Business Development Center Program. Under the proposed regulation, each SBDC would be responsible for maintaining all such documents for a three year period beyond the term of the cooperative agreement and could be required to maintain them longer if cost disallowances or claims arise relating to the records. As stated earlier in subsection 129.16(c), failure to do so would be grounds for terminating the Cooperative Agreement or for refusing to refund the SBDC in a subsequent year.

Although compliance audits may be requested by the Office of SBDCs and financial audits may be requested by the Office of Procurement and Grants Management, such audits of any SBDC would be conducted, supervised or coordinated by SBA's Office of Inspector General and would be conducted in accordance with generally accepted auditing standards of the United States Comptroller General and the American Institute of Certified Public Accountants. Financial and compliance audits would be conducted annually where possible and no less frequently than once every two years. In order to comply with this requirement, SBA would be authorized to require the SBDC to have a financial and compliance audit performed by a qualified independent public accountant, as defined by the Comptroller General in *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions* (Yellow Book, published 1981).

SBA is also authorized to conduct investigations as necessary to determine whether a person has engaged in or about to engage in any actions which constitute or will constitute a violation of any Federal law, including the Small Business Act of 1953 (15 U.S.C. 631, *et seq.*), or any regulation or order issued under the Small Business Act.

In 1984, Pub. L. 98–395 authorized SBA to conduct on-site evaluations of each SBDC at least once every two years and to provide for a representative of at least one other SBDC to participate in the review on a cost reimbursable basis. The evaluation would be called SBA Program Evaluation and On-Site Review. Under the regulations, the evaluation would be conducted by a Peer Review Team required to be quantitative and qualitative, measuring the effectiveness and the cost of program delivery. After completing the evaluation, the Review Team would write an evaluation report and send a copy of the report with recommended changes to the SBDC Director, and the appropriate Project Officer and other appropriate SBA officials.

Compliance With Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. ch. 35)

Executive Order 12291

For the purposes of E.O. 12291, SBA has determined that this proposed rule is not a major rule because, if promulgated in final form, it will not have an annual effect on the economy of $100 million or more. The total SBDC budget for FY 1986 was $35 million. The non-Federal equal matching requirement added another $35 million to the program budget. Although many of the SBDCs are partially funded by non-Federal contributions over and above the matching requirement, it is unlikely that those contributions would equal the $30 million or more needed to exceed the $100 million threshhold of a major rule. Based on projections calculated from data received from 27 of the 46 SBDC's funded in 1985, the ratio of Federal funds to non-Federal participation in the program in the form of matching and overmatching contributions is 1:1.43. Therefore, for every Federal dollar expended in the program, non-Federal sources contributed $1.43. Even at that ratio, however, this proposed rule cannot be shown to have an annual economic effect of $100 million or more.

Moreover, this rule is not likely to result in a major increase in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or to have signficant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based businesses to compete with foreign-based businesses in domestic or export markets. Therefore, it is not a major rule for purposes of E.O. 12291.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), SBA certifies that this proposed rule will not, if promulgated in final form, have a significant economic impact directly on a substantial number of small entitites. These proposed regulations, if adopted in final form, would set forth the policies and operational requirements of the SBDC program, which affect only the SBDCs or their sponsoring organizations directly. The vast majority df entities potentially affected by this proposed rule would not be considered small for purposes of the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed rule, if adopted in final form, would impose reporting or recordkeeping requirements on 10 or more persons annually. As such, pursuant to the Paperwork Reduction Act (44 U.S.C. ch. 35), the reporting and recordkeeping requirements must be submitted to the Office of Management and Budget for approval and the assignment of a number. Some of the reporting or recordkeeping requirements have already been approved by OMB and have had approval numbers assigned to them. They appear in the following sections of the proposal and have been assigned the following approval numbers:

Section	OMB approval No.
129.17(3)	3245-0140
129.17(5)	3245-0140
129.17(4)(iii)	3245-0169
129.20(a)ii	3245-0140
129.20(a)v	3245-0140
129.20 Page 68	80-R0180
129.20(2)iii	3245-0140
129.21(a)(2)	3245-0169
129.21(a)(3)	3245-0090
129.21(b)(2)	3245-0108
129.21(b)(3)	3245-0123
129.21(b)(4)	3245-0108
129.21(c)(2)	3245-0169
129.21(d)(2)	80-R0182
	80-R0180
	80-R0183
129.21 Page 81	3245-0091

The following table sets forth the reporting or recordkeeping requirements which have not yet been approved but for which SBA is seeking OMB approval. All such approvals will be obtained before SBA promulgates these rules in final form.

Paperwork Requirements for Which OMB Approval Is Pending

Sections 129.14(a)(1), 129.14(b)(2), 129.15(c)(1), 129.15(c)(2)(i), 129.15(c)(2)(ii), 129.16(c)(7), 129.16(d)(4)(iv), 129.17(b)(5), 129.20(b)(3)(ii)(A), 129.20(c)(3)(v), 129.20(c)(4)(iv), 129.21(b)(6), 129.21(e)(i), 129.21(f)(1), 129.21(f)(2).

Section 129.20(b)(1) is not subject to the Paperwork Reduction Act because it would affect less than ten people annually.

List of Subjects in 13 CFR Part 129

Management assistance, Small Business Development Centers.

Accordingly, pursuant to the authority contained in sections 5(b) and 21 of the Small Business Act (15 U.S.C. 634(b) and 648), Part 129, Title 13 of the Code of Federal Regulations is proposed to be amended as follows:

PART 129—BUSINESS DEVELOPMENT (MANAGEMENT ASSISTANCE)

1. The authority citation for Part 129 continues to read as follows:

Authority: Secs. 2, 7(i), 7(j), 8, and 21 of the Small Business Act, as amended (15 U.S.C. 631, 636(i), 636(j), 637(b), 648); sec. 302(c)(2), Domestic Volunteer Service Act, Pub. L. 93-113, 87 Stat. 404, E.O. 11871, dated July 18, 1975.

2. Sections 129.1–129.5 are designated as Subpart A—General and §§ 129.6–129.9 are designated as Subpart B—Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) Payment of Out-of-Pocket Expenses to Volunteers.

3. A new Subpart C is added to read as follows:

Subpart C—Small Business Development Centers (SBDC's)

Subpart C—Small Business Development Centers (SBDCs)

§ 129.10 Introduction.

(a) The Small Business Development Center (SBDC) program is a small business management assistance delivery program of the SBA. The program is a partnership between the SBA and the State-endorsed organization receiving Federal assistance for the delivery of assistance. It is a decentralized program in which SBA district and regional personnel are held accountable for providing general management of the program in their jurisdiction.

(b) *Purposes.* (1) The SBDC program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement.

(2) SBDCs are intended to be responsive to local needs in providing assistance to the small business community as mutually identified by the SBA Project Officer and the SBDC State Director.

(c) *Relation of an SBDC to SBA and other SBA programs.* (1) *SBA:* The SBDC Program shall be under the general management and oversight of SBA, but with recognition that a partnership exists between SBA and an SBDC for the delivery of assistance to the small business community. However, the final authority for the selection of SBDCs, the terms of the Cooperative Agreement, and the establishment of program policy rests with SBA.

(2) *Small Business Institute (SBI) Program:* It is the responsibility of the SBDC to foster a productive relationship between itself and SBA Small Business Institute Program serving the same area, keeping entirely separate, however, the administrative and financial aspects of these two programs.

The SBA Project Officer will facilitate the development of such relationship.

(3) *SCORE/ACE Programs:* (i) It is the responsibility of the SBDC to foster a productive relationship between itself and the volunteer counselors of the SCORE/ACE Programs.

(ii) The SBDC shall attempt to have a member of SCORE or ACE on the State or Regional SBDC Advisory Board.

§ 129.11 Definitions.

(a) *Applicant organization or applicant:* That entity which applies to be host to lead SBDC, as defined in paragraph (p) of this section. After funding is approved and the entity enters into a Cooperative Agreement with SBA, the applicant organization is then referred to as the recipient organization.

(b) *Budget period:* Generally, a 12-month period in which expenditure obligations are incurred, which coincides with either the calendar year or the Federal fiscal year and which is annually reviewed for renewal upon submission and subsequent negotiation of a proposed Cooperative Agreement and upon appropriation of the necessary funds by Congress.

(c) *Cash match:* Non-Federal funds allocated specifically to the SBDC equalling one half of the Federal contribution and under the direct management of the SBDC State Director or, for accounts relating to subcenters, under the direct management of subcenter directors. At no time may cash match include indirect costs, overhead costs or in-kind contributions.

(d) *Conflict:* For purposes of this Subpart, conflict means any programmatic disagreement or problem, whether pre or post award, between an SBDC, an applicant organization or a recipient organization and SBA regarding any matter not addressed in the Cooperative Agreement.

(e) *Direct costs:* Those costs that can be identified specifically with the SBDC

program or that can be directly assigned to the program relatively easily with a high degree of accuracy.

(f) *Dispute:* For purposes of this Subpart, dispute means any disagreement or problem between an SBDC or the recipient organization and SBA concerning one or more elements of the SBDCs Cooperative Agreement.

(g) *Financial Disagreement:* For purposes of this Subpart, financial disagreement means a problem or disagreement relating to the budget proposal of an SBDC or applicant organization which arises prior to the award of the Cooperative Agreement. Upon issuance of the Cooperative Agreement, any disagreement relating to the SBDCs budget will be treated as a dispute. (See § 129.11(f).)

(h) *For-profit organization:* Any entity organized for profit.

(i) *Full-time Employee:* An employee of the recipient organization who is assigned to work at the SBDC 40 hours per week or the full customary work week of the recipient organization.

(j) *Grants and Cooperative Agreement Disputes Resolution Committee:* The six-member Committee responsible for resolving disputes arising between a recipient organization or an SBDC and SBA after the Cooperative Agreement for that budget period has been entered. The three nonvoting members of the Committee are: The Deputy Associate Administrator for Business Development/SBDCs, the Deputy Assistant Administrator for Administration, and the Associate General Counsel for General Law. The three voting members are: the Associate Administrator for Business Development, the Chief Counsel for Special Programs, and the Director of the Office of Prime Contracts, Office of Procurement and Technical Assistance.

(k) *Grants Management Branch Chief:* The Chief of SBA's Grants Management Branch, who supervises Grants Management Officers.

(l) *Grants Management Officer:* A certified specialist in of SBA's Grants Management Branch within the SBA Office of Procurement and Grants Management who oversees the implementation and operation of Federal grants involving SBA. The Grants Management Branch Chief is the person responsible for overseeing the fiscal compliance of the SBDC Program with the terms of the Cooperative Agreement.

(m) *Indirect Costs:* This accounting term is used to describe a process of assigning those costs which are common to two or more projects or operations. These are generally costs associated with building occupancy, equipment usage, personnel administration, accounting and similar overhead activities.

(n) *Indirect Match:* Those indirect costs used to satisfy part of the cost-sharing requirement that SBA dollars allocated to the establishment of a Small Business Development Center be matched one-for-one by the recipient organization with non-Federal funds.

(o) *In-Kind Match:* The value of noncash contributions provided by the recipient organization and non-Federal third parties combined for the purpose of satisfying part of the cost-sharing requirement of the SBDC program.

(p) *Key SBDC Employee:* Any employee of an SBDC having managerial, oversight or substantive control over the activities of the SBDC or any SBDC subcenter.

(q) *Lead SBDC:* The entity which serves as the administrative headquarters of the SBDC network for the purpose of coordinating the delivery of assistance to the small business community. A lead SBDC may also function as a subcenter and provide assistance directly to the small business community.

(r) *Lobbying:* (1)(i) Any attempt to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity; (ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections; (iii) Any attempt to influence: (A) The introduction of Federal or State legislation; or (B) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State or local legislature (including efforts to influence State officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation; (iv) Any attempt to influence: (A) the introduction of Federal or State legislation, or (B) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fund-raising drive, lobbying campaign or letter writing or telephone campaign; or (v) Any legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) However, the following activities are excepted from the definition of lobbying:

(i) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

(ii) Any lobbying made unallowable by paragraph (r)(1)(iii) of this section influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

(iii) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

(s) *Overmatched amount:* That amount of indirect, in-kind or cash contributions by the recipient organization which exceeds the requirement of a non-Federal contribution to the program budget of an amount equal to the Federal grant.

(t) *Part-time employee:* An employee of the recipient organization who is assigned to work at the SBDC less than 40 hours per week or less than the full customary work week of the recipient organization.

(u) *Program announcement:* SBA's annual publication of items which an applicant organization must address in its application in order to be considered to host an SBDC.

(v) *Program officer or SBA program officer:* The person in SBA's Central

Office of SBDCs assigned to oversee the operations of certain SBDCs.

(w) *Project officer or SBA project officer:* Generally, the person in the SBA district office designated by the SBA District Director and appointed by the SBA Office of Procurement and Grants Management who monitors and oversees the Cooperative Agreement and the ongoing operations of the SBDC located in the geographic area served by the district office. The Project Officer is usually the Assistant District Director for Business Development within a particular district office, but can also be an SBA employee directly responsible to the District Director. In circumstances where the SBDC will cover multiple SBA districts, an SBA employee who reports to someone other than the district director may be designated the Project Officer, with concurrence from the Deputy Associate Administrator for Business Development/Office of Small Business Development Centers.

(x) *Project period:* The period of time beginning on the day of award and normally continuing in twelve (12) month increments until terminated by SBA. A project period will normally consist of a number of budget periods.

(y) *Recipient organization:* That organization which enters into a Cooperative Agreement with SBA after applying to be admitted into the SBDC Program.

(z) *Satellite:* Location other than a subcenter used by an SBDC subcenter for program delivery.

(aa) *SBDC Network or SBDC program:* The combination of the lead SBDC and the SBDC subcenters.

(bb) *SBDC state director:* The person with the highest full-time management position within the organization of any SBDC. Implementation of the Program and ultimate responsibility for the operation of an SBDC rests with the SBDC Director.

(cc) *SBDC subcenter:* An entity which is directly responsible to the lead SBDC for the delivery of assistance to the small business community. A written agreement must govern the relationship between a lead SBDC and its subcenter.

(dd) *Subcenter director:* The person with the highest full-time management position within an SBDC subcenter. The Subcenter Director runs the day-to-day operations of an SBDC subcenter and is programmatically responsible to the SBDC Director.

(ee) *Working days:* For purposes of this subpart, those days excluding Saturday, Sunday and Federal holidays.

§ 129.12 Entities eligible to establish an SBDC.

(a) The following entities are eligible to enter into a Cooperative Agreement with the Small Business Administration for the purpose of establishing a Small Business Development Center:

(1) Any State government or any of its agencies;

(2) Any regional entity;

(3) Any State-chartered development, credit or finance corporation;

(4) Any public or private institution of higher education;

(5) Any land-grant college or university;

(6) Any college or school of business, engineering, commerce, or agriculture;

(7) Any community or junior college; or

(8) Any entity formed by two or more of the above entities.

(b) SBDC subcenters are not required to meet the eligibility requirements of a lead SBDC.

§ 129.13 Allocation of funds.

(a) The Deputy Associate Administrator for Business Development/SBDCs shall be responsible for the allocation of program funds. The DAA/BD/SBDC will consider recommendations by each Regional Administrator for the allocation of funds within the states within his/her region and from appropriate District Directors. Funds shall be allocated based on applicants' abilities to provide services in the following service categories:

(1) Maintenance of existing services to areas already served by SBDCs,

(2) Provision of service to new areas in states and regions already serviced by SBDCs,

(3) Increases in services provided to areas already served by SBDCs established within the previous three years,

(4) Increases in services to areas already served by SBDCs established prior to the previous three years,

(5) Establishment of service to areas in states and regions not already serviced by SBDCs.

(b) The most important service category is maintenance of existing services to areas already served. Allocation of funds among the other service categories shall be mutually determined by the SBDC State Director and the Project Officer depending on the circumstances of the individual SBDC.

(c) In determining the allocation of funding among applicants for funding and refunding, significant factors shall include:

(1) Whether or not previous Federal funding has reached the statutory funding cap (the greater of $200 thousand or the pro rata share of a $65 million program based on the population to be served by that SBDC. as compared to the total population of the United States);

(2) The ability of the applicant to contribute matching funds;

(3) The amount or percentage of total funds allocated to each of the service categories in the preceding fiscal year;

(4) The amount of funding per capita already provided, or to be provided, in the areas served; and

(5) For applicants who have been previously funded, the quality of the performance in the previous year.

§ 129.14 Application procedure.

(a) *General.* (1) An eligible entity may apply to participate in the Small Business Development Program by submitting an application and three copies to the SBA district office covering the State or region in which the applicant proposes to provide service. The application shall include a signed Application for Federal Assistance (SF 424). The application shall not be inconsistent with any areawide plan providing management assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. The application shall indicate what officials are authorized to amend the application with regard to all or particular parts of such application.

(2) An application for the initial funding of an SBDC must be signed by the Governor of the State in which the SBDC will operate.

(b) *Contents*—(1) *General.* The application shall set forth the eligible entity or entities participating in or to participate in the program, a list of the centers and subcenters by name and address, the geographic areas to be serviced, the resources to be used, services that will be provided, the method for delivering the services, including a description of how and to what extent academic, private and public resources will be used, a budget, a State or Regional Advisory Board and other information set forth in the Program Announcement. The application will also indicate how it proposes to meet the various requirements.

(i) The geographic requirements for services are set forth in § 129.17(a).

(ii) The resources which the SBDC must utilize are set forth in § 129.17(c).

(iii) The services required to be provided by an SBDC are set forth in § 129.17(d).

(iv) The application shall provide for a State or Regional Advisory Board, the requirements of which are set forth in § 129.19(b).

(v) The requirements for the budget are set forth in § 129.20(a).

(vi) The requirements relating to matching funds are set forth in § 129.20(b)(2).

(2) *Specific.* As part of such application, either incorporated by reference from a previous application or as a separate attachment thereto, each applicant must provide the following information:

(i) A description of how the SBDC is organized, identifying the person to whom the SBDC Director reports and providing a complete organizational chart of all key full-time and part-time SBDC personnel and, where appropriate, a projection of new staff to be hired during the budget period;

(ii) A description of key employees of the SBDC and each of the subcenters and how their functions relate to the program objectives of the SBDC;

(iii) Complete and comprehensive resume of the proposed SBDC Director and a statement about why the person is especially well qualified to fulfill this role;

(iv) Whether or not advisory boards for the lead SBDC and each of the subcenters have been developed, including a description of the board members and, where not yet in existence, including a projected date for establishment of an advisory board.

(v) A description and a map of the areas and small business populations to be served at time of award and, for initial applications, a three-year plan describing how the lead center plans to phase in additional subcenters and services for full coverage of the area to be served;

(vi) A description of the SBDCs plan for outreach to the small business community especially where no subcenters are currently located and specifying outreach efforts planned for veterans, minorities, women and handicapped persons;

(vii) Any other information the applicant believes is relevant; and

(viii) An outline for establishing and maintaining quality standards and cost standards; provisions for coordinating closely with SBA, SCORE, SBI and other Federal, non-Federal, public, private and other organizations designed to serve small business; internal control procedures to monitor performance; and a clear description of the extent and value of services which will be provided to assist small business and how these efforts will complement, extend and supplement the activities of public or private resources already in place.

(c) *Amendment.* The applicant should make every effort to ensure that the application is complete when filed. Authorized SBA officials at the district, regional and Central Office levels may request that the applicant amend an application. Any amendment shall be signed by the official authorized to do so on the original application.

(d) *Competing applications.* (1) Where SBA receives more than one application for a particular region or State, the relevant SBA District Office shall decide which application to pursue based upon which application more closely responds to the needs of the small business community in the area to be served by that SBDC. Where the applications cover more than one SBA district, the appropriate SBA regional office shall make the decision in consultation with the Deputy Associate Administrator for Business Development/SBDCs.

(2) Where two or more applications are received for the same geographical area, the Project Officer shall encourage agreement between the competing applicants to establish and operate an SBDC through their combined efforts. Should agreement not be reached, paragraph (d)(1) of this section applies.

(3) An existing SBDC will be refunded to provide service to an area it is already servicing in preference to a competing application unless there is a clear showing of nonperformance, poor performance, a disregard for or violation of these regulations, any of the reasons set forth in § 129.16(b) (causes for termination), or that another entity would substantially better serve the local small business community. In all cases where a new applicant has presented an offer that is substantially more responsive to the small business community, the Project Officer will so advise the existing SBDC and allow it an opportunity to match the new offer.

(e) *Decisions Not to Refund Previous Program Participants.* In situations where the SBA District Office has sufficient evidence of nonperformance or ineffective performance by an existing SBDC, the SBA District Office shall notify the SBDC State Director and any other appropriate official of the recipient organization of its intention not to refund the SBDC. This notification must be forwarded to the recipient organization no later than five months prior to the expiration of the current Cooperative Agreement then in existence. However, when the District Office has sufficient evidence of an SBDCs disregard of or violation of these regulations or of any other cause(s) for termination, the SBA District Office may waive the notification period with the concurrence of the Regional Office and the Deputy Associate Administrator for Business Development/SBDCs.

(1) This notification shall specifically cite the reasons for the proposal not to refund the SBDC and allow the recipient organization a 60-day period within which to make changes and adjustments in its operations, and to report to the SBA District Office officially, in writing, on the results of such changes.

(2) If the recipient organization is unwilling or unable to resolve the specific problem areas to the satisfaction of the SBA district office within the 60-day time frame, the Project Officer shall decribe, in writing, any issue raised and clearly state the positions of his office and the SBDC. The Project Officer shall refer such description and any supportive documentation to the appropriate regional office within ten calendar days of the close of the 60-day period.

(3) If the regional office cannot resolve the matter within 15 calendar days of receipt, it shall refer the issue and its position in writing along with any supporting documentation to the Deputy Associate Administrator for Business Development/SBDCs for final resolution.

(4) The Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee shall transmit the final resolution in writing to the recipient organization, the SBDC State Director, the Project Officer and other appropriate SBA Regional and District Office personnel within 15 calendar days of receipt. If the Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee determines that available evidence clearly indicates nonperformance, ineffective performance, or an unwillingness to implement suggested changes to improve performance, the SBA district office shall pursue proposals from other organizations interested in applying for SBDC designation.

(5) Nothing herein precludes a subcenter of the ongoing organization from applying for designation as the recipient organization.

(f) *Disclosure of information.* Disclosure of any information submitted by the SBDC or applicant or recipient organization concerning the SBDC is subject to the provisions of SBA's regulations on the subject found at Part 102 of this Title.

(g) *Notice of applications under Executive Order 12372.* Applicants

submitting proposals to SBA for operation of an SBDC are bound by the provisons of Executive Order 12372, "Intergovernmental Review of Federal Programs."

(1) To ensure compliance with this Executive Order and SBA's regulations pursuant thereto (13 CFR Part 135), SBA will publish a Notice in the **Federal Register** to provide public awareness of the pending application of presently existing SBDCs for refunding and of the pending application for funding of proposed SBDCs. The Notice shall describe the SBDC program, highlighting the area proposed to be served by the applicant and the proposed amount of funding.

(2) A copy of such Notice will be simultaneously furnished to each affected State single point of contact, which has been established under the Executive Order.

(h) *Application review*—(1) *District Office.* The responsibility for assuring that an application is acceptable rests initially with the district office having jurisdiction in the State or region which the SBDC proposes to serve primarily. The district office in that State or region shall request and obtain such amendments to the application as are necessary or desirable to ensure that (i) the requirements of these regulations and SBA policies are met, and (ii) the SBDC will respond to the needs of small businesses in the area to be served by the SBDC in a cost effective manner and in concert with other small business assistance efforts. Such needs will be determined by the SBA Project Officer after consultation with the SBDC State Director. Once the application is complete to the satisfaction of the district office, the district office shall recommend its approval in writing to the appropriate Regional Administrator, and shall submit the application, as amended, for review by that regional office.

(2) *Regional Office.* The regional office shall review the application to determine its conformity with the requirements of the regional operating plans and priorities, the SBDC regulations, and the national policies and priorities of the Agency. The regional office, through the Project Officer in the district office, may request amendments to the application, if necessary, to better accomplish the goals of the program. When the application, as amended, meets the satisfaction of the regional office, that office shall issue a written statement recommending approval and specifying the reasons therefore. The regional office shall forward a copy of the application, the district office's recommendation, and its recommendation to the Central Office for review.

(3) *Central Office.* (i) The Office of SBDCs, in consultation with the Office of General Counsel shall assure the conformity of the application to the statutory and regulatory requirements, national priorities, and policies of the SBA. The office may request, through the region and district offices, amendments to the application related to such requirements, priorities and policies, if necessary, to better accomplish the goals of the program. Following a decentralized management approach, the Central Office of SBDCs is responsible for general oversight of the application review process, but delegates the primary day-to-day responsibility for application reviews, amendments, and programmatic negotiations to the Project Officers.

(ii) The Office of Procurement and Grants Management shall negotiate and determine the reasonableness and allowability of all dollars committed to assure the conformity of the application with the statutory, financial and regulatory requirements, OMB Circulars, and procurement and grants management policies which it administers. It may request amendments to the application related to such responsibilities.

(iii) The Deputy Associate Administrator for Business Development/SBDCs may approve, conditionally approve or reject any application. If the application is rejected, the Central Office shall simultaneously communicate the reasons therefor to the applicant, the regional office and the district office. If the approval is conditional, the conditions shall be set forth in the Cooperative Agreement. Upon approval or conditional approval, a Cooperative Agreement shall be issued.

(i) Within 30 days of the issuance of a Cooperative Agreement, the State Director, each Subcenter Director and any employee with authority to commit funds must complete and submit SF 912 to SBA's Office of Personnel and Physical Security, Room 203, 1441 L Street, NW., Washington, DC 20416.

(j) *Pre-award audits.* Any SBDC may be subject to a pre-award audit prior to the issuance of or continuation of the Cooperative Agreement. All applicant organizations that propose to enter the Program for the first time will be subject to a pre-award audit. The purpose of a pre-award audit is to verify the adequacy of the accounting system, the allowability of the proposed costs and the proposed matching contribution, including the source(s) of the matching contributions.

(k) *Conflicts resolution policy.* All conflicts will be resolved pursuant to SBA's Conflicts Resolution Policy.

(1) Every effort shall be made to resolve programmatic conflicts at the SBA district office level. The SBDC Director, or proposal developer in the case of a first-time SBDC, shall direct all such questions or conflicts to the SBA Project Officer.

(2) In those infrequent instances in which issues and problems cannot be resolved at the SBA district office level within 15 calendar days, and no agreement has been reached between the parties to extend the resolution period, the issue will be referred, in writing, by the Project Officer or the SBDC Director/proposal developer to the appropriate SBA regional office for resolution. Upon receipt, the Regional Administrator, or his delegatee, shall ensure that good faith attempts had been made by both parties to resolve the issue. If so, the regional office will confer with the SBDC Director's supervisor and attempt to mediate the issue within 15 calendar days of receipt. If not, the regional office will return the issue to the district office for further resolution efforts.

(3) If the regional office and the SBDC Director's supervisor cannot resolve the matter within the specified time, the issue will be referred, in writing, to the Deputy Associate Administrator for Business Development/SBDCs for final resolution. Upon receipt, the Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee, shall ensure that good faith attempts had been made at the district and regional office levels to resolve the conflict. If so, the Deputy Associate Administrator for Business Development/SBDCs shall confer with the person associated with the SBDC who has supervisory authority over the SBDC Director's immediate supervisor and the SBDC Director to resolve the issue. If not, the Deputy Associate Administrator for Business Development/SBDCs shall return the issue to the appropriate office for further resolution efforts. A final decision regarding the conflict is made by the DAA/BD, in writing, to the SBDC and SBA regional and district offices.

(l) *Pre-Award Financial Disagreement.* (1) After 30 days of attempted resolution of a financial disagreement, any applicant that wishes to resolve such disagreement or issue concerning its application must submit a written statement describing the matter to the appropriate Grants Management

Officer in the Office of Procurement and Grants Management, with a copy of such statement provided simultaneously to the Project Officer. The Grants Management Officer must respond in writing to the disagreement within 15 calendar days of receipt of the statement.

(2) If the applicant receives an unfavorable disposition regarding the matter, an appeal, in writing, may be made to SBA's Grants Management Branch Chief within 15 calendar days of the receipt of such disposition. The Grants Management Branch Chief shall issue a written final determination to the applicant and the appropriate SBA regional and district offices within 15 calendar days of the receipt of such an appeal.

§ 129.15 Cooperative Agreement.

(a) *General*—(1) *Description:* Upon approval of the application, the recipient organization and SBA enter into a Cooperative Agreement. The budget and program elements of the Agreement are negotiated annually. The Cooperative Agreement sets forth the programmatic and fiscal responsibilities of the recipient organization and the SBA, and describes the scope of the project to be funded as well as the budget of that program year. These responsibilities are described in greater detail throughout this Part.

(2) Principles for determining administrative requirements are contained in the following Office of Management and Budget Circulars and are applicable to the Cooperative Agreement: A–110 (for programs administered by educational institutions and non-profit organizations), and A–102 (for programs administered by State and local governments).

(b) *Revision to Cooperative Agreement.* A revision to the Cooperative Agreement may be requested, in writing, by either the recipient or SBA. Such revision will normally relate to changes in the scope of work, or funding, during a project year. For example, the recipient may wish to transfer dollars from one line item category to another. Should the transfer, together with any other transfers made during that program year, not exceed 5 percent of the approved total budget, prior approval from SBA is not required, however, SBA must be notified of the transfer. Should the amount of transfer exceed 5 percent, either singly or in conjunction with other transfers, then prior SBA written approval and a written revision to the approved budget is required. Any revision to the Cooperative Agreement must have approval of the cognizant SBA field offices and the DAA/SBDC. All revisions shall be issued by the Grants Management Office.

(c) *Disputes.*(1) All communications relating to disputes under the Cooperative Agreement must be transmitted to SBA's Office of Procurement and Grants Management, with a copy of such transmittal provided simultaneously to the Project Officer.

(2) *Disputes resolution procedure.* (i) Any recipient organization or SBDC that wishes to resolve a dispute concerning one or more elements of its Cooperative Agreement must submit a written statement describing the subject of the dispute together with evidence of such dispute to the appropriate Grants Management Officer in the Office of Procurement and Grants Management, with a copy of such statement and evidence to the Project Officer. The Grants Management Officer must respond to such dispute within 30 calendar days of receipt of the descriptive statement.

(ii) If the recipient organization or SBDC receives an unfavorable disposition regarding the dispute, an appeal, in writing, may be made to SBA's Grants Management Branch Chief within 20 calendar days of the receipt of such disposition. The Grants Management Branch Chief shall issue a written determination regarding the dispute to the recipient organization or SBDC and the appropriate SBA Regional and District offices within 30 calendar days of receipt of the appeal.

(iii) If the appeal is denied, the recipient organization or SBDC may make a final appeal through the Grants Management Branch Chief to the Grants and Cooperative Agreement Disputes Resolution Committee (as defined in § 129.11(j) of this Part) within 15 calendar days of the receipt of such denial.

(A) A written recommendation of the Committee, together with supporting documents, shall be forwarded to the Administrator of SBA for a final decision. Any recommendation requires the vote of two members of the Committee.

(B) Within 45 calendar days of the receipt of the final appeal by the Committee, a written final decision shall be prepared by the Committee embodying the decision of the Administrator and transmitted through the Grants Management Branch Chief to the appealing party, with copies to the appropriate regional office and the Project Officer.

(iv) *Expedited Dispute Appeal Process:* When a dispute which may affect refunding of the SBDC arises within 120 days of the end of the budget period, the Committee, in consultation with the Office of Procurement and Grants Management, by an affirmative vote of two members, may agree to shorten all response times as necessary to reach final resolution of the dispute before the timely issuance of a new Cooperative Agreement. At any time during the Dispute Resolution process, either the SBDC or the Project Officer may submit a written request to use an expedited process.

§ 129.16 Suspension and termination of the cooperative agreement.

(a) *General.* SBA may terminate the Cooperative Agreement of any SBDC for the convenience of the Government at any time or for any of the causes specified in paragraph (b) of this section, using the procedures set forth in paragraph (c) of this section. Termination of the Cooperative Agreement under these procedures automatically terminates the SBDC from the program for a specified period of time; see § 129.16 paragraphs (d) and (e). The existence of a cause for termination, however, does not necessarily require SBA to terminate the Agreement; the seriousness of the particular acts or omissions and any mitigating factors shall be considered in making any such decision.

(b) *Suspension.* SBA may suspend an SBDC (by suspending its Cooperative Agreement) from continuing its operations pending the final disposition of a termination for cause proceeding where it is in the best interests of the Government to do so.

(c) *Causes for termination.* (1) A willful or material failure to perform under the Cooperative Agreement or under these regulations.

(2) Conduct within an SBDC indicating a lack of business integrity or honesty which affects the present responsibility of that SBDC.

(3) Conviction of or civil judgment against the SBDC Director, any subcenter Director or any key SBDC employee for:

(i) Fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public or private agreement; or

(ii) Bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, or theft.

(4) A conflict of interest or self-dealing by the SBDC Director, any subcenter Director, or any key employee to the detriment of any small business concern, any contractor, the SBDC, or SBA. Examples of such conflicts of

interest or self-dealing include, but are not limited to, the following:

(i) An SBDC which provides any type of assistance to a small concern in which the SBDC, any subcenter or any SBDC employee has any financial interest;

(ii) An SBDC which requires a client to purchase real or personal property or to use the services of the SBDC, any subcenter, any SBDC employee or a designee.

(5) Improper use of letter of credit.

(6) Failure of the SBDC Director or any subcenter Director to work at the SBDC on a full-time basis.

(7) Failure of an SBDC, its subcenters, or the recipient organization to consent to audits or investigations or to maintain required documents and records.

(8) Any other cause not otherwise specified which seriously and adversely affects the operation or integrity of an SBDC or the SBDC program.

(d) *Procedures*— (1) *Investigation and referral.* Whenever possible cause for termination becomes known to a Project Officer, the matter shall be referred through the regional office and the Deputy Associate Administrator for Business Development/SBDCs to the Office of Procurement and Grants Management. Information concerning actual or suspected fraudulent or criminal conduct and other improprieties which might serve as the basis for termination of an SBDC must be forwarded by the Office of Procurement and Grants Management to SBA's Office of Inspector General. Upon receipt of such information, or upon otherwise becoming aware of such actual or suspected conduct or improprieties, the Office of Inspector General will conduct, supervise, or coordinate such investigation or audit as that Office deems necessary and, pursuant to any such investigation, or audit, will forward its findings to the Office of Procurement and Grants Management and the Deputy Associate Administrator for Business Development/SBDCs for whatever action is deemed appropriate.

(2) *Cure notice.* (i) Upon receipt of information indicating facts which might serve as the basis for termination of an SBDCs Cooperative Agreement, the Deputy Associate Administrator for Business Development/SBDCs may request the Grants Management Branch Chief to send a cure notice to the relevant SBDC. Such notice shall specify the inappropriate conduct or other impropriety of the SBDC and shall give the SBDC a specified, reasonable time to remedy the situation. In the case of the conviction of or civil judgment against the SBDC Director or any subcenter Director or any key employee for the reasons specified in paragraph (b)(3) of this section, the remedy must include removal of such individual(s) from his (their) position(s) within the SBDC.

(ii) If the SBDC does not respond to the cure notice or does not adequately rectify the condition specified in the cure notice, the Grants Management Branch Chief, in consultation with the Deputy Associate Administrator for Business Development/SBDCs, may terminate the Cooperative Agreement for convenience or can initiate termination for cause proceedings under paragraph (d)(4) of this section.

(3) If the cause for termination is corrected, the Cooperative Agreement and the operation of the SBDC shall continue without interruption.

(4) *Notice of proposal to terminate.* If the cause for termination is not corrected a notice of proposal to terminate shall be issued by the Office of Procurement and Grants Management advising the SBDC by certified mail, return receipt requested—

(i) That termination is being proposed;

(ii) Of the cause(s) for the factual basis of the proposed termination in terms sufficiently clear to put the SBDC on notice of the conduct or transaction(s) upon which the proposed termination is based;

(iii) Of the reasons for SBA's determination that the SBDCs response to the cure notice was inadequate;

(iv) That, within 30 calendar days after receipt of the notice, the SBDC may submit, in writing or in person through a representative, information and argument in opposition to the proposed termination, including any additional specific information. Any written submission shall be made through the Grants Management Branch Chief to the Deputy Associate Administrator for Business Development/SBDCs.

(5) *Termination decision.* (i) In actions based upon conviction or civil judgment, or in which there is no genuine dispute over material facts, the Deputy Associate Administrator for Business Development/SBDCs shall make a decision on the basis of all the information in the administrative record, including recommendations of the Project Officer and the regional office and any submission made by the SBDC. Such decision shall be made within 30 calendar days after receipt of any information and argument submitted by the SBDC.

(ii) In actions in which additional proceedings are necessary to resolve disputed material facts, the Deputy Associate Administrator for Business Development/SBDCs shall refer the matter to SBA's Office of Hearings and Appeals for findings of fact pursuant to Part 134 of this title. The Deputy Associate Administrator for Business Development/SBDCs shall then base the final decision on the findings of fact, together with the balance of the administrative record. Such decision shall be made within 20 working days after receipt of the findings of fact by the Office of Hearings and Appeals.

(6) *Notice of decision.* The Grants Management Branch Chief shall promptly notify the SBDC by certified mail, return receipt requested, of the final decision of the Deputy Associate Administrator for Business Development/ SBDCs. If the decision is to impose termination, the notice shall—

(i) Refer to the notice of proposed termination;

(ii) Specify the reasons for termination; and

(iii) State the effective date of termination of the Cooperative Agreement; and

(iv) State the effective date and period of termination from the SBDC program.

(e) *Period of termination.* An SBDC may be terminated for any reasonable period, commensurate with the inappropriate action, but in no case shorter than one year. Generally, a termination should not exceed three years.

(f) *Effect of termination.* (1) An SBDC which has been terminated must totally cease its SBA-funded operations. At the end of the termination period if the recipient organization wishes to perform any activities as an SBDC, it must submit a new application which has been newly approved by the State Governor and the agency of the State authorized to approve State development plans. The Project Officer will only consider the application if it is clear that all reasons for termination have been completely overcome. During the period of termination, any application submitted which contemplates continued employment on the SBDC staff of an SBDC Director, subcenter Director or a key employee of a terminated SBDC will be considered or processed, only if such individual was not involved in the cause of the SBDCs termination.

(2) Upon termination of an SBDC, SBA has the right, in its discretion, to reclaim any equipment purchased with SBA funds which, at the time of purchase, was valued at $1,000 or more.

(3) Upon termination of an SBDC, any applicant organization may submit to SBA an application for the formation of a new SBDC covering the same service area.

§ 129.17 Small Business Development Centers (SBDCs).

(a) *Area of Service and Location of SBDCs*—(1) *Area of Service*—(i) The area of service for any SBDC shall be the State in which it is located. In exceptional circumstances, more than one SBDC may be located in any State in which, in the determination of the Deputy Associate Administrator for Business Development/SBDCs, in consultation with the appropriate Regional Administrator, it is necessary or beneficial to effectively implement the program and to provide services to all interested small businesses.

(ii) Where more than one SBDC is to be located in a given State, the Deputy Associate Administrator for Business Development/SBDCs, in consultation with the Regional Administrator, shall determine in writing the respective areas of service of the SBDCs in that State. Each SBDC shall provide assistance and services to those small businesses of the State located in the general geographic area to which it is assigned.

(iii) According to the terms of the Cooperative Agreement, certain SBDCs may be permitted by the Deputy Associate Administrator for Business Development/SBDCs, after consultation with the appropriate Regional Administrator, to provide advice, information and assistance to small business concerns located outside the State in which the SBDC is located if the small business is located within a close geographic proximity to the lead SBDC or an SBDC subcenter.

(2) *Location of Lead SBDCs, Subcenters and Facilities.* The facilities and staff of each SBDC shall be located in such places as to provide maximum accessibility and benefits to the small businesses which the center is intended to serve.

(i) Lead SBDCs and subcenters should be structured to serve major small business population areas of the State.

(ii) SBDC program outreach shall be established by all SBDCs in such locations as mutually determined by the SBDC Director and the SBA Project Officer to provide maximum accessibility and benefits to the small business community. The proper location of the SBDC and subcenters will be annually reviewed by the SBDC Director and the Project Officer and the addresses and telephone numbers of existing or new locations will be noted in the annual Cooperative Agreement. Subcenters and satellite locations should be primarily located in the heart of some local communities.

(3) *Subcenters not in the application.* A request for any subcenter or satellite location not in the original proposal must be submitted as an amendment to the Cooperative Agreement to the appropriate SBA district office, and shall be processed according to the procedures used for approving amendments to applications.

(b) *Staff and access requirements.* (1) Each SBDC shall operate as an independent organization within the recipient organization.

(2) Each SBDC shall have:

(i) A full-time staff, including a full-time Director;

(ii) Access to business analysts to counsel, assist, and inform small business clients;

(iii) Access to technology transfer agents to provide state of the art technology to small business through coupling with national and regional technology data sources;

(iv) Access to information specialists to assist in providing information searches and referrals to small business;

(v) Access to part-time professional specialists to conduct research or to provide counseling assistance when the need arises; and

(vi) Access to laboratory and adaptive engineering facilities.

(3) The SBDC Director shall, consistent with the Cooperative Agreement and the budget approved therein by SBA, have the authority to make expenditures under the SBDCs budget and shall implement and manage the activities and services of the program.

(i) The Director's position shall be highest full-time management position established within the organization of any SBDC.

(ii) In a university setting, the SBDC Director shall be directly accountable for the performance of the SBDC to an official of the university at a Dean's level or higher.

(iii) In a non-university setting, the SBDC Director shall be directly accountable for the performance of the SBDC to an official of the state-endorsed organization at a level equivalent to or higher than that of a Dean at a university.

(4) All paid SBDC staff positions shall be limited to those essential to operate the program. Essential positions are those positions required to:

(i) Direct or maintain the efficient operation of the program;

(ii) Provide counseling and training to small business clients when other resources providing these services are not readily available; or

(iii) Further individual program objectives.

(5) All new SBDCs must submit to the district office a current resume of each key employee as part of its application. At least annually, ongoing SBDCs shall submit a roster of their key employees, and resumes of new key employees only.

(6) SBDCs shall not establish administrative support positions which cannot be justified to the Project Officer by the services to be provided.

(7) The SBDC shall maintain daily time and attendance records on all part-time SBDC and subcenter employees. The SBDC State Director shall certify in the quarterly report that each full-time SBDC employee dedicated 100 percent of his effort during that quarter to the SBDC program.

(8) SBDCs, including all subcenters or satellite locations, shall operate on a 40-hour week basis, or during the normal business hours of the recipient organization, throughout the calendar year provided that such business hours are adequate to insure the services are delivered to the small business community.

(9) Vacations shall be arranged so that the continuity of SBDC and subcenter operations is not disrupted, except where there is a total shutdown of the host organization's facilities where the SBDC or subcenter is located (i.e., shutdown of administrative offices, public services, utilities, etc.)

(c) *Resources.* (1) SBDCs shall concentrate on developing and coordinating the unique resources of the university system, the private sector, and Federal, State and local governments to provide services to the small business community which are not readily available from existing small business support systems in the SBDC service area.

(2) Each subcenter shall be governed by a written agreement with the SBDC. Such agreement shall contain all of the basic terms and conditions of the Cooperative Agreement.

(3) To the extent possible, SBDCs shall make full use of other Federal and State government programs that are concerned with aiding small business. Such programs must be kept separate in funding, recordkeeping and client awareness.

(4) SBDC services shall be provided to small businesses by the assignment of qualified resources.

(i) Resources refers to SBDC or subcenter staff members, professional consultants, Chambers of Commerce, members of professional associations, qualified student counselors, SBI student teams, university faculty, SCORE/ACE participants and other volunteers, or other Federal, State or local personnel

qualified to offer small business assistance.

(ii) Every effort should be made by the SBDC Director to attain a balanced use of resources as negotiated with the Project Officer and reflected in the Cooperative Agreement.

(iii) The SBDC Director is responsible for the development and expansion of resources within the area to be served by that SBDC, particularly the development of new resources that are not presently associated with a particular SBA district office. The Director must report the progress the SBDC has made to develop new resources in the annual report. The SBDC Director must ensure that newly acquired resources are not receiving financial compensation from the SBDC program for services already being provided to the area small business community under provisions of another local, State or Federal contract, grant or Cooperative Agreement or other salaried or fee paid arrangements. Proposed services by such new resources must be in addition to pre-existing support provided to the small business community.

(5) SBDCs shall also utilize qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services to small businesses. Such private sector resources shall be compensated for their services. These qualified small business vendors shall be classified in conformity with appropriate SBA size standards as provided in 13 CFR Part 121.

(6) SBDCs are encouraged to use qualified volunteers to provide services to small business.

(7) Laboratories operated and funded by the Federal Government shall cooperate with SBA in developing and establishing programs to support SBDCs by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. These laboratories shall be reimbursed through an SBDCs budget for any such services utilized.

(8) SBA and SBDCs may request the cooperation of the National Science Foundation in developing and establishing programs to support the centers.

(9) SBDCs may request the cooperation of the National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration on developing and establishing programs to support the centers.

(d) *Services.* (1) Each SBDC shall ensure that the assistance it provides does not duplicate or replace existing services.

(2) SBDCs shall provide assistance to small businesses within the area of service designated or approved by SBA.

(3) In close coordination with SBA, the SBDC Director shall promote the SBDC and its services to the target markets identified in the Cooperative Agreement.

(4) SBDC services shall be tailored as closely as possible to meet the local needs of small business owners and potential small business owners. Primary services to be provided shall include, but not be limited to, management and technical assistance through one-to-one individual counseling and training of small businesses.

(i) *Counseling.* SBDCs shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, business planning, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, capital formation, procurement assistance, innovation and research, new product development, product analysis, plant layout and design, computer application, and other disciplines required for small business growth and expansion, increased productivity, and management improvement, and for decreasing industry economic concentrations.

(ii) *Training.* Each SBDC shall ensure that quality training to improve the skills and knowledge of existing and prospective small business owners is provided throughout its SBDC network.

(A) All training offered by an SBDC shall be carefully planned with the SBA Project Officer to avoid duplication with the training efforts presented by other Federal, State, local, and private organizations and by SBA.

(B) SBA must be prominently listed as a funding Agency on all training literature and on all publicity initiated by the SBDC.

(iii) SBDCs shall assist in technology transfer, research, and coupling from existing sources to small businesses.

(iv) SBDCs shall coordinate and conduct research into technical and general small business problems for which there are no ready solutions. SBDCs are also authorized to coordinate and conduct research concerning market needs.

(v) SBDCs shall maintain a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community.

(vi) *Other required services.* Each SBDC shall: (A) Maintain current information concerning Federal, State, and local regulations that affect small businesses, including all regulations promulgated by SBA, and counsel small businesses on methods of compliance. Counseling and technical support shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

(B) Provide and maintain a comprehensive library that contains current information and statistical data needed by small businesses. Such library must also contain current copies of the Small Business Act, as amended, Small Business Investment Act of 1958, as amended, and Title 13 of the Code of Federal Regulations.

(C) Conduct in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

(D) Maintain lists of local and regional private consultants to whom small businesses can be referred.

(vii) *International Trade Center.* As mutually determined by the SBA Project Officer and SBDC State Director, an SBDC may establish an International Trade Center within the SBDC to increase the export capabilities of small businesses with products which are potentially marketable internationally; provided such Center does not duplicate services provided by the International Trade Administration or the Department of Commerce. The International Trade Center will coordinate and utilize public and private resources to provide assistance to current and potential small business exporters. Its specialists will help business people with the various aspects and complexities of exporting and foreign investment, and assist them in developing an export marketing plan for the sale of their product(s) overseas. International Trade Centers should have the capability to do the following:

(A) Evaluate client's export capability;

(B) Identify and analyze client's international trade needs and problems;

(C) Provide counseling in international trade techniques, procedures, and opportunities;

(D) Establish an operational relationship with Federal, State, and local organizations essential to improving international trade;

(E) Develop and conduct seminars on opportunities and procedures involved in exporting, importing, joint ventures, and licensing; and

(F) Provide a manual of step-by-step procedures and sources of international trade information, where appropriate.

(5) Every SBDC and subcenter must continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

(6) *Legal Services Restrictions.* Legal advisory information shall not be provided to assist clients involved in litigation or other actions against the Government's interest. Legal information services shall not be used to represent any client in any action. Legal services other than providing basic business law information require the endorsement of the State Bar Association and the approval of SBA.

(e) *Research.* Research projects performed by an SBDC and agreed to by SBA Project Officer shall be forecast in the annual Cooperative Agreement and shall have direct benefit to the State and/or local small business community served by the SBDC. Research activities should not be considered a primary focus of SBDC operations and should be undertaken only when a specific identifiable need exists for this service within the small business community and a plan for using the research results to meet the need has been developed. The results of such projects shall be included as an attachment to the quarterly report for the quarter in which the project is completed. No research shall be undertaken unless a review is made of the SBDC national research projects to avoid duplication.

§ 129.18 SBDC clients.

(a) *Eligibility.* Subject to available resources, any existing or potential small business owner or primary officer of a small concern may receive assistance from an SBDC. The SBDC is responsible for ensuring that such assistance is provided only to small businesses as authorized by the Small Business Act (15 U.S.C. 632 et seq.).

(b) *Priorities of assistance delivery.* (1) SBDCs shall provide assistance to eligible clients who independently become aware of the availability of SBDC assistance. SBDCs shall also provide assistance to target groups and to eligible clients referred by SBA.

(2) The Central Office may set national priorities for the method and the delivery of assistance to SBDC clients generally and for individual SBDCs through the annual Program Announcement and other issuances of the Central Office.

(3) Within these standards, the region shall determine priorities for the delivery of assistance by SBDCs in its region to SBDC clients. Consistent with these national and regional priorities, the district office shall determine priorities for the delivery of assistance by SBDCs within its district to SBDC clients.

§ 129.19 Advisory boards.

(a) *National SBDC Advisory Board.* (1) The SBA is required to establish a National SBDC Advisory Board consisting of nine members who are not part of the Federal work force, appointed by the Administrator of SBA. Three members of the National SBDC Board shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. All Board members serve three year terms.

(2) The National SBDC Board shall elect a Chairman and shall advise, counsel, and confer with SBA's Deputy Associate Administrator for Business Development/SBDCs on policy matters pertaining to the operation of the SBDC program. The Board shall meet, with the Deputy Associate Administrator for Business Development/SBDCs, at least semiannually at the call of the Chairman.

(b) *State/Regional SBDC Advisory Boards.* (1) Each SBDC shall establish an advisory board to advise, counsel, and confer with the SBDC Director on all policy matters pertaining to the operation of the center, including how local and regional private consultants may participate with the SBDC.

(i) Such an advisory board shall be referred to as a State SBDC Advisory Board in a state having only one SBDC.

(ii) Such an advisory board shall be referred to as a Regional SBDC Advisory Board in a state having more than one SBDC.

(2) These boards shall represent the entire service area and each shall be composed predominantly of small business owners and representatives of small business associations. Efforts shall be made to include a representative from SCORE or ACE and SBI on each board.

(3) First-time SBDCs are required to establish a State or regional SBDC Advisory Board in the second budget period.

(c) *Local Advisory Boards.* The SBDC State Director shall encourage subcenters to establish local SBDC Advisory Boards to advise, counsel, and confer with the Subcenter Director on matters pertaining to the operation of the subcenter. However, a local Advisory Board need not be established for each subcenter.

(d) A State/Regional or local SBDC Advisory Board member may also be a member of the National SBDC Advisory Board.

(e) *Travel of Advisory Board Members.* Travel of any Board member for official Board activities may be paid for out of the SBDCs' budgeted funds.

§ 129.20 Financial aspects of program.

(a) *Budgeting*—(1) *Budget Proposal* (i) The SBA Project Officer shall send the Program Announcement to the SBDC nine months prior to the close of its budget period.

(ii) *Submission:* The budget proposal for the upcoming budget period must be submitted to the SBA district office by the SBDC State Director, or by the proposal developer in the case of a first-time SBDC application, for appropriate review and ultimate approval of the Grants Management Branch Chief. (See § 129.14, Application Procedure.) To ensure timely funding of existent SBDCs, the SBDC Director of any SBDC operating on a Federal fiscal year budget must submit to the Project Officer a draft budget proposal by March 15 and a final budget proposal, acceptable to the Project Officer, by June 1 of the preceding budget year. Similarly, for any SBDC operating on a calendar year budget, the SBDC Director must submit a draft budget proposal to the Project Officer by June 15 and a final budget proposal, acceptable to the Project Officer, by September 1, of the preceding budget year.

(iii) In a case where refunding will not occur in a timely fashion through no fault of the SBDC and where the Office of Procurement and Grants Management has received appropriate programmatic and budgeting approvals, the Office of Procurement and Grants Management may issue a letter advising the SBDC of continued funding. Such letter should be received by the SBDC at least two weeks prior to the close of the current budget period.

(iv) A letter of continuation may be issued when refunding of an SBDC is anticipated. However, the continuation letter shall lapse if within 120 days of its issuance, the recipient organization and SBA have not entered a new Cooperative Agreement.

(v) *General Requirements:* The budget proposal must include:

(A) The total cost of the program, including such costs of personnel, fringe benefits, travel, consultants, equipment

and supplies. The budget proposal must specify which costs are to be borne by Federal funds, by matched funds, or by in-kind/indirect matched funds, or by overmatched funds. This requirement applies to costs incurred by subcenters as well as recipients.

(B) A description of financial resources offered by the applicant, clearly indicating the amount and source of matched funds and distinguishing between cash and in-kind funds.

(C) A description of proposed out-of-state travel, indicating the purpose of the travel, the projected benefit to be derived from the travel, the number of persons traveling, and the estimated travel costs. Costs of travel will be governed by the appropriate OMB Circular (see § 129.20(c)(1)(i)) and must be in accordance with SBDC program objectives and with the recipient's travel policy.

(D) The amount of Federal or matching funds the SBDC intends to allocate for payment of dues to one or more professional associations, including a certification by the SBDC Director or Chief Financial Officer that no portion of the dues will be used for lobbying purposes, either, directly or indirectly through outside associations.

(vi) SBA requires, as a minimum, that 80 percent of the Federal dollars provided must be allocated to direct costs of program delivery. In the case where indirect costs are waived by the applicant organization, in order to meet the matching funds requirement, 100 percent of the Federal dollars must be allocated to program delivery. In a case where some, but not all, indirect costs are waived to meet the matching funds requirement, the lesser of the following may be allocated as indirect costs of the program; and charged to Federal dollars:

(A) 20 percent of Federal dollars provided to the program, or

(B) That amount remaining after the waived portion of indirect costs is subtracted from the total indirect costs.

(vii) *Subcenter costs.* (A) As a separate attachment to the budget, the SBDC shall include separate subcenter budgets indicating individual subcenter costs charged to the recipient and their applicable indirect base and rate.

(B) The amount of Federal cash, in-kind and indirect costs for each subcenter shall be indicated.

(viii) *SBDC and subcenter closures.* (A) The applicant SBDC is responsible for enumerating all anticipated center and subcenter closures whether for holidays or shutdown of the host organization, in its annual formal proposal. Otherwise, the SBDC must submit such dates to the Project Officer as soon as possible.

(B) Closures above and beyond those enumerated in the proposal shall result in an appropriate reduction of the SBDCs budget, except for unique unanticipated circumstances (e.g., snow days, building power or heat failure).

(*1*) The SBDC Director must notify the appropriate SBA Project Officer of any SBDC or subcenter closure beyond those enumerated in the proposal in the quarterly report. If the reason for the closure is a unique unanticipated circumstance, the specific rationale for the closure must be furnished in the written notice.

(*2*) If the closure will be for an extended period of time (more than three days), the SBDC Director must notify the Project Officer within 24 hours.

(2) *Budget revisions.* (i) Revision may be requested at any time and requires approval of the appropriate district office, regional office, the Central Office of SBDCs and the Office of Procurement and Grants Management.

(ii) All procedures for revisions must conform to the requirements of the applicable OMB Circular. (See § 129.15(a)(2) and § 129.20(c)(1)(i).)

(3) *Transfer of funds.* (i) Line item to line item transfer of 5 percent or less of the total approved costs in the budget may be transferred without SBA approval. However, all transfers to the line items relating to out-of-state travel and capital equipment require SBA approval.

(ii) Transfer of greater than a cumulative 5 percent requires prior written approval of the Grants Management Branch Chief.

(4) *Carryover of Funds* (Unobligated, unexpended Federal dollars).

(i) An SBDC may not carry over unobligated, unexpended Federal funds from one budget period to the next unless such funds were originally budgeted to cover a noncontinuing, nonrecurring bona fide need of the SBDC as determined by the Office of Procurement and Grants Management in concurrence with the Office of General Counsel (e.g., start-up costs of a new subcenter as opposed to the continued operation of any subcenter).

(ii) An SBDC may carry over unobligated, unexpended matching funds from one budget period to the next, provided that during the budget period the SBDC had used matching funds on a one-to-one ratio with Federal funds. (i.e., for every dollar of Federal funds expended, one dollar of matching funds is expended). An SBDC cannot claim that it utilized all Federal funds first, and that all unobligated, unexpended funds are matching funds.

(iii) Any funds provided by the recipient organization in excess of the required match (overmatch) which have not been obligated or expended may be carried over to the succeeding budget period.

(iv) When the final financial report is issued, all unexpended, undigested Federal dollars will be deducted from the following year's award and from the letter of credit.

(b) *Receipts*— (1) *Grants—Amount of grant.* No recipient of funds shall receive a grant which would exceed the greater of—

(i) $200,000, or

(ii) Its pro rata share of $65,000,000 program based on the population to be served by the Small Business Development Center as compared to the total population of the United States, as defined by section 4(c) of the Small Business Act.

(2) *Matching funds.* (i) As a condition of any grant or amendment or modification thereof, the applicant organization must provide for an additional amount equal to the amount of the Federal grant. This amount (matching funds) is subject to the following restrictions:

(A) The amount must be provided from sources other than the Federal Government;

(B) It may not include any fees collected from the recipients of assistance, or other program income;

(C) The additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program;

(D) Indirect costs or in-kind contributions shall not exceed 50 percent of the non-Federal additional amount;

(E) The remaining 50 percent will be cash outlay for program operation provided by the applicant, and may include no indirect or in-kind contributions.

(ii) At the close of the phase-in periods indicated below, indirect and in-kind matching contributions shall not exceed 50 percent of the non-Federal matching requirement and not less than 50 percent of the matching contribution shall be cash. This requirement is effective as follows:

(A) If the applicant is located in a state which received its initial grant to be performed before August 1, 1984, then this requirement applies to grants effected on or after October 1, 1987.

(B) If the applicant is located in a state which received its initial grant to be performed after August 1, 1984, and prior to October 1, 1986, then this

requirement applies to grants to be performed on or after October 1, 1988.

(C) If the applicant is located in a state which received its initial grant effective after October 1, 1986, then this requirement applies as of October 1, 1986.

(iii) All sources of matching contributions must be identified as specifically as possible. In the case of cash, it shall be identified by name and account number in the budget proposal and certified by the appropriately authorized official of the applicant organization. The account containing such cash must be under the direct management of the SBDC Director. If the State is providing such cash, the SBDC must verify that such funds have been appropriated prior to the award of the Cooperative Agreement.

(iv) The Office of Procurement and Grants Management is responsible for determining acceptable match.

(v) *Restrictions in Overmatched Amounts.* (A) SBDCs are encouraged to furnish more than the required equal match. Once approved as part of the budget, such amounts (overmatch) become part of the recipient organization's contribution to that year's SBDC program.

(B) If such overmatched amounts are used for program delivery during the budget period for which they were pledged, they may not be applied to the matching funds requirement of the subsequent budget period. If such overmatched funds are not used for program delivery during the budget period for which they were pledged, they may be carried over to meet the match requirements of the subsequent budget period. Such overmatched amounts must be included in the budget presentation for the subsequent budget period.

(C) Any cash match (overmatch) committed to the program over and above the amount required by law shall be budgeted to support the level of effort approved by both parties for the Cooperative Agreement year in which the "overmatch" is applied. Verified, unspent dollars of "overmatch" may be applied to the following continuation year(s) if these "overmatch" funds are budgeted to support the proposed, approved level of effort. Verified, unspent "overmatch" dollars may be used as a credit to offset any confirmed audit disallowances applicable to the budget period in which the "overmatch" exists. Offsetting funds shall be considered obligated and not allowable as match for past or future budget periods.

(vi) *Impermissible Sources of Matching Contributions.* Under no circumstances may the following be used as sources of the matching contribution of the recipient organization.

(A) Uncompensated student labor;

(B) SCORE, ACE or SBI volunteers;

(C) Program income;

(D) Pre-existing training courses or programs, unless the SBDC is expanding or enhancing the course or program;

(E) Funds, indirect or in-kind contributions from any other Federal program, including SBA supported companies or corporations, notwithstanding the allowability of such sources for matching purposes under their own enabling legislation.

(3) *Funding.* (i) Letter of credit is the preferred method of funding SBDCs. Withdrawal of cash from the U.S. Treasury for advances to recipient SBDC organizations shall be deposited in an interest bearing account and, in the case of other than State government sponsored SBDCs, such interest must be reported and returned annually to SBA.

(ii) SBDCs may also be funded by reimbursement for work performed. (SBDCs operating without a letter of credit.)

(A) In order to voluntarily use the reimbursement method of funding, an SBDC must submit written justification to the Project Officer identifying why the letter of credit method would be inappropriate.

(B) In order for an SBDC to be reimbursed, the Project Officer must certify that the SBDC was operating for the period of time claimed.

(C) The reimbursement method may be initiated by SBA, if the Agency determines that its use will be in the best interests of the Government.

(4) *Program income.* (i) Program income represents gross income earned by the recipient from federally-supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usages or rental fees, and royalties on patents and copyrights. All revenues from clients served by the small business development centers under the auspices of the Cooperative Agreement are considered to be program income. Specific provisions regarding fees are set forth in paragraph (b)(5) of this subsection.

(ii) Treatment of program income for SBDCs based in universities or nonprofit organization SBDCs is subject to the provisions of Attachment D, of OMB Circular A–110. Treatment of program income for SBDCs based in State or local governments is subject to provisions of Attachment E of OMB Circular A–102.

(iii) Program income, including any interest earned on program income, must be used to further program objectives. It cannot be used to satisfy the match requirements. Each SBDC must report in detail any receipt or expenditure of program income on Financial Reporting Form SF 269 (OMB) as outlined in § 129.21(d).

(A) The phrase "to further program objectives" means expanding the quantity and quality of services, resources and outreach provided by the SBDC.

(B) The Project Officer is responsible for determining whether an SBDC is furthering program objectives; and

(C) This determination is based, in part, on the required narrative in the financial report indicating how such income was used by the SBDC.

(iv) Any unused program income will be carried over to be utilized to further program objectives in the subsequent budget year.

(5) *Fees.* After prior approval from SBA's Central Office of SBDCs, SBDCs may charge a fee or receive other remuneration (compensation) from clients for counseling services. SBDC clients may be charged a reasonable fee to cover program costs in connection with training activities sponsored or cosponsored by the SBDC, or costs associated with specialized services.

(c) *Expenses*—(1) *Cost Principles*—(i) Principles for determining the allowable costs of SBDCs are contained in Office of Management and Budget Circulars A–21 (cost principles for grants, contracts, and other agreements with educational institutions), A–87 (cost principles for programs administered by State and local governments), and A–122 (cost principles for nonprofit organizations).

(ii) The principles are designed to provide that the Federal Government and federally-assisted programs bear their fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law.

(iii) The Director of each SBDC shall have the authority to make expenditures under the center's budget.

(v) No portion of the Federal program funds used by an SBDC may be used for lobbying activities, either directly or indirectly through outside organizations.

(A) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs.

(B) Organizations shall submit as part of their annual indirect cost rate proposal a certification that the

requirements and standards of this paragraph have been complied with.

(C) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable lobbying complies with the requirements of the appropriate OMB Circular.

(D) Time logs, calendars, or similar records documenting the portion of an employee's time that is treated as an indirect cost shall not be required for the purposes of complying with paragraph (c)(1)(v) of this section, and the absence of such records which are not kept pursuant to the discretion of the grantee or contractor, will not serve as a basis for disallowing claims of allowable costs by contesting estimates of unallowable lobbying time spent by employees during any calendar month unless: *(1)* The employee engages in lobbying for more than 25 percent of his compensated hours of employment during that calendar month; or *(2)* the organization has materially misstated allowable or unallowable costs within the preceding five year period.

(2) *Salaries.* (i) Generally, the salary of the SBDCs Director, SBDC Subcenter Director and the salaries paid to SBDC staff members shall be comparable to annualized salaries established for similar positions in the area served by that particular SBDC or subcenter as agreed to by the SBA Project Officer and specified in the Cooperative Agreement. In educational institutions, a suggested level to consider is that of the annualized salary of a full professor, taking also into consideration the longevity of the Director in the program, the number of subcenters included in the SBDC's network, and the professional background of the person who would occupy the position.

(ii) Recruitment and salary increases for SBDC Directors, subcenter Directors and staff members shall conform to the administrative policy of the recipient organization.

(3) *Travel.* (i) Transportation costs shall be at coach class and per diem rates, including lodging, shall not exceed those authorized for Federal employees by the Federal Travel Regulations, or for employees of the host institution by that institution.

(ii) All travel must be separately identified in the proposed budget as in-state, out-of-state, and unplanned.

(iii) In order for any travel to be approved by SBA, it must be in accordance with the written travel policies of the recipient organization and directly attributable to specific work of the SBDC or incurred in the normal course of administration of the program.

(iv) All proposed travel by the SBDC Director and the SBDC staff must be reasonable, justified in writing, and included in the SBDCs proposed annual budget. Such justification must indicate the estimated cost, number of persons traveling, and the benefit to be derived by the small business community for the proposed travel. A specific amount, based on past experiences, where appropriate, must also be included in the budget for any unplanned travel. A justification in greater detail is required for unplanned out-of-state travel.

(v) Any proposed unplanned out-of-state travel that exceeds the approved budgeted amount must be submitted through the Project Officer to SBA's Office of Procurement and Grants Management for approval on a case-by-case basis. Any such submission must contain a written narrative explaining the need for such travel and the relation of such travel to the efficient operation of the SBDC.

(vi) Travel outside the United States must have prior approval by the Administrator.

(4) *Dues.* (i) Costs of the SBDCs membership in civic, business, technical, and professional organizations are allowable expenses. As such, the use of Federal funds in payment of such dues is permitted, provided that the requirements of paragraphs (c)(4) (ii), (iii), (iv) and (v) of this section are met.

(ii) All such payments must be approved by SBA, be fully described, and be reasonable and realistic in relation to the benefits derived, as determined by SBA's Office of SBDCs and Office of Procurement and Grants Management.

(iii) The benefits derived from this expenditure must be fully explained.

(iv) Notwithstanding the above, annual dues exceeding $2,000 which are paid from Federal or matching funds to any professional, technical, business or civic organization must be separately justified, detailing benefits received for this expenditure.

(v) No portion of the dues paid from Federal or matching funds may be used directly or indirectly for lobbying activities by the organization receiving such funds. As part of the budget proposal, the SBDC Director or, where appropriate, the Chief Financial Officer and the SBDC Director shall certify that no portion of the dues paid from program funds are being used directly or indirectly for lobbying activities.

§ 129.21 Evaluation of SBDC program.

(a) *SBA Review Authority*—(1) *SBA shall monitor and oversee the Cooperative.* Agreement and ongoing operations of each SBDC to ensure the effective and efficient use of Federal funds for the benefit of the small business community.

(2) In order to properly evaluate the SBDC Program, SBA shall require each SBDC to keep records as set forth below in this section, and to submit quarterly and annual performance and financial reports, as specified in paragraphs (b) and (c) of this section respectively. Those reports and the clients' evaluations of services provided will be reviewed to:

(i) Determine the quality of services provided by the SBDC;

(ii) Determine the completeness and accuracy of SBDC records; and

(iii) Compare the actual SBDC accomplishments with the SBDC performance objectives, such as the Planned Milestone Accomplishment Chart submitted with the proposal for funding or refunding which are listed in the Cooperative Agreement.

(3) SBA representatives are authorized to make on-site visits to SBDCs and SBDC subcenters to inspect SBDC records and client files, and to analyze and evaluate training, counseling and any other activities. As a courtesy, SBA representatives should generally advise the SBDC Director or Subcenter Director at least two weeks prior to the planned visit. The Project Officer shall review these records on a regular basis to verify that SBDC staff are adequately documenting the necessary files.

(b) *Client control records.* (1) The lead SBDC shall maintain control records as necessary.

(2) Subcenters and lead SBDCs which provide services to small business shall maintain detailed, complete and accurate client activity files, specifying counseling, training and other assistance provided. These records must clearly identify and locate the client, set forth the client's management problems, reflect the SBDC service provided, project the client results anticipated, and include client evaluations of services received.

(3) Each SBDC shall report the number of training programs, the number of attendees, and the attendee demographic data (SBA 888, OMB Approval No. 3245–0123), and submit the client evaluations or a summary of those evaluations.

(4) Individual client counseling files are to be maintained for each client and entered into the Management Information System.

(5) One-time files should be concise, but sufficient to ensure that thorough program audit and evaluation practices can be applied. Substantive counseling

should be well documented to enable an outside party to assess the adequacy of services provided.

(6) All SBDC and subcenter records shall be made available to SBA for review upon request. Records relating to SBA clients may be duplicated by SBA personnel. Other records may be duplicated for audit purposes only.

(c) *Performance reports.* (1) Each SBDC shall provide three quarterly and one annual programmatic report to the appropriate SBA Project Officer. Quarterly reports must be submitted (postmarked) no later than the 30th day of the month following the end of the quarter; annual reports must be submitted no later than 90 days following the end of the program year. All reports are to be submitted in an original and three copies.

(2) Information required in quarterly performance reports.

(i) Number of counseling cases completed (both short-term and in-depth), number of training programs offered, and the number of attendees. (This information shall be broken out by each individual SBDC subcenter.)

(ii) Number of clients assisted and number and type of training programs offered for special emphasis and SBA priority clients, i.e., minorities, veterans, women, handicapped, exporters and SBA clients.

(iii) If anticipated performance levels were not achieved in the above areas, SBDCs shall indicate reasons with recommended remedies.

(iv) A report of any and all problems that have significant impact on the program.

(v) A description of the various personnel resources used by the SBDC to provide services during the quarter, including a certification by the SBDC State Director that each full-time SBDC employee dedicated 100 percent of his effort to the SBDC program during that quarter.

(vi) A description of any unplanned out-of-state travel performed by the SBDC. This description should indicate cost, purpose, and benefits derived.

(vii) A description of the outreach efforts made by the SBDC Director to involve State and local government and private sector participation.

(viii) A brief description of research and publication activities, if applicable.

(ix) A description of the use of private consultants, and an indication of Federal dollars expended to purchase private consulting services.

(x) A brief narrative report on any special or innovative activities or projects undertaken by the SBDC which would provide useful information to other SBDCs, SBA or small business clients.

(xi) Any specific information requested by the SBA Project Officer.

(3) Information required in annual performance reports.

(i) An annual summation of the quarterly reports required in paragraph (c)(2) of this section.

(ii) A description of the new resources developed by the SBDC during the course of the program year.

(iii) Overall observations, difficulties encountered, and recommendations, if any, for improving the services provided in the current SBDC Program; SBDCs shall address the use of private consultants, private sector volunteers, and other personnel resources.

(iv) Any other comments or items which would be important for the improvement of the SBDC Program.

(d) *Financial reports.* (1) Each SBDC shall provide three quarterly and one annual financial report to the appropriate Project Officer. Quarterly reports must be submitted (postmarked) no later than the 30th day of the month following the end of the quarter; preliminary annual reports must be submitted no later than 90 days following the end of the budget year. The final annual reports must be submitted no later than 180 days following the end of the budget year. All reports are to be submitted in an original and two copies.

(2) The required financial reports are as follows:

(i) Report of Federal Cash Transactions (SF 272);

(ii) Financial Status Report (SF 269); and

(iii) Request for Advance or Reimbursement (SF 270); as applicable.

(e) *Audits and investigations*—(1) *General*—(i) *Access.* At all reasonable times, SBA may inspect, examine and copy in the office of either the SBDC, its subcenters, the respective sponsoring organization or entity, its accountants, attorneys and consultants, or its subcontractors, if any, all documents, files, books, records and other materials relevant to SBA's Small Business Development Center Program. These records shall be maintained for a period of three years beyond the term of the Cooperative Agreement plus such additional time as may be required to settle cost disallowances or claims for which the SBDC may seek recovery from SBA or to resolve any litigation claim or audit begun within the three year period. Such records shall include but not be limited to the following (subject to OMB approval):

(A) The Cooperative Agreement and all amendments;

(B) The application;

(C) All documents submitted by the SBDC clients applying for management assistance;

(D) All information made, used or maintained by the SBDC in connection with the provision of management assistance;

(E) All records of any transaction for which the SBDC makes payments pertinent to the Federal funds, matching funds, and expenditures related to program income spent to further the program objective, including but not limited to all invoices, payroll records, project ledgers, general ledgers, detailed supporting allocations, travel vouchers, subgrants, contracts or subcontracts, and any other pertinent documents;

(F) All records of any transaction relating to receipt of cash from fees or other sources, including but not limited to receipts, bills, settlement agreements, judgments, arbitration decisions and any other pertinent documents;

(G) Legal opinions and memoranda or other advice prepared by an attorney and paid for by the SBDC from the Federal funds, matching funds, or program income funds.

Failure of an SBDC, its subcenters, or the respective sponsoring organizations to maintain such records or to consent to such inspection, examination or copying, will be grounds for SBA to refuse to renew or continue cooperative agreements or to make advance payments until such time as the SBDC or other entity consents to such access. *See* "Termination for Cause, § 129.16(c)(2)."

(2) *Audits.* (i) All audits will be conducted, supervised, or coordinated by the Office of Inspector General.

(ii) All audits, to the extent practicable, shall be conducted in accordance with generally accepted auditing standards of the Comptroller General of the United States, as published in *Standards for Audit of Government Organizations, Programs, Activities and Functions (Yellow Book)* and in accordance with generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants."

(iii) Financial and compliance audits will be conducted annually, to the extent practicable, and at least once every two years. Whenever possible, such audits will be conducted as a single audit of a recipient organization pursuant to OMB Circulars A–102, A–110, or A–128. When this is not practicable, such audits may be conducted by the SBA Office of Inspector General. SBA also reserves the right to require an SBDC to have the financial and compliance audit

performed by a qualified independent public accountant, as defined by the Comptroller General in the Yellow Book, and submitted to the SBA Office of Inspector General, pursuant to audit guidelines issued by the Office of Inspector General. Audit work papers made in connection with such audits must be available and produced for review upon request of the Office of Inspector General.

(iv) Requests for compliance audits of SBDCs may be made to SBA's Office of Inspector General by the Office of SBDCs. Requests for financial audits of SBDCs may be made to the Office of Inspector General by the Office of Procurement and Grants Management.

(v) SBDCs that receive $200,000 or more a year in Federal financial assistance shall have financial and compliance audits annually in accordance with the requirements of OMB Circulars.

(3) *Investigations.* SBA may conduct such investigations as it deems necessary to determine whether a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the Small Business Act of 1953, as amended (15 U.S.C. 631, *et seq.*), or any rule or regulation under that Act or of any order issued under that Act, or of other applicable Federal law.

(f) *On-site reviews.* (1) An on-site evaluation of each SBDC shall be conducted by SBA at least once every two years. At least one, but no more than two, representative(s) of another SBDC shall participate in each such evaluation on a cost-reimbursement basis.

(i) This evaluation will be an in-depth analysis of the records, procedures and services of the SBDC. The evaluation will be both qualitative and quantitative, will measure the effectiveness of the program and the cost of delivery, and will make an assessment of the benefits accruing to the areas served.

(ii) The SBDC Director and the appropriate Project Officer shall be advised of the scheduled evaluation at least one month before the date of the evaluation.

(iii) The evaluation team shall send a copy of the evaluation with recommended changes to the SBDC Director, appropriate Project Officer, and other appropriate SBA officials.

(2) In addition, on-site financial evaluations of each SBDC shall be conducted, as needed, by the SBA Grants Management Branch Chief or his delegatee. Representatives of other SBDCs may not participate in such evaluations.

Dated: September 25, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc 86-23814 Filed 10-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[Notice No. 606]

Principal Place of Business Address on Distilled Spirits Products Labels

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) proposes to amend regulations in 27 CFR Parts 5 and 19 to allow the use of a principal place of business address on distilled spirits products labels. A proprietor using its principal place of business address on distilled spirits products, if different from the address where the operation occurred, will indicate on the label or on the bottle by printing, coding, or other markings, the address where the operation occurred. This proposal would benefit multiplant distilled spirits proprietors by allowing them to use a "universal" label at all of their distilled spirits plants.

DATE: Written comments must be received by December 22, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385. Copies of the petition and the written comments received in response to this notice will be available for public inspection during normal business hours at: ATF Reading Room, Room 4406, Ariel Rios Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Coordinator, FAA, Wine and Beer Branch, (202) 566-7626.

SUPLEMENTARY INFORMATION: Heublein Spirits, Hartford, Connecticut, submitted a petition to allow the principal place of business address to be shown on domestic distilled spirits labels and wine labels when the labels have a code indicating the address where the operation occurred. The petitioner states that the name and address of the bottlers principal place of business is allowed for imported distilled spirits and wine. Also, a code is allowed for beer labels to indicate the place of production when there are two or more breweries of the same ownership and the principal place of business is shown.

The manufacturer or bottler or importer is required to be shown on labels and advertisements of distilled spirits products under 27 U.S.C. 205(e) and (f). The purpose of this requirement it to ". . . provide the consumer with adequate information as to the identity and quality of the products. . . .". The manufacturer or bottler or importer is required to be shown on labels of distilled spirits products under the authority conferred by 26 U.S.C. 5301(a). This section reads, in part, "Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him . . . to regulate the kind, size, branding, marking, . . . of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits . . .". The current regulations, 27 CFR 5.36 (implementing 27 U.S.C. 205(e)), and 27 CFR 19.645 (implementing 26 U.S.C. 5301(a)), require that the name and address of the proprietor where the specified operation occurred appear on the label.

We believe the consumer would be sufficiently informed as to who is responsible for the distilled spirits product if proprietors were allowed to use their principal business address on the label. Proprietors with more than one distilled spirits plant would have a reduced cost in maintaining separate label inventories because of different addresses printed on labels. Since most proprietors use some form of identification code imprinted at the time of bottling, the location of the premises where the product was bottled can easily be included in the code. Proprietors who use an identification code on their products are able to trace back specific information concerning the product should the need occur.

The petition also requested a change in the wine regulations to allow the principal business address to appear on the label. However, due to the important relationship between an appellation of origin and the location of a bottling winery for wine, the requirements of 27 CFR Part 4 for stating the bottling address on wine labels will remain as amended in 1978 by ATF T.D. 53. We believe a wine label showing a principal place of business at a location which is different from the bottling winery which bottles wine produced from grapes from yet another location could be confusing or misleading to the consumer.

Public Participation—Written Comments

Based on the above discussion, ATF is issuing this notice of proposed rulemaking to request comments concerning this proposed amendment of 27 CFR Part 5 and 27 CFR Part 19.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 60 day comment period. The request should include reasons why the respondent believes a public hearing is necessary. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final rgulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidential effects on a substantial number of small entities.

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

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in:

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

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

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

Paperwork Reduction Act

The requirements to display information on labels of distilled spirits, proposed in this notice, have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35. Comments relating to ATF's compliance with 5 CFR Part 1320—Controlling Paperwork Burdens on the Public, should be submitted to: Office of Information and Regulatory Afffairs, Attention: Desk Officer, Office of Management and Budget, Washington, DC 20503.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouse, Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

PART 5—[AMENDED]

27 CFR Part 5—Labeling and Advertising of Distilled Spirits is proposed to be amended as follows:

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 5.36 is amended by adding a new paragraph (a)(5) to read as follows:

§ 5.36

Name and address.

(a) * * *

* * * * *

(5) The address of the proprietor's principal place of business may be used on the label if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle.

* * * * *

PART 19—[AMENDED]

27 CFR Part 19—Distilled Spirits Plants is proposed to be amended as follows:

Par. 3. The statutory authority for 27 CFR Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 4. Section 19.645 is amended by removing from paragraph (b) following the semicolon the word "and", by removing from paragraph (c) the period at the end of the paragraph and inserting in its place "; and", and by adding a new paragraph (d) to read as follows:

§ 19.645 Names and address of bottler.

* * * * *

(d) The address of the proprietor's principal place of business may be used no the label if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle. The coding system employed will permit an ATF officer to determine where the operation stated on the label occurred. The distilled spirits plant proprietor shall notify the Director prior to employing a coding system.

Stephen E. Higgins,

Director.

June 19, 1986.

Approved: July 11, 1986.

Francis A. Keating, III,

Assistant Secretary (Enforcement).

[FR Doc. 86–23966 Filed 10–22–86; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD02 86–35]

Drawbridge Operation Regulations; St. Croix River, Minnesota and Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to correct the rule governing the operation of the S36 Bridge, Mile 23.4, St. Croix River, at Stillwater, Minnesota, that was published in the **Federal Register** of Tuesday, April 24, 1984 (49 FR 17450). This action is necessary to correct omission of portions of the previously existing regulations that were inadvertently deleted from the regulations published April 24, 1984.

DATE: Comments must be received on or before December 8, 1986.

ADDRESSES: Comments should be mailed to Commander (obr), Second Coast Guard District, St. Louis, MO 63103–2398. The comments and other materials referenced in this notice will be available for inspection and copying at 1430 Olive St., Room 400, St. Louis, MO. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314)–425–4607.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

Few comments are expected since, as explained below in the "Discussion of Proposed Regulations," this rule merely reinstates the regulation as it existed prior to inadvertent deletions in the publication of the reorganized drawbridge regulations in 1984. However, the Commander, Second Coast Guard District, will evaluate any and all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Roger K. Wiebusch, Bridge Administrator, and Lieutenant R.E. Kilroy, project attorney.

Discussion of Proposed Regulations

On April 24, 1984, the Coast Guard published as a final rule in the **Federal Register** (49 FR 17450) a complete reorganization of 33 CFR Part 117, which contains regulations governing the use and operation of drawbridges across the navigable waters of the United States. This reorganization was intended to simplify the use of these regulations by collecting all of the general rules in a single subpart and by arranging the specific provisions governing the operation of individual drawbridges alphabetically by state and waterway.

No substantive changes were intended to the regulation governing the use and operation of the S36 Bridge over the St. Croix River, as promulgated in 46 FR 9579 on January 29, 1981, and in effect at the time of the reorganization. However, errors in the publication of the reorganization resulted in different versions of the S36 Bridge operation regulation under Minnesota (33 CFR Section 117.667) and Wisconsin (33 CFR Section 117.1099), neither of which was a correct transcription of the previously existing regulation.

This document proposes the verbatim reinstatement of the S36 Bridge regulation as it existed prior to the reorganization. The proposed regulations published herein merely add subsections that have been. inadvertently omitted.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the 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. This proposal merely reinstates subsections of the rule that were inadvertently deleted. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.667 is amended by revising § 117.667(b)(3) to read as follows:

§ 117.667 St. Croix River.

* * * * *

(b) * * *

(3) From May 15 through October 15, during the period of hourly and half hourly openings, the drawtender will be in constant attendance and will open the draw at any time for emergencies.

* * * * *

3. Section 117.1099 is amended by revising § 117.1099(b) to read as follows:

§ 117.1099 St. Croix River.

* * * * *

(b) The draw of the S36 Bridge, mile 23.4 at Stillwater, shall open on signal as follows:

(1) From May 15 through October 15 Monday through Friday, except Federal holidays, from——

(i) 8 a.m. to 11 a.m., every hour on the hour;

(ii) 11 a.m. to 3 p.m., every hour and half hour;

(iii) 3 p.m. to 6 p.m., every hour on the hour;

(iv) 6 p.m. to 10 p.m., every hour and half hour; and

(v) 10 p.m. to 8 a.m., if at least two hours notice is given.

(2) From May 15 through October 15 Saturdays, Sundays, and Federal holidays from—

(i) 8 a.m. to 11 a.m., every hour and half hour;

(ii) 11 a.m. to 8 p.m., every hour on the hour;

(iii) 8 p.m. to midnight, every hour and half hour; and

(iv) Midnight to 8 a.m., if at least two hours notice is given.

(3) From May 15 through October 15, during the period of hourly and half hourly openings, the drawtender will be in constant attendance and will open the draw at any time for emergencies.

(4) From October 16 through May 14, if at least 24 hours notice is given.

* * * * *

Dated: September 16, 1986.

R.T. Nelson,

Rear Admiral (Lower Half), U.S. Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 86–23961 Filed 10–22–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Parts 151 and 158

[CGD 85–010]

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances; Correction

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking, correction of address.

SUMMARY: This notice corrects the address previously published in the

Federal Register of September 26, 1986, (51 FR 34332) for a Public Meeting of the Reception Facilities Working Group of the National Committee for the Prevention of Marine Pollution on October 31, 1986 to discuss the proposed Annex II port and terminal backpressure requirements and reception facility requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, (MARPOL 73/78). The meeting will be held in the Federal Aviation Administration Auditorium on the third floor of Building FOB–10A, 800 Independence Avenue, Washington, DC.

The dates and times for the meeting remain unchanged: October 31, 1986, 9:30 AM to 2:30 PM.

J.W. Kime,

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

[FR Doc. 86–23960 Filed 10–22–86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 151 and 158

[CGD No. 85–010]

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances

Correction

In FR Doc. 86–21592, beginning on page 34332, in the issue of Friday, September 26, 1986, make the following corrections:

1. On page 34334, first column, first complete paragraph, thirteenth line, the second time "of" appears, it should read "to".

2. On the same page, second column, eleventh line, "facilities" should read "facilitate".

3. On the same page, same column, first complete paragraph, second line, "by" should read "are".

4. On page 34335, first column, paragraph numbered "12.", tenth line, "a" should read "the".

5. On page 34337, second column, fifth line, "and application" should read "an application".

6. On the same page, same column, under "**Environmental Impact**", seventh line, insert "by" between "accomplished" and "limiting".

§ 151.05 [Corrected]

7. On page 34334, second column, in § 151.05, in the definition of "NLS Certificate", the first line, "means" was misspelled.

8. On page 34346, first column, in § 151.45, Table 1, fourth entry, "Bytylene" should read 'Butylene".

9. On page 34346, first column, in Table 1, after the entry for "Calcium alkyl salicylate", insert all the entries from Table 2, beginning with "Calcium chloride solutions" through "Isoamyl alcohol".

10. On the same page, third column, in the table of contents for Part 158, under the heading for "**Subpart A . . .**" insert the undesignated heading "**General**".

§ 158.120 [Corrected]

11. On page 34347, third column, in § 158.120, in the definition for "Tanker", second line, insert "in" between "oil" and "bulk".

§ 158.160 [Corrected]

12. On page 34348, second column, in § 158.160 (b)(1), first line, "Issues of" should read "Issues a".

13. On page 34350, first column, in amendatory instruction 17, last line, "§ 3158.300–158.330" should read §§ 158.300–158.330".

§ 158.330 [Corrected]

14. On the same page, second column, in the heading for "**§ 158.330**", "**Part**" should read "**Port**".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124, 264, 265, 270

[SW-FRL-3098-1]

Hazardous Waste Management System; Implementation of National Corrective Action Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft strategy and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of a draft strategy entitled, *National RCRA Corrective Action Strategy.* This draft strategy is intended to inform the public, the States, the regulated community, public interest groups and other interest and affected parties how the Agency plans to approach the implementation of the corrective action authorities of the Resource Conservation and Recovery Act (RCRA). It discusses the basic authorities for requiring corrective actions under permits and enforcement orders, and the process that will be used to investigate environmental problems at RCRA facilities and determine when corrective actions are necessary. The strategy outlines management choices that must be made to most effectively compel corrective actions at facilities, and discusses the role of the States in implementing the program.

DATE: EPA will accept comments on this draft strategy until November 24, 1986.

ADDRESSES: Copies of the document entitled, *National RCRA Corrective Action Strategy,* are available free of charge by calling the RCRA Hotline toll free (800) 424–9346, or in Washington DC by calling 382–3000, by by writing to: Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection agency, 401 M Street SW., Washington DC 20460. Requests should be identified as follows: 530–SW–86–045, National RCRA Corrective Action Strategy. In addition, this document is available for viewing in the EPA RCRA Docket (Sub-basement), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC 20460, from 9:30 a.m. to 3:30 p.m., Monday through Friday, except Federal holidays, by appointment only. Appointments can be made by calling Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost 20¢ per page. The public must send an original and two copies of their comments to: Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the docket number F–86–CASN–FFFF on your comments.

FOR FURTHER INFORMATION CONTACT: Lisa Lefferts (WH–563), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4740.

Dated: October 15, 1986.

Jeffrey D. Denit,

Acting Assistant Administrator.

[FR Doc. 86–23997 Filed 10–22–86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 141 and 143

[OW-FRL-3027-2]

National Primary Drinking Water Regulations; Proposed Approval of Analytical Techniques

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National Primary Drinking Water Regulations (NPDWR) promulgated pursuant to sections 1401, 1412 and 1445 of the Safe Drinking Water Act (SDWA). (42 U.S.C. 300f *et*

seq., as amended). These proposed amendments would approve two additional analytical techniques to measure the concentrations of six inorganic chemicals and four organochlorine pesticides in drinking water. These techniques are the: (1) Inductively coupled plasma (ICP) atomic emission spectrometric method for inorganic contaminants, and (2) the solid phase extraction method for pesticides. They are substantially equivalent in both precision and accuracy to the techniques aleady approved. Approved analytical techniques are to be used for determining compliance with the maximum contaminant levels (MCLs). The Agency is also proposing the approval of the ICP technique for the determination of four inorganic chemical contaminants in the National Secondary Drinking Water Regulations (NSDWR).

DATES: Written comments must be submitted on or before December 8, 1986.

ADDRESSES: Send written comments to Comments Clerk, Criteria and Standards Division, Office of Drinking Water (WH–550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Supporting documentation is available for inspection during normal business hours at the Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, Ohio 45268.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Ph.D., Director, Criteria and Standards Division, Office of Drinking Water (WH–550D), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–7575.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Background

A. Statutory Authority and Regulatory Background

The SDWA requires the EPA to promulgate NPDWR which include MCLs or treatment techniques which public water systems must meet. SDWA 1412; 42 U.S.C. 300 g–1. NPDWR also contain "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to ensure compliance with such levels . . ." SDWA 1401(1); 42 U.S.C. 300f(1). In addition, section 1445, 42 U.S.C. 300 j–4, authorizes the Administrator to require monitoring to assist in determining whether persons are acting in compliance with the Act. EPA's promulgation of analytical techniques is authorized under these sections of the Act.

The Act also requires EPA to promulgate National Secondary Drinking Water Regulations (NSDWR) for contaminants in drinking water that primarily affect the aesthetic qualities relating to the public acceptance of drinking water. SDWA 1412; 42 U.S.C. 300g–1. These regulations are not Federally enforceable but are guidelines for the States. The NSDWRs also include analytical techniques for determining compliance with the regulations. SBA promulgated NPDWR in 1975, 1976, and 1980 for a total of 24 drinking water contaminants. *See* 40 CFR 141.11–16. At the same time, EPA promulgated analytical techniques for these contaminants. *See* 40 CFR 141.20–.30. Under these regulations, persons must use one of several approved analytical techniques for determining compliance with the MCLs. In addition, under 40 CFR 141.27, alternate analytical techniques may be used by public water systems upon request and after concurrence by the State and EPA.

B. Summary of Today's Proposal

The Agency is in the process of revising the NPDWRs and regulating more contaminants. *See* e.g., 50 FR 46902 (November 13, 1985) and 50 FR 47156 (November 14, 1985). As part of these efforts, EPA is also updating its regulations and approved analytical techniques.

EPA is today proposing two analytical methods for approval so that they are available for determining compliance with existing regulations. They are: (1) The Inductively Coupled Plasma (ICP) Atomic Emission Spectrometric Method for the determination of arsenic, barium, cadmium, chromium, lead and silver, and (2) the Solid Phase Extraction Method for the determination of endrin, lindane, methoxychlor and toxaphene. In addition, the ICP method is being proposed for determining compliance with existing NSDWR for copper, iron, manganese and zinc.

II. Inductively Coupled Plasma (ICP)—Atomic Emission Spectrometric Method

This method (also known as "EPA Method 200.7") describes a technique for the simultaneous or sequential multi-element determination of trace elements in solution. This method was developed by EPA's Environmental Monitoring and Support Laboratory in Cincinnati. The Agency is proposing the approval of this technique for the determination of six primary contaminants: Arsenic, barium, cadmium, chromium, lead and silver, and of four secondary contaminants: Copper, iron, manganese and zinc. The basis of the method is the measurement of atomic emission by an optical spectroscopic technique. Samples are nebulized and the aerosol that is produced is transported to the plasma torch where excitation occurs. Characteristic atomic line emission spectra are produced by a radio frequency ICP. The spectra are dispersed by a grating spectrometer and the intensities of the lines are monitored by photomultiplier tubes. The photocurrents from the photomultiplier tubes are processed and controlled by a computer system. A background correction technique is required to compensate for variable background contribution to the determination of trace elements. Background must be measured adjacent to analyte lines on samples during analysis.

The appendix to Method 200.7 entitled, "Inductively Coupled Plasma—Atomic Emission Analysis of Drinking Water" must be followed in processing drinking water supply samples prior to ICP emission spectrometric analysis of arsenic and lead. This appendix describes a technique for concentrating the sample prior to analysis. Method 200.7 is not sensitive enough for the anaylsis of arsenic and lead samples at the established MCLs unless samples containing these elements are concentrated at least four times prior to analysis as described in the appendix. This concentration technique improves the sensitivity of ICP to other elemental contaminants as well. In addition to arsenic and lead, performance data (i.e., precision, acuracy, limits of detection) have also been gathered for other primary elemental contaminants—barium, silver, cadmium and chromium—and for four secondary elemental contaminants—copper, iron, manganese and zinc.

The Agency has concurred in the past with the approval of Method 200.7 as an alternative analytical technique for drinking water samples under section 141.27 of the NPDWR. The acceptability of this technique has been demonstrated through performance data from the USEPA ICP Users Group, an interlaboratory method validation study (i.e., EPA Method Study 27, Method 200.7, Trace Metals by ICP), comparability data submitted by states,

Water Supply Performance Evaluation studies, and other available sources. This data base is more comprehensive than generally required to demonstrate the precision and accuracy of the method. This technique and the data have been extensively reviewed by EPA staff, and it is deemed to be equivalent in terms of precision and accuracy to the EPA approved analytical techniques at the levels at which compliance is required provided the mandatory quality control steps specified in the appendix to the method are properly followed. Supporting data are available at the address listed at front of this notice.

Public comment is requested concerning the suitability of the ICP technique, "Method 200.7 with Appendix to Method 200.7," for the determination of compliance for the listed metals for both primary and secondary MCLs.

III. Solid Phase Extraction Method

The Solid Phase Extraction (SPE) Method describes the use of an SPE procedure developed by J.T. Baker Chemical Company as an alternative to the present liquid/liquid extraction procedure. The new test procedure is described in a document entitled, "Methods for Organochlorine Pesticides and Chlorophenoxy Acid Herbicides in Drinking Water and Raw Source Water". This method is proposed to be approved for the analysis of endrin, lindane, methoxycholor, and toxaphene. The proposed method uses a serologicl polypropylene colum which is packed with a 40 um average particle diamete 60A' silica gel covalently bonded and endcapped with a reversed phase organosilane. The packing is held in place by compression between two 40 um polyethylene frits.

After conditioning the column with suitable solvents, the drinking water sample in drawn or forced through the column. The low levels of contaminants are selectively extracted and concentrated in the packing. Co-extracted interferences and impurities are selectively removed with a solvent/solution wash. The compounds of interest are then eluted with a small volume of solvent, typically 1 ml. The collected eluants are subsequently analyzed for organochlorine pesticides using the USEPA approved test procedure. Use of the Baker Solid Phase columns would eliminate the liquid/liquid extraction step in the USEPA approved test procedure thereby saving considerable time and resources. In addition, use of the solid phase columns would readily permit field sampling. Since the analytes are adsorbed onto the bonded surface of the column packing, the extracted compounds of interest are in an "immobilized" state and the extraction columns can be easily transported to central laboratories for immediate analyte elution.

J.F. Baker Chemical Co. has completed a study which indicates comparability of the SPE technique to the approved technique for four organochlorine pesticides: Endrin, lindane, methoxychlor and toxaphene. Details regarding the approved methods used for developing the comparability data, spiking levels, and the data points from analysis of water supplies have been provided in a recent report to the Agency. (Collaborative Study, Proposed J.T. Baker Chemical Co. Solid Phase Extraction (SPE) Alternate Test Procedure (ATP), Test Method No. SPE-500 for EPA Test—Methods for Organochlorine Pesticides and Chlorophenoxy Acid Herbicides in Drinking Water and Raw Source Water, NIPDWR Compliance Monitoring, February 5, 1985). This report is available at the address listed at the front of this notice. Statistical analyses of the data performed by EMSL-Cincinnati show that in those cases where there were statistical differences, they were due to the recoveries of the proposed test procedure being slightly higher (more complete recovery of the compound tested) or because the proposed test procedure was more precise. Inspection of the recoveries and precision by each method and analyte indicated that these differences are very small and are insignificant relative to the applicable maximum contaminant level for endrin, lindane, methoxychlor and toxaphene.

Public comment is requested concerning the suitability of the SPE technique as an alternative to liquid/liquid extraction for the determination of the four organochlorine pesticides.

IV. Future Review of Analytical Methods

EPA is proposing to approve use of these new analytical methods to make them available to the regulated community as soon as possible. However, the Agency will also generally examine the approved drinking water methods as part of its revision of the existing primary regulations and promulgation of new primary regulations. Before EPA promulgates MCLS for inorganic contaminants and pesticides, the Agency expects to reevaluate all methods (including those proposed today) and determine whether to continue their approval. To aid in this review, EPA encourages commenters to identify new analyutical methods and to provide EPA with specific quantitative data. Performance data should include inter-laboratory precision and accuracy data, method detection limits, and other method characterization studies such as ruggedness testing.

V. Regulatory Requirements

Executive Order 12291 (46 FR 13193, February 19, 1981), requires a regulatory impact analysis if it is determined that the regulations are considered to be "major rules." EPA has determined that this regulation is not a "major rule," and thus a regulatory impact analysis has not been prepared. This rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602 *et. seq.*). There is no change in the paperwork requirements as a result of this rule.

VI. Proposed Effective Date

This rule is proposed under SDWA sections 1401, 1412 and 1445. Although section 1412(b) provides that the National Primary Drinking Water Regulations (as described in section 1401) take effect 18 months after their promulgation, under section 1445 there is no such limitation for monitoring, reporting, and recordkeeping regulations which may be used to assist in determining compliance. To allow the monitoring methods to be used within 30 days of promulgation, EPA is promulgating these regulations under section 1445. Effective 18 months after promulgation, the analytical methods will also be deemed to be promulgated under section 1412.

VII. Public Docket/References

The public docket is available to the public during normal business hours at the Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio. The public should contact the Equivalency Staff at (513) 569-7301 for access. Materials in the public docket include, among other documents, the following:

- Technical reviews of the proposed analytical techniques.
- Report with recommendations from the Director, Environmental Monitoring and Support Laboratory in Cincinnati to the Director, Office of Drinking Water.
- Copies of the proposed analytical techniques and performance data.
- Method Validation Study Report for ICP technique.
- Collaborative Study Report for SPE technique.

List of Subjects

40 CFR Part 141

Chemicals, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 142

Administrative practice and procedure, Chemicals, Radiation protection, Reporting and recordkeeping Requirements, Intergovernmental relations, Water supply.

Dated: September 24, 1986.

Lee M. Thomas,

Administrator, U.S. Environmental Protection Agency.

For the reasons set out in the preamble, Parts 141 and 143 of Title 40, Code of Federal Regulations are proposed to be amended as set forth below.

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citiation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300g-1, 300 g-3, 300 j-4 and 300 j-9.

2. Section 141.23 is amended by revising paragraphs (f)(1), (f)(2), (f)(3), (f)(4), (f)(5), and (f)(9), footnotes 1–4 are republished, and footnote 8 added to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(f) * * *

(1) Arsenic-Method [1] 206.2, Atomic Absorption Furnace Technique; or Method [1] 206.3, or Method [4] D2972–78B or Method [2] 301.A VII, pp. 159–162, or Method [3] I–1062–78, pp. 61–63, Atomic Absorption-Gaseous Hydride; or Method [1] 206.4, or Method [4] D–2972–78A, or Method [2] 404–A and 404–B(4), Spectrophotometric, Silver Diethyldithiocarbamate; or Method [8] 200.7, Inductively Coupled Plasma Technique.

* * * * *

(2) Barium-Method [1] 208.1, or Method [2] 301–A IV, pp. 152–155, Atomic Absorption Aspiration; or Method [1] 208.2, Atomic Atomic Absorption Furnace Technique; or Method [8] 200.7, Inductively Coupled Plasma Technique.

(3) Cadmium-Method [1] 213.1, or Method [4] D 3557–78A or B, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption-Direct Aspiration; or Method [1] 213.2, Atomic Atomic Absorption Furnace Technique; or Method [8] 200.7, Inductively Coupled Plasma Technique.

(4) Chromium-Method [1] 218.1, or Method [4] D 1687–77D or B, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption-Direct Aspiration; or Chromium-Method [1] 218.2, Atomic Atomic Absorption Furnace Technique; or Method [8] 200.7, Inductively Coupled Plasma Technique.

(5) Lead-Method [1] 239.1, or Method [4] D 3559–78A or B, or Method [2] 301–A II or III, pp. 148–152, Atomic Absorption-Direct Aspiration; or Method [1] 213.2, Atomic Atomic Absorption Furnace Technique; or Method [8] 200.7, Inductively Coupled Plasma Technique.

* * * * *

(9) Silver-Method [1] 272.1, or Method [2] 301–A II, pp. 148–151, Atomic Absorption-Direct Aspiration; or Method [1] 272.2, Atomic Atomic Absorption Furnace Technique; or Method [8] 200.7, Inductively Coupled Plasma Technique.

3. Section 141.24 is amended by revising paragraph (e), footnote 2 is republished under amendment 2, footnote 5 is republished, and a new footnote 6 is added at the end of the section to read as follows:

§ 141.24 Organic chemicals other than total trihalomethanes, sampling and analytical requirements.

* * * * *

(e) Analysis made to determine compliance with § 141 12(a) shall be made in accordance with "Methods for Organochlorine Pesticides and Chlorophenoxy Acid Herbicides in Drinking Water and Raw Source Water," available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268; or "Organochlorine Pesticides in Water," Annual Book at ASTM Standards, part 31, Water, Method D–3086–79; or Method 509–A, pp. 555–565; [2] or Gas Chromatographic Methods for Analysis of Organic Substances in Water [5], USGS, Book 5, Chapter A–3, pp. 24–39; or Solid Phase Extraction (SPE) [6] Test Method Number SPE–500 for EPA's "Methods for Organochlorine Pesticides and Chlorophenoxy Acid in Herbicides in Drinking Water and Raw Source Water."

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

4. The authority citation for Part 143 continues to read as follows:

Authority: 42 U.S.C. 300g–1(c), 300j–4, and 300j–9.

5. Section 143.4 is amended by revising paragraphs (b)(3), (b)(5), (b)(6), and (b)(11) to read as follows:

§ 143.4 Monitoring

* * * * *

(b) * * *

(3) Copper-Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 108–109, EPA, Office of Technology Transfer, Washington, DC 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater," 13th Edition, pp. 210–215, 14th Edition, pp. 144–147; or Inductively Coupled Plasma Method, "Inductively Coupled Plasma-Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes—Metod 200.7," available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268.

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(5) Iron-Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 110–111, EPA, Office of Technology Transfer, Washington, DC 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater" 13th Edition,

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[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA–600/4–79–020), March 1979. Available from ORD Publications, CERI, EPA, Cincinnati, Ohio 45268. For approved analytical procedures for metals, the technique applicable to total metals must be used.

[2] Standard Methods for the Examination of Water And Wastewater," 14th Edition, American Public Health Association, American Water Works Association, Water Pollution Control Federation, 1976.

[3] Techniques of Water—Resources Investigation of the United States Geological Survey, Chapter A—1, "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," Book 5, 1979, Stock #024–001–03177–9. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[4] Annual Book of ASTM Standards, part 31 Water, American Society for Testing and materials, 1976 Race Street, Philadelphia, Pennsylvania 19103.

[5] Techniques of Water-Resources Investigation of the United States geological survey, Chapter A–3, "Methods for Analysis of Organic Substances in Water," Book 5, 1972, Stock #2401–1227. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC.

[6] Solid Phase Extraction (SPE) Test Method Number SPE–550 is available from J.T. Baker Chemical Company, 22 Red School Lane, Phillipsburg, New Jersey 08865.

[8] "Inductively Coupled Plasma-Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes—Method 200.7" with Appendix to Method 200.7 entitled, "Inductively Coupled Plasma-Atomic Emission Analysis of Drinking Water," September 1985. Available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268. Procedures in appendix to Method 200.7 are required for the determination of arsenic and lead.

pp. 210–215, 14th Edition pp. 144–147; or Inductively Coupled Plasma Method, "Inductively Coupled Plasma-Atomic Emission Spectometric Method for Trace Element Analysis of Water and Wastes—Method 200.7" available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268.

(6) Manganese—Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 116–117 EPA, Office of Technology Transfer, Washington, DC 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater," 13th Edition, pp. 210–215, 14th Edition, pp. 144–147; or Inductively Coupled Plasma Method, "Inductively Coupled Plasma-Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes—Method 200.7," available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268.

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(11) Zinc—Atomic Absorption Method, "Methods for Chemicals Analysis of Water and Wastes," pp. 155–156, EPA Office of Technology Transfer, Washington, DC 20460, 1974, or "Standard Methods for the Examination of Water and Wastewater," 13th Edition, pp. 210–215, 14th Edition, pp. 144–147; or Inductively Coupled Plasma Method, "Inductively Coupled Plasma-Atomic Emission Spectrometric Method for Trace Element Analysis of Water and Wastes—Method 200.7," available from EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268.

[FR Doc. 86-22410 Filed 10-22-86; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 766

[OPTS-83002B; FRL-2916-4]

Testing and Reporting Requirements for Polyhalogenated Dibenzo-p-Dioxins/Dibenzofurans; Addition of Chlorinated and Brominated Benzenes to List of Precursor Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment to proposed rule.

SUMMARY: This document amends portions of EPA's proposed rule, published in the Federal Register of December 19, 1985 (50 FR 51794), by adding 18 chlorinated and brominated benzene chemicals to the list of 12 precursor chemicals in that proposal, issued under sections 4 and 8 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603. In this proposed rule, EPA seeks additional public comment on the need to report on these 18 chlorinated and brominated benzene chemicals under section 8(a) of TSCA. The proposed rule would require, among other things, reporting on possible dioxin/furan contamination by manufacturers of certain chemicals. EPA also seeks comment on whether manufacturers of chemicals made from precursor chemicals should also be required to submit existing test data showing that the chemicals have been tested for the presence and levels of dioxins or furans.

DATE: Submit written comments on or before November 24, 1986. If persons request time for oral comment by November 7, 1986, EPA will hold a public meeting on December 8, 1986 on this amendment in Washington, DC. For further information on arranging to speak at the meeting, contact the TSCA Assistance Office.

ADDRESS: Since some comments are expected to contain confidential business information (CBI), all comments should be sent in triplicate to: Document Control Officer (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Comments should include the docket number OPTS-83002B. Non-CBI comments received on this Notice will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. G-004, at the above address.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1985, EPA proposed under section 4 of TSCA to require manufacturers and importers of 14 commercial organic chemicals to test for the presence of certain chlorinated and brominated dioxins and furans, and to require testing for 20 other organic chemicals not currently manufactured or imported commercially in the United States, if their manufacture or importation should resume. This rule also proposed several reporting requirements under section 8(a), (c), and (d) of TSCA. The reader is referred to the Federal Register of December 19, 1985 (50 FR 51794) for a detailed discussion of these proposed testing and reporting requirements.

Among the reporting requirements proposed under section 8(a) was a requirement that chemical manufacturers submit data on production volume, manufacturing process, reaction conditions, exposure, use, and disposal of end products resulting from the use of any of the 12 precursor chemicals (used as feedstocks or intermediates) listed under § 766.23(a) of the proposed rule. EPA requested these data on the precursor chemicals because these substances can, during further processing and under certain reaction conditions, lead to the formation of dioxins and furans in other chemicals, even though the precursor chemicals are not themselves contaminated.

The 18 chlorinated and brominated benzenes listed in this proposed rule were listed by EPA in Reference 37 of the record (opts-83002) for the proposed rulemaking cited above, and were originally considered for testing by EPA on the basis of their potential for dioxin/furan contamination. At the time of publication of the proposed rule, however, EPA did not believe that the reaction and processing conditions typically employed in the manufacture of commercial organic chemicals which used these chlorinated or brominated benzenes as precursors would result in the potential for dioxin/furan formation. Comments received in response to the proposed rule, however, have indicated several pathways by which the chlorinated and brominated benzenes may produce dioxins and furans. For example, chlorinated benzenes which are subjected to reaction temperatures of 600°C in the presence of oxygen yield both chlorinated dioxins and chlorinated dibenzofurans. Similarly, chlorinated benzenes heated and mixed with alkaline products produce chlorinated dibenzofurans. Chlorinated benzenes can also react with ortho-chlorophenols to produce chlorinated phenyl ethers, which when heated without oxygen have been shown to produce chlorinated dibenzofurans. Brominated benzenes are expected to react similarly to chlorinated benzenes to produce brominated dioxins and dibenzofurans.

EPA requires further information on the exact circumstances under which these chemicals are processed and the reaction conditions to which they are subject during the production of other chemicals. Therefore, EPA is proposing to amend the proposed rule by adding the following 18 chlorinated and brominated benzenes to the list of precursor chemicals subject to section

8(a) reporting requirements of this proposed rule:

CAS No. and chemical name	
82–68–8	Pentachloronitrobenzene
85–22–3	Pentabromoethylbenzene
86–61–2	1,4-Dichloro-2-nitrobenzene
87–61–6	1,2,3-Trichlorobenzene
89–69–0	2,4,5-Trichloronitrobenzene
95–50–1	o-Dichlorobenzene
95–94–3	1,2,4,5-Tetrachlorobenzene
99–54–7	1,2-Dichloro-4-nitrobenzene
106–37–6	Dibromobenzene
106–46–7	p-Dichlorobenzene
108–70–3	1,3,5-Trichlorobenzene
108–86–1	Bromobenzene
108–97–7	Chlorobenzene
117–18–6	1,2,4,5-Tetrachloro-3-nitrobenzene
120–82–1	1,2,4-Trichlorobenzene
348–51–6	o-Chlorofluorobenzene
350–30–1	3-Chloro-4-fluoronitrobenzene
626–39–1	Tribromobenzene

EPA will review production, use, exposure, and disposal data to complete a comprehensive overview of uses, exposures, risks and benefits of chemicals made from these precursor chemicals to determine whether a significant risk from exposure to chemicals produced using these precursor chemicals may exist, and whether chemical products made from these precursor chemicals should be proposed for testing.

EPA also seeks comment on whether manufacturers of chemicals made from chlorinated or brominated benzene precursor chemicals should also be required to submit existing test data showing that the chemicals have been tested for the presence and levels of dioxins/furans. Submission of such data, in addition to providing EPA with information on existing levels of dioxin/furan contamination, may benefit the manufacturer. Under the proposed rule, EPA will review the production, use, exposure, and disposal data submitted for chemicals manufactured from these precursor chemicals. Should these data show that there is a minimal or nonexistent likelihood for dioxin/furan formation, or existing test data are submitted that show that the chemicals made from these precursor chemicals have been tested for the presence of dioxins and furans below the limits of quantification (LOQ), and are found to be free of dioxin/furan contamination at the lowest specified LOQ, EPA may exempt the manufacturer from any further testing under section 4 of TSCA.

II. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. EPA has previously performed the required analysis for this proposed rule, and has determined that this proposed regulation is not "Major". The impact of the cost of reporting for the 18 chlorinated and brominated benzene precursor chemicals listed in this amendment to the proposed rule will not change this determination. Reporting costs for each product made from the precursor chemicals listed in this proposed rule will range from $1,607 to $3,214 per chemical, depending on the complexity of process and use data needed to complete the Dioxins/Furans Report Form (EPA 7910–51) specified in the proposed rule. This additional cost of reporting is not expected to have an impact on any firm's decision to manufacture or import the chemical reported on. Further, no significant adverse effects are expected on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises. This amendment to the proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 et seq., Pub. L. 96–354), EPA is certifying that the addition of the 18 chlorinated and brominated benzenes to the list of precursor chemicals included in this rule, if promulgated, will not have a significant impact on a substantial number of small businesses, because small chemical manufacturers and importers have been exempted from this reporting requirement. The reader is referred to Unit XI.B of EPA's proposed rule (50 FR 51810) for a detailed description of small businesses.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2070–0420 for submission of information under section 8(a). Comments on this amendment to the proposed rule should be submitted to the Office of Information and Regulatory Affairs: OMB; 276 Jackson Place NW.; Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments received in response to this amendment to the proposed rule.

List of Subjects in 40 CFR Part 766

Dioxins/furans, Environmental protection, Hazardous substance, Reporting and recordkeeping requirements, Testing.

Dated: October 15, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 766—[AMENDED]

Therefore, it is proposed that proposed 40 CFR Part 766 be amended as follows:

1. The authority for proposed Part 766 continues to read as follows:

Authority: 15 U.S.C. 2607.

2. In § 766.23(a), by amending the list of chemicals by inserting, in numerical order, 18 chemicals to read as follows:

§ 766.23 Reporting on precursor chemicals

(a) * * *

CAS No. and chemical name	
82–68–8	Pentachloronitrobenzene
85–22–3	Pentabromoethylbenzene
86–61–2	1,4-Dichloro-2-nitrobenzene
87–61–6	1,2,3-Trichlorobenzene
89–69–0	2,4,5-Trichloronitrobenzene
* * * * *	
95–50–1	o-Dichlorobenzene
* * * * *	
95–94–3	1,2,4,5-Tetrachlorobenzene
* * * * *	
99–54–7	1,2-Dichloro-4-nitrobenzene
106–37–6	Dibromobenzene
106–46–7	p-Dichlorobenzene
108–70–3	1,3,5-Trichlorobenzene
108–86–1	Bromobenzene
108–97–7	Chlorobenzene
117–18–6	1,2,4,5-Tetrachloro-3-nitrobenzene
120–82–1	1,2,4-Trichlorobenzene
348–51–6	o-Chlorofluorobenzene
350–30–1	3-Chloro-4-fluoronitrobenzene
* * * * *	
626–39–1	Tribromobenzene
* * * * *	

[FR Doc. 86–23998 Filed 10–22–86; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Availability of Amendment to Management Plan

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the Pacific Fishery Management Council has submitted an amendment to the Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP) for review by the Secretary of Commerce (Secretary). Written comments are invited from the public. Copies of the amendment may be obtained from the addresses below.

DATE: Comments will be accepted until January 2, 1987.

ADDRESSES: Comments should be sent to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment are available from the Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150; E. Charles Fullerton, 213–795–6196; or the Pacific Fishery Management Council, 503–221–6352.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Act) requires that a regional fishery management council submit any amendment to a fishery management plan it has prepared to the Secretary for review and approval or disapproval. The Act also requires that upon receipt of the amendment, the Secretary publish immediately a notice stating the amendment is available for public review and comment. Comments received from the public will be considered during the secretarial review.

The seventh amendment to the FMP would (1) provide a formula for annual alteration of the escapement goal for Oregon coastal natural coho salmon based on stock abundance; (2) increase the flexibility of inseason management provisions; and (3) modify the allocation schedule for coho salmon south of Cape Falcon, Oregon. An environmental assessment (required under the National Environmental Policy Act) and a regulatory impact review/regulatory flexibility analysis (required under Executive Order 12291 and the Regulatory Flexibility Act) are incorporated in the amendment.

Proposed regulations for this amendment are scheduled to be published within 30 days.

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

Dated: October 20, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–24013 Filed 10–20–86; 5:00 p.m.]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 51, No. 205
Thursday, October 23, 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

Forms Under Review by Office of Management and Budget

October 17, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USIA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Office of Transportation

International Carriage of Perishable Foodstuffs
Recordkeeping; On occasion
Businesses or other for-profit; Small businesses or organizations; 426 responses; 2,150 hours; not applicable under 3504(h)
Robert F. Guilfoy, Jr., (202) 447-6235

Revision

- Animal and Plant Health Inspection Service

Brucellosis Program (9 CFR 51, 9 CFR 78 and Cooperative Agreements
VS 1-68, 4-1, 4-1D, 4-4, 4-6, 4-33D, 4-54D, 4-59, 4-108-A,B,C, 6-35, 1-23
Recordkeeping; On occasion; Monthly, Annually
State or local governments; Farms; 17,727,780 responses; 79,929 hours; not applicable under 3504(h)
Grace A. Henry, (301) 436-8711

- National Agricultural Statistics Service

Stock Reports
Quarterly, In season
Farms; Businesses or other for-profit; 49,989 responses; 14,738 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447-7737

- National Agricultural Statistics Service

Integrated Survey Program
Quarterly; Annually
Farms; 312,900 responses; 79,551 hours; not applicable under 3504(h)
Larry Gambell, (202) 447-7737

- Rural Electrification Administration

Report of Compliance and Participation
Form 268
Annually
Small businesses or organizations; 2,000 responses; 1,340 hours; not applicable under 3504(h)
Henry L. Taylor, (202) 382-9500

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86-23940 Filed 10-22-86; 8:45 am]
BILLING CODE 3410-01-M

Forest Service

Norbeck Wildlife Preserve; Black Hills National Forest, Custer and Pennington Counties, SD; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement to consider site-specific activities in the Norbeck Wildlife Preserve which implement or supplement direction in the Black Hills National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan was approved in 1983.

Norbeck Wildlife Preserve was established by Congress in 1920 for the "protection of game animals and birds and to be recognized as a breeding place therefor" (June 5, 1920, 41 Stat. 986, as amended). In accordance with the law, Forest Service direction has always required that wildlife be given first consideration in the management of Norbeck.

Current Forest Service direction, contained in the Forest Plan, requires that vegetation characteristics and human activities in Norbeck be managed to provide optimum habitat for wildlife species. Specifically, the Forest Plan says that (1) tree stands are to be managed through a variety of harvest methods; (2) recreation and other human activities are to be regulated to favor wildlife; and (3) livestock grazing is permitted if it does not conflict with wildlife needs.

Portions of three ranger districts lie within Norbeck's boundaries. During the past year, all three districts have made preliminary plans for vegetation management and associated transportation systems in Norbeck. As a result of the districts' work, the need for expanding the scope of the analysis and preparing an environmental impact statement became apparent.

The issues and alternatives analyzed in the environmental impact statement will include methods of timber management and various levels of livestock grazing, recreation, and special uses. All activities will be analyzed for their consistency with wildlife habitat needs. The proposed action will be identified as part of the analysis process.

Some scoping has already taken place. Contracts made by the districts

during the last year with State and local agencies and with local landowners and permit holders have helped identify important, issues and establish the need for an environmental impact statement. Additional contacts with Federal, State and local agencies and with other interested individuals and organizations will be made through the news media, by letter, or in person to help refine the issues and identify a reasonable range of alternatives. If public meetings are held, they will be announced through the local news media.

James R. Mathers, Forest Supervisor, Black Hills National Forest, Custer, South Dakota, is the responsible official.

The analysis is expected to take about one year. The draft environmental impact statement should be available for public review by October 1987. The final environmental impact statement is scheduled to be completed by the spring of 1988.

Written comments and suggestions concerning the analysis should be sent to Mary Sue Waxler, Environmental Coordinator, Black Hills National Forest, RR 2, Box 200, Custer, SD 57730 by January 15, 1987. Questions about the environmental impact statement should be directed to Mrs. Waxler at (605) 673–2251.

Dated: October 15, 1986.

James R. Mathers,

Forest Supervisor.

[FR Doc. 86–23905 Filed 10–22–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Coastal Zone Managment Program Administrative Grants—Performance Reports
Form Number: Agency—N/A; OMB—0648–0119
Type of Request: Revision of a currently approved collection
Burden: 28 respondents; 1,260 reporting hours
Needs and Uses: The Coastal Zone Manageent Act authorizes the Secretary of Commerce to make grants to coastal states to implement federally-approved Coastal Zone Management Programs. The performance reports are used to determine whether or not the state is adhering to its approved coastal zone management plan.
Affected Public: State or local governments
Frequency: Quarterly, Semi-annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, Dc 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: October 16, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–23865 Filed 10–22–86; 8:45 am]

BILLING CODE 3510–CW–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Test Census of North Central North Dakota Census Education Project School Administrator Evaluation Form
Form Number: Agency—DF–3350, 3351; OMB—NA
Type of Request: New collection
Burden: 2,860 respondents; 715 reporting hours
Needs and Uses: This test will enable Census to evaluate the Census Education Project which is targeted toward K–12 schools and school populations.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: 1987 Test Census—Special Place Prelist
Form Number: Agency—DF–351, 351(HU), 351(GQ); OMB—NA
Type of Request: New collection
Burden: 37 respondents; 28 reporting hours
Needs and Uses: The Special Place Prelist is a procedure that will be used to obtain current address information for housing units and group quarters associated with special places. The operation is necesary in order to enumerate the 37 special places during the 1987 test census in North Central North Dakota.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB desk Officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clerarance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503.

Dated: October 16, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division.

[FR Doc. 86–23866 Filed 10–22–86; 8:45 am]

BILLING CODE 3510–07–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Marine Recreational Fishery Statistics Survey
Form Number: Agency—N/A; OMB—0648–0052
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 202,437 respondents; 9,258 reporting hours
Needs and Uses: The information collection is used by the National Marine Fisheries Service, Regional Fishery Councils and State Fisheries Agencies in developing, implementing and monitoring fishery management programs.
Affected Public: Individuals or households

Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Weather Modifcation Activities Report
Form Number: Agency—NOAA–17–4, 17–4A, 17–4B; OMB–0648–0025
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 80 respondents; 480 reporting hours
Needs and Uses: Public Law 92–205 requires that all non-federal weather modification activities in the United States and its territories be reported to the Secretary of Commerce. The data are used to show the trends in weather modification activity over the years.
Affected Public: State or local governments; businesses or other for-profit institutions; federal agencies; non-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration
Title: Application for Export License
Form Number: Agency—ITA–622P; OMB–0625–0001
Type of Request: Revision of a currently approved collection
Burden: 86,335 respondents; 67,628 reporting/recordkeeping hours
Needs and Uses: Exporters are required to submit information to the Office of Export License so a determination can be made concerning the applicability of a license to export commodities or technical data to certain destinations in accordance with the Export Administration Act.
Affected Public: Businesses or other for-profit instituitions; small businesses or organizations
Frequency: On accasion/recordkeeping
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration
Title: Approval of Triangular Transactions Involving Commodities Covered by a U.S. Import Certificate
Form Number: Agency—EAR 368.2(a) (8) & (9); OMB–0625–0007
Type of Request: Extension of the expiration data of a currnetly approved collection
Burden: 50 respondents; 25 reporting hours
Needs and Uses: The Triangular Transaction procedure was developed by Free World Countries in an effort to increase the effectiveness of controls over international trade in strategic commodities. United States purchasers of commodities in foreign countries intending to resell abroad must receive approval from Export Administration before making a triangular transaction.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Processed Fishery Products/ Family of Forms
Form Number: Agency—NOAA 88–13, A, B, C, 50; OMB—0648–0018
Type of Request: Revision of a currently approved collection
Burden: 4,100 respondents; 549 reporting hours
Needs and Uses: These forms are used to collect annual information on fish and shellfish processing plants that sell processed fishery products at wholesale. Data from this survey and the Survey of Intent to Harvest/ Process Fish and Shellfish (0648–0114) are used in economic analyses to estimate the capacity and extent of which U.S. fish processors, on an annual basis, will process that portion of optimum yield harvested by domestic fishing vessels.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: Monthly, quarterly and annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Logbook Family of Forms-Amendment 11—Gulf of Mexico Fish Trap
Form Number: Agency—N/A; OMB—0648–0016
Type of Request: Revision of a currently approved collection
Burden: 100 new respondents; 240 new reporting hours
Needs and Uses: The information requested on catch by fish traps will be used by fishery biologists of the National Marine Fisheries Service to calculate indices of abundance of the approximately twenty major species in the reef fish trap fishery. Management decisions on reef fish will be made using the data collected.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Red Drum Fishery of the Gulf of Mexico
Form Number: Agency—N/A; OMB—0648–0177
Type of Request: Revision of a currently approved collection
Burden: 80 respondents; 95 reporting hours
Needs and Uses: The National Marine Fisheries Service (NMFS) will collect biological information on red drum fish through the monitoring of the incidential catch of and the permitting of net vessels in the Gulf of Mexico. The information will be used to enable NMFS to set future commercial quotas to avoid overfishing of the stock.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: Weekly, monthly, annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Office, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–23867 Filed 10–22–86; 8:45 am]
BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket No. 31–86]

Proposed Foreign-Trade Zone, With Subzone for Cooper Tire Plant, Findlay, OH; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Community Development Foundation (CDF), an Ohio non-profit corporation, requesting authority to establish a general-purpose foreign-trade zone and a special-purpose subzone for the tire manufacturing plant

of the Cooper Tire and Rubber Company, in Findlay, Ohio, some 45 miles from the Toledo Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 7, 1986. The applicant is authorized to make this proposal under § 1743.11 of the Ohio Revised Code.

The proposed general-purpose foreign-trade zone would cover 160 acres at the Findlay Industrial Center located at the intersection of State Route 12 and County Road 95 in Findlay. CDF will select an operator for warehousing operations. No manufacturing approvals are being sought at this time for the general-purpose zone. Such requests would be made to the Board on a case-by-case basis.

The proposed subzone would be located at Cooper Tire's production facilities in Findlay and at a company warehouse in Moraine, Ohio. The Findlay plant covers 25 acres at Lima and Western Avenue and employs some 1400 persons. The Moraine facility is a 776,000 square foot warehouse located at 3601 Dryden Road. Cooper Tire produces tires for auto assembly plants and the aftermarket. Some 27 percent of the materials used are sourced abroad, including volkanox, volkacit, steel tire cord, pretreated polyester, tetramethyl thiuram disulfide, and titanium dioxide.

Zone procedures would allow Cooper Tire to avoid duty payments on the foreign materials used in its exports. On its domestic sales, the company would be able to take advantage of the same duty rate available to importers of tires. The duty rate for tires is 4 percent, whereas the rate for the imported components range up to 16 percent. Zone savings will help the company improve its international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor Plaza Nine Bldg., 55 Erieview Plaza, Cleveland, OH 44114; and Colonel Daniel R. Clark, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara St., Buffalo, NY 14207. As part of its investigation, the examiners committee will hold a public hearing on November 20, 1986, beginning at 9:00 a.m., in the Findlay City Council Chambers, Rm 114, Municipal Building, Findlay, Ohio.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by November 14. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through December 19, 1986.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 234 N. Summit St., Toledo, OH 43604

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Ave. NW., Washington, DC 20230.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86–23969 Filed 10–22–86; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A-351-605]

Frozen Concentrated Orange Juice from Brazil; Preliminary Determination of Sales at Less than Fair Value

AGENCY: International Trade Administration/Import Administration/Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that frozen concentrated orange juice (FCOJ) from Brazil is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the United States Customs Service to suspend the liquidation of all entries of FCOJ from Brazil, with the exception of FCOJ produced by Cutrale that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by December 30, 1986.

EFFECTIVE DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond Busen or Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202 377–3464 or (202) 377–1769.

Preliminary Determination

We have preliminarily determined that FCOJ from Brazil is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 USC 1673b)) (the Act). We made fair value comparisons on virtually all sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, November 1, 1985 through April 30, 1986. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On May 9, 1986, we received a petition from florida Citrus Mutual, a voluntary cooperative marketing association of growers of citrus fruit for processing, filed on behalf of the United States industry producing FCOJ. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of FCOJ from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise in Brazil were too small to use as a basis for determining foreign market value and that sales to third countries are at less than the cost of production.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on May 29, 1986 (51 FR 20321, June 4, 1986). On June 23, 1986, the ITC determined that there is reasonable indication that imports of FCOJ from Brazil are materially injuring a U.S. industry (51 FR 24238, July 2, 1986).

On June 30, 1986, we presented an antidumping duty questionnaire to Cutrale which included questions on home market sales as we had determined that Cutrale had sufficient home market sales. On July 3, 1986, after determining that Citrosuco's home market sales were not adequate for

determining foreign market values, we presented a questionnaire to Citrosuco which included questions relating to third country sales and cost of production and/or constructed value. Respondents Cutrale and Citrosuco were requested to answer the questionnaire by August 6, 1986 and August 11, 1986, respectively. At the request of Citrosuco, we graned that firm an extension until August 25, 1986. On August 6 and 8, 1986, we received incomplete responses from Cutrale. In a letter dated August 18, 1986, the Department requested supplemental information from Cutrale. On August 25, 1986, we received Citrosuco's response. On September 2, 8, and 11, 1986, we received supplemental information form Cutrale. On September 19, 1986, petitioner alleged that Cutrale's home market sales were at less than the cost of production and requested that the Department conduct a less than cost investigation. On September 22, 1986, we requested supplemental information from Citrosuco. On September 29, 1986, we received supplemental information from Citrosuco. Also, on September 29, we notified Cutrale that we had accepted petitioner's allegation of below cost home market sales and requested that Cutrale submit cost of production information by October 20, 1986. On October 9 and October 14, 1986, respectively, Alcoma Packing Company, Inc., and Berry Citrus Products Inc., producers of FCOJ and growers which produce oranges for processsing into FCOJ, filed as co-petitioners.

Standing Issue

We have received letters objecting to the petition from certain processors and from the National Juice Products Association, a trade association a majority of whose members manufacture, produce or wholesale FCOJ in the United States. These parties contend that petitioner Florida Citrus Mutual lacks standing to bring this case because it is not an interested party within the definition of this Act, and because a majority of the domestic industry does not support the petition.

Since these letters were received, two FCOJ processors, Alcoma Packing Company, Inc. and Berry Citrus Products Inc., have become co-petitioners. As these processors are clearly producers of the like product, and thus interested parties, we need not addresss whether Florida Citrus Mutual, an association of orange growers, has standing in this case.

The parties objecting to the petition have alleged that "processors accounting for approximately 50.8 percent of nationwide oranges processed for juice" oppose the petition. However, some of these processors are also importers of FCOJ from Brazil, thus raising the question of whether they should be excluded from the definition of the domestic industry, pursuant to section 771(4)(B) of the Act. We invite comments on whether this case is brought on behalf of the industry producing the like product.

Product Under Investigation

The product covered by this investigation is frozen concentrated orange juice (FCOJ) in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing, currently provided for under the Tariff Schedules of the United States (TSUS) item number 165.29.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with foreign market value as specified below.

United States Price

For Citrosuco, as provided in section 772(c) of the Act, we used exporter's sales price (ESP) to represent United States price, as the merchandise was sold to unrelated purchasers after the date of importation. We calculated ESP based on the packed, duty paid, F.O.B. or C.I.F. delivered price to unrelated purchasers in the United States. We made deductions for foreign inland freight, foreign customs and wharfage fees, export taxes, ocean freight, marine insurance, U.S. inspection fees, and other U.S. selling expenses.

For Cutrale, as provided in section 772(b) of the Act, we used the purchase price of the subject merchandise, since it was sold prior to the date of importation to unrelated purchasers in the United States. We calculated purchase price based on F.O.B. packed prices. We made deductions for foreign port charges, inland freight, and export taxes.

Section 772(d)(1)(C) of the Act requires that indirect taxes imposed upon home market merchandise that have not been collected on exported merchandise by reason of its exportation to the United States, be added to the United States price to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation. Such a tax, the Tax on Circulation of Merchandise (ICM), is imposed on home market sales, but the rate of this tax varies with the destination of the merchadise in the home market. Therefore, no single tax rate can be applied as an addition to United States price. For our preliminary determination, we deducted this tax as well as the Financial Social Tax from the home market prices in which they are included.

Foreign Market Value

As noted in the "Case History" section of this notice, petitioner alleged that third country sales were made at less than the cost of production and that constructed value should be used to compute foreign market value. Petitioner further alleged that sales in Brazil were inadequate for purposes of determining foreign market value and that third country sales should be examined.

With regard to Cutrale, we determined that Cutrale's home market sales were adequate for determining foreign market value. Petitioner's allegation that Cutrale's home market sales were below the cost of production was not received until September 29, 1986, which was too late to be considered for this preliminary determination. We will consider any cost of production information received from Cutrale, which we are able to verify, for our final determination. For this preliminary determination we calculated Cutrale's foreign market value based on home market prices for each product for each month of the period of investigation. We compared these prices to U.S. sales in the same month. In accordance with section 773(a)(1)(A) of the Act, we calculated the home market price on the basis of the ex-factory price to unrelated purchasers.

We also made adjustments for differences in circumstances of sale for credit terms, in accordance with section 353.15 of our regulations. We made an allowance for differences in physical characteristics, in accordance with § 353.16 of our regulations. We deducted home market packing costs and added U.S. packing costs. We offset commissions paid on U.S. sales with indirect selling expenses in the home market, in accordance with § 353.15(c) of our regulations.

With regard to Citrosuco, we determined that its home market sales were not adequate as a basis for determining foreign market value. Therefore, in accordance with section 353.4 of our Regulations, we used third country sales of identical merchandise to Canada.

In accordance with section 773(a) of the Act, we calculated Citrosuco's foreign market value based on third

country prices where there were sufficient sales at or above the cost of production. We used constructed value as the basis for calculating foreign market value where there were no sales of such or similar merchandise in the third country market or where there were not sufficient sales above the cost of production, as defined in section 773(b) of the Act.

Where foreign market value was based on third country prices, we calculated a foreign market value for each month of the period of investigation and compared those sales to U.S. sales in the same month. We made deductions for foreign inland freight, foreign customs and wharfage fees, ocean freight, marine insurance, U.S. inland freight, and U.S. inspection fees. We deducted third country packing costs and added U.S. packing costs. We offset selling expenses incurred in the third country up to the amount of the selling expenses incurred in the U.S. market, in accordance with § 353.15(c) of our regulations. Where foreign market value was based on constructed value we used a monthly constructed value.

For constructed value, the Department used materials, fabrication, and general expenses, based on Citrosuco's submission. The Department revised Citrosuco's monthly costs of production by adjusting for interest expense and by adjusting the costs incurred during the months of March and April, 1986, when the company was not producing orange juice. The Department normally includes in the cost calculation an adjustment for "monetary correction" which reflects the effects of inflation. We could not determine from the submission if the "monetary correction" had or had not been included. Therefore, for the preliminary determination, the Department did not revise the submission for monetary correction. Actual general expenses were used, since in all cases such expenses exceeded the statutory minimum of 10 percent of materials and fabrication. Since the respondent's submission indicated that the actual profit for merchandise of the same general class or kind was less than 8 percent, the Department used the 8 percent statutory minimum for profit. U.S. packing costs were added.

Currency Conversion

For ESP comparisons, we used the official exchange rate for the date of sale since the use of that exchange rate is consistent with section 615 of the Trade and Tariff Act of 1984 (1984 Act). We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations because the later law supersedes that section of the regulations.

For purchase price comparisons, we used the exchange rate described in § 353.56 of Commerce's Regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we will verify all information using standard verification procedures, including on-site inspection of records and selection of original source documentation containing relevant information.

Suspension of Liquidation

We made fair value comparisons on virtually all reported FCOJ sold in the United States by the two respondents during the investigative period. With regard to Cutrale, we found its weighted-average margin to be 0.48 percent. As this is *de minimis*, we are excluding Cutrale from this determination. The weighted-average margin for Citrusuco and all other producers is 8.54 percent.

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of FCOJ from Brazil, with the exception of FCOJ produced by Cutrale, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond equal to the etimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manfacturer/producer/exporter	Margin percentage
Citrosuco Paulista, S.A.	8.54
Sucocitrico Cutraie, S.A.	[1] 0.48
All Others	8.54

[1] de minimus (excluded).

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry, before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9 a.m. on November 25, 1986 at the U.S. Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by November 18, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 USC 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

October 16, 1986.

[FR Doc. 86-23873 Filed 10-22-86;8:45am]

BILLING CODE 3510-DS-M

[C-580-012]

Bicycle Tires and Tubes From Korea; Final Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: On September 11, 1981, the Court of International Trade remanded to the Department for redetermination the final negative determination

regarding two manufactures in the countervailing duty case on bicycle tires and tubes from Korea. The court affirmed our redetermination on October 6, 1983, and directed the Department to publish a notice in conformity with the court's order. Therefore, the Department is issuing a final affirmative countervailing duty determination for Korean bicycle tires and tubes manufactured by Hung-A. The net subsidy for Hung-A is 0.55 percent *ad valorem.*

EFFECTIVE DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

In a 1979 countervailing duty investigation of three manufacturers of Korean bicycle tires and tubes, the Treasury Department issued a countervailing duty order covering one of the manufacturers, Korea Inoue Kasei Co. Ltd. ("KIK"). Treasury concluded that the two other manufacturers, Hung-A and Dae Yung, had *de minimis* levels of subsidization and issued final negative determinations on those two firms. The petitioner challenged the negative determinations in the Customs Court, now the Court of International Trade ("the CIT"). That litigation was pending on the effective date of the Trade Agreements Act ("the TAA"), January 1, 1980.

On September 11, 1981, the CIT remanded the case to the Department of Commerce ("the Department") for reconsideration. We sent our remand results to the CIT on March 3, 1982, with an above *de minimis* rate for Hung-A, and a *de minimis* rate for Dae Yung. On October 6, 1983, the court affirmed our redetermination and directed the Department to publish a notice in conformity with its order.

During the original investigation, Hung-A, Dae Yung and KIK did not have an opportunity to demonstrate a lack of injury to the U.S. industry. The pre-1980 law did not require an affirmative injury determination as a prerequisite to issuing a countervailing duty order for dutiable merchandise. In contrast, the TAA requires an International Trade Commission ("ITC") injury determination for investigations begun on or after January 1, 1980. The TAA also contains several transition provisions. One provision, section 104(b), provides that a "country under the Agreement" may request an injury review of any then-existing countervailing duty order, plus any order issued "pursuant to a court order" in a civil action brought before January 1, 1980. Such requests had to be submitted "within three years after the effective date" of the TAA, *i.e.*, by January 1, 1983.

Korea is a "country under the Agreement" and therefore requested an injury test on behalf of KIK, the company covered by the Treasury countervailing duty order. The ITC made a negative injury determination and the Department revoked the order covering KIK. Hung-A could not request a section 104(b) injury determination since the CIT issued its order to us ten months after the statutory deadline for section 104(b) requests.

Scope of the Determination

Imports covered by this determination are shipments of Korean (pneumatic) bicycle tires and tubes (of rubber or plastic, whether such tires and tubes are sold together as units or separately) manufactured by Hung-A. Such merchandise is currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated.

This determination for Hung-A covers the period January 1, 1977 through December 31, 1977 and four programs: (1) Article 51–1–3 accelerated depreciation based on export earnings; (2) short-term financing; (3) income tax incentives; and (4) loans to small- and medium-sized businesses.

Final Determination

Based on our analysis, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act were being provided to Hung-A. We determine the estimated aggregate net subsidy to be 0.55 percent *ad valorem* for calendar year 1977.

Analysis of Programs

The following analysis is in accordance with the remand results approved by the CIT on October 6, 1983.

(1) Accelerated Depreciation Under Article 51–1–3

Under Article 51–1–3 of the Enforcement Decree to the Korean Corporation Tax Law, firms could depreciate fixed assets at 30 percent over the normal depreciation rate. To qualify for accelerated depreciation under Article 51–1–3, a firm had to derive over 50 percent of its earnings from export sales. We determine the benefit to be 0.089 percent *ad valorem* for this period of investigation.

(2) Short-Term Financing

The Government of Korea provided short-term financing for the purchase of material used in the production of exports. We detemine the benefit from this program to be 0.294 percent *ad valorem.*

(3) Income Tax Incentives

Firms that export could allocate up to one percent of export revenue into the Reserve for Export Loss and Reserve for Export Development accounts. These reserves were deductible from taxable income.

The tax deduction constituted a zero interest rate short-term loan equal to the amount of tax savings realized from the two reserve accounts. We determine the benefit from these programs to be 0.159 percent *ad valorem.*

(4) Loans to Small- and Medium-Sized Businesses

The Government of Korea provided loans to small- and medium-sized businesses. Using the best information available we determine the benefit from this program to be 0.004 percent *ad valorem.*

Suspension of Liquidation

The Department will instruct the Customs Service to continue the suspension of liquidation for all unliquidated entries of Korean bicycle tires and tubes manufactured by Hung-A. The Department will also instruct the Customs Service to continue the collection of a cash deposit or bond of estimated countervailing duties of 0.55 percent of the f.o.b. invoice price on all shipments of Korean bicycle tires and tubes manufactured by Hung-A entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit or bond requirement shall remain in effect until further notice.

ITC Notification

In accordance with section 705(c)(1) of the Tariff Act of 1930 ("the Tariff Act"), we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this determination. We will allow the ITC access to all privileged and/or proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury of the threat of material injury does not exist, this proceeding will end and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury or threat does exist, we will issue a countervailing duty order and direct the Customs Service to assess countervailing duties on Korean bicycle tires and tubes manufactured by Hung-A entered, or withdrawn from warehouse, for consumption on or after the date of court affirmation of our redetermination (October 6, 1983).

This notice is published pursuant to section 705(d) of the Tariff Act (19 U.S.C. 1671d (d)).

Dated: October 10, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-23874 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 3644-01 to 03; 3644-51 to 60]

In the Matter of Charles J. McVey, Jr., et al., Respondent; Actions Affecting Export Privileges

ORDER: On August 11, 1986, I issued a Decision and Order in the above captioned proceeding. On October 6, 1986, the United States Department of Commerce (the Department) submitted a Motion to Reconsider that Order in the following three grounds:

(1) That the routine language prohibiting all persons from engaging in export related activities with the denied parties was inadvertently omitted;

(2) That Societe Anonyme Technologie Spatiale (SATS) was not, but should be, named as a related party; and

(3) That the final decision be modified to reflect McVey's current mailing address.

Upon consideration, my findings and Order are as follows: Notice to all persons concerning the denial order was inadvertently omitted. The Order of August 11, 1986 in the above captioned proceeding is hereby amended by inserting after paragraph III in the ORDER section of the Decision and Order the following paragraph:

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 association with, the respondent or any related party, or whereby the 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 the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, 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.

With respect to the Department's request that SATS be included in the Order, the same is denied. The proper forum for deciding whether SATS should be included as a named related party is that presided over by the Administrative Law Judge (ALJ). The ALJ decides factual issues in the first instance. The Department may petition the ALJ to reopen the proceedings to add SATS as a named related party, or, in the alternative, may move against SATS directly.

Finally, my Decision and Order is hereby amended to include the current address of Charles J. McVey, Jr. according to the Department's records. That address is as follows:

Avenue du College 27
2017 Boudry
Switzerland

All other provisions in my Decision and Order remain unchanged and in full force and effect.

Dated: October 17, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-23968 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-10-M

Short Supply Review on Certain Seamless Steel Tubing; Request For Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of requests for short supply determinations under Article 8 of the U.S.-EC Pipe and Tube Arrangement and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain alloy seamless tubing.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avnue, NW., Washington, DC 20230, Room 3099, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Pipe and Tube Arrangement and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provide that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product.

We have received short supply requests under the U.S.-EC Pipe and Tube Arrangement for the following products: (1) AISI grade 52100 seamless steel tubing, vacuum degassed, spheroidized annealed, that is either hot-rolled, rough-turned, cold drawn, or roto-rocked; (2) AISI grade 5165 seamless hot-rolled steel tubing, vaccum degassed, spheroidized annealed; (3) AISI grade 4118-H seamless hot-rolled steel tubing, generally conforming to ASTM specification A-519.

We also have received a short supply request under the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products for AISI grade 52100 seamless cold pilgered steel tubing, vacuum degassed, generally conforming to ASTM specification A-519.

Any party interested in commenting on these requests should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying these requests.

Commerce will maintain these requests and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public

file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

October 17, 1986.

[FR Doc. 86-23876 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-DS-M

Massachusetts Institute of Technology et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-331. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Atom Probe/Field Ion Microscope, Model FIM 100. Manufacturer: VG Scientific Limited, United Kingdom. Intended Use: The instrument is intended to be used to investigate: Ultra-high strength high-alloy steels (principally iron-nickel-cobalt alloys); semiconductor materials (Si, III-IV compounds); nitrogen-strengthened stainless steels; high-strength low-alloy steels; aluminum alloys; nickel-based alloys. Samples which have undergone various thermo-mechanical treatments will be examined to locate to within one lattice-spacing and quantify any segregation or inhomogeneity. Application Received by Commissioner of Customs: September 30, 1986.

Docket No.: 86-332. Applicant: Lehigh University, Parker and Taylor Avenue, Bethlehem, PA 18015. Instrument: Polarization Analyzer with Accessories. Manufacturer: University of Windsor, Canada. Intended Use: The instrument will be used in a complete linear and circular polarization analysis of vacuum ultraviolet (VUV) radiation of wavelengths below 120 nm. The primary emissions studied are the resonance lines of the heavy rare gases neon, argon, krypton and xenon produced by electron impact excitation. Experiments will be conducted to determine all relevant parameters that characterize the excitation process. In addition, the instrument will be used in the research related courses Physics 273 and Physics 491. Application Received by Commissioner of Customs: September 30, 1986.

Docket No.: 86-333. Applicant: Georgia Institute of Technology, Chemistry Department, 888 Hemphill Avenue NW., Atlanta, GA 30322. Instrument: Mass Spectrometer, Model MM7070S with Accessories. Manufacturer: VG Analytical, United Kingdom. Intended Use: The instrument is intended to be used for studies of newly synthesized chemical compounds such as: new anticoagulant drugs, new antibiotics, new synthetic pyrrolizidine alkaloid antitumor drugs, neurochemical effectors for use in treatment of neurological diseases, non-heme metallo-oxygenase catalysts, antihypertensive compounds, chemically modified natural products, antiglaucoma compounds, and new non-peptide enzymes. Experiments will involve: Separation of complex matrices; interfacing separation and other introduction techniques to the mass spectrometer; formation as gas phase ions characteristic of the compounds and analysis of these ions by the mass spectrometer system. In addition, the instrument will be used for educational purposes in the courses: Chemistry 8211—Topics in Applied Mass Spectrometer, Chemistry 9000—Ph.D. Thesis Research and Chemistry 7000—Masters Thesis Research. Application Received by Commissioner of Customs: October 6, 1986.

Docket No.: 86-334. Applicant: University of Kansas, Department of Geology, 120 Lindell Hall, Lawrence, KS 66045. Instrument: Mass Spectrometer, Model VG Sector with Accessories. Manufacturer: VG Isotopes Limited, United Kingdom. Intended Use: The instrument will be used to measure the isotopic compositions of the elements rubidium (Rb), strontium (Sr), samarium (SM), neodymium (Nd), lead (Pb), and uranium (U) in terrestrial rocks, minerals, and other natural materials (e.g., water). Experiments will consist of chemically extracting the elements in question from the samples, with or without isotopic tracers as needed, in order to determine the concentrations of the parent radioactive elements (Rb, Sm, U) and the stable daughter products (Sr, Nd, Pb) to better than 0.1 percent and to determine the isotopic ratios of key pairs (e.g., Pb-207/Pb-206, Sr-87/Sr-86, Nd-143/Nd-144) as accurately and as precisely as possible. The resulting data will be used in conjunction with the locations and identities of the samples being studied, to calculate the geologic ages of the samples and their geochemical history in the Earth's crust. These data will be used in turn in research programs to study the evolution of continental crust and ancient orogenic belts during the Precambrian geologic era. The principal educational role of this instrument will be in the training of graduate students in the techniques of modern isotopic geochemistry in the course GEOL 891: Special Studies. Application Received by Commissioner of Customs: October 7, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23875 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit to Ringling Bros.-Barnum and Bailey Circus (P384)

On September 3, 1986, notice was published in the **Federal Register** (51 FR 31353) that an application had been filed by Ringling Bros.-Barnum and Bailey Circus, Executive Offices, 3201 New Mexico Avenue, NW., Washington, DC 20016, to import South American (Patagonian) sea lions (*Otaria flavescens*) for public display.

Notice is hereby given that on October 15, 1986, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is 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., Room 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: October 16, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23879 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 2 to Permit No. 443]

Marine Mammal Permit Modification; Southwest Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 443 issued to Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, on March 5, 1984 (49 FR 8057) and modified on July 16, 1985 (50 FR 29715), is further modified as follows:

Section B.5 is deleted and replaced by:

"5. This point is valid with respect to the taking authorized herein until December 31, 1988."

This modification becomes effective upon publication in the **Federal Register.**

Documents submitted in connection with the above modification and Permit are available for review in the following offices:

Protected Species Division, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: October 16, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23880 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-22-M

[P191C]

Marine Mammals Permit Modification; California Department of Fish and Game; Correction

In **Federal Register** Volume 51, Number 186, published September 25, 1986, beginning on page 34114, "Marine Mammals; Permit Modification; California Department of Fish and Game (P191C)," Section B.11. reads.

"11. Upon completion of the captive animal research the Permit Holder shall submit a finalized field research protocol to the Protected Species Division for review prior to the initiation of the field research."

It should read:

"11. Upon completion of the captive animal research the Permit Holder shall submit a finalized field research protocol to the Protected Species Division for review."

Dated: October 16, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23881 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-22-M

[P77 #19]

Marine Mammals; Withdrawal of Modification Request by NMFS, Northwest and Alaska Fisheries Center

On August 1, 1986, notice was published in the **Federal Register** (51 FR 27576) that a modification request had been filed by the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Washington, 98115, for a modification to Permit No. 561 to take northern fur seals (*Callorhinus ursinus*) by entanglement.

Notice is hereby given that this modification request was withdrawn, and the withdrawal request has been acknowledged and accepted without prejudice.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue NW., Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: October 17, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23882 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-22-M

[P266E]

Marine Mammals; Application for Permit by Knie's Kinderzoo, Gebruder Knie

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 Part 216).

1. Applicant: a. Name Knie's Kinderzoo, Gebruder Knie; b. Address CH-8640 Rapperswil, Switzerland.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphins, *(Tursiops truncatus).*

4. Type of Take: captive maintenance.

5. Location of Activity: Florida West Coast.

6. Period of Activity: 2 years.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Division of International Traffic and Animal Protection have been found appropriate and sufficient to allow consideration of this permit application.

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 data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review 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; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 17, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23883 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Imports Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

October 17, 1986.

On June 18, 1986, a notice was published in the **Federal Register** (51 FR 22108) which announced that, on May 29, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by Protocols on December 5, 1977, December 22, 1981 and July 31, 1986, had requested the Government of Bangladesh to enter into consultations concerning exports to the United States of woven blouses and shirts of man-made fibers in Category 641, among other categories.

The United States had decided, inasmuch as recent consultations with the Government of Bangladesh did not result in a mutually satisfactory solution concerning this category, to control imports of man-made fiber textile products in Category 641, produced or manufactured in Bangladesh and exported during the twelve-month period which began on May 29, 1986 and extends through May 28, 1987, at a level of 305,940 dozen.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 641 during the twelve-month period which began on May 29, 1986 and extends through May 28, 1987, in excess of the designated restraint level.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Bangladesh, further notice will be published in the **Federal Register**.

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).

FOR FURTHER INFORMATION CONTACT: Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., (202-377-4212).

EFFECTIVE DATE: October 23, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

October 17, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 13, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 23, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of certain man-made fiber textile products in Catagory 641, produced or manufactured in Bangladesh and exported during the twelve-month period which began on May 29, 1986 and extends through May 28, 1987, in excess of 305,940 dozen.[1]

Textile products in Categories 641 which have been exported in the United States prior to May 29, 1986 shall not be subject to this directive.

Textile products in Category 641 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the 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).

In carrying out the above directions, the Commissioner of the Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 86-23872 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-DR-M

Control of Imports of Certain Man-Made Fiber Apparel Products Produced or Manufactured in Bangladesh

October 20, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive

[1] The limit has not been adjusted to account for any imports exported after May 28, 1986. Charges for merchandise imported during the period, May 29, 1986 through August 31, 1986 amounted to 166,866 dozen.

published below to the Commissioner of Customs to be effective on October 24, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On July 17, 1986, a notice was published in the **Federal Register** (51 F.R. 52928) which announced that, on June 29, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Bangladesh to enter into consultations concerning exports to the United States of women's, girls' and infants' man-made fiber coats in Category 635, produced or manufactured in Bangladesh. In recent consultations between the two governments agreement was reached to amend the Bilateral Cotton and Man-Made Fiber Textile Agreement of February 19 and 24, 1986 to establish a new specific limit of 72,500 dozen for man-made fiber textile products in Category 635, exported during the period which began on August 1, 1986 and extends through January 31, 1987. Flexibility will be available according to the terms of the bilateral agreement. In the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 635 in excess of the specific limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

October 20, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on July 31, 1986; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of February 19 and 24, 1986, as amended, between the Governments of the United States and the People's Republic of Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 24, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 635, produced or manufactured in Bangladesh and exported during the period which began on August 1, 1986 and extends through January 31, 1987, in excess of 72,500 dozen.[1]

Textile products in Category 635 which have been exported in the United States before August 1, 1986 shall not be subject to this directive.

Textile products in Category 635 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. (1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The foregoing limit is subject to adjustment in the future according to the terms of the bilateral agreement of February 19 and 24, 1986, which provide, in part, that: specific limits may be adjusted by designated percentages; carryforward is applicable to specific limit categories during the first agreement year.

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).

In carrying out the above directions, the Commissioner to Customs should contrue entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–23967 Filed 10–22–86; 8:45 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to account for any imports exported after July 31, 1986.

Adjustment of the Import Limit for Certain Cotton Textile Products Produced or Manufactured in India

October 17, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 23, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive of February 14, 1986 as amended, which established import limits for specified categories of cotton, wool and man/made fiber testile products, including cotton printcloth in Category 315 and cotton terry and other pile towels in Category 363, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, was pubished in the **Federal Register** on February 20, 1986 (10 FR 6159). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India the restraint limit for Category 315 is being increased from 6,085,776 square yards to 6,511,780 square yards of swing for the agreement year which began on January 1, 1986 and extends through December 31, 1986 according to the terms of the agreement, the amount of the increase is being deducted from the limit established for cotton terry and other pile towels in Category 363, reducing it from 16,739,409 numbers to 15,887,402 numbers, during the same twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

October 17, 1986.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 14, 1986, from the Chairman of the Committee for the Implementation of Textile Agreements, which established restraint limits for certain specified categories of products, produced or manufactured in India.

Effective on October 23, 1986, the directive of February 14, 1986 is hereby amended to increase the previously established restraint limit for cotton textile products in Category 315 to 6,511,780 square yards [1] and to reduce the limit for cotton textile products in Category 363 to 15,887,402 numbers [1] under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, and amended. [2]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-23870 Filed 10-22-86; 8:45 am]

BILLING CODE 3510-DR

Adjustment of Import Charges for Certain Cotton Textile Products Produced or Manufactured in Thailand

October 22, 1986.

On December 24, 1985 a notice was published in the **Federal Register** (50 FR 52826), which established imported restraint limits for cotton and man-made fiber textile products in various specified categories, including Category 313, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. CITA has determined that certain quantities of merchandise in this category, exported during the previous agreement year, which began on January 1, 1985 and extended through December 31, 1985, have been incorrectly charged to the 1986 limit. As a result of an adjustment in the import charges, which will be effected by the U.S. Customs Service, effective on October 23, 1986, Category 313 which is currently in embargo will reopen for the amount of the adjustment, 4,994,226 square yards.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-24140 Filed 10-22-86; 9:47 am]

BILLING CODE 3510-DR-M

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.

[2] The bilateral agreement provides in part that: (1) Certain group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Request for Public Comment on Bilateral Textile Consultations With the Government of the German Democratic Republic Concerning Trade in Category 334 (Men's Other Cotton Coats)

October 17, 1986.

On September 30, 1986, the Government of the United States, under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Government of the German Democratic Republic to enter into consultations concerning exports to the United States of men's other cotton coats in Category 334, produced or manufactured in East Germany.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of the German Democratic Republic, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 334, produced or manufactured in East Germany and exported to the United States during the twelve-month period which began on September 30, 1986 and extends through September 29, 1987 at a level of 15,736 dozen.

A summary market statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Category 334 under section 204 of the Agricultural Act of 1956 as amended (7 U.S.C. 1854), 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 of 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. 533(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.

German Democratic Republic—Market Statement

Category 334—Men's and Boys' Other Cotton Coats

Summary and Conclusions

U.S. Imports of Category 334 from the German Democratic Republic were 18,812 dozen during the year ending July 1986, more than twice the level imported a year earlier. During the first seven months of 1986, imports from the German Democratic Republic were 4,190 dozen 44 percent above the level imported during the same period of 1985.

The U.S. market for Category 334 has been disrupted by imports. The sharp and

substantial increase of imports from the German Democratic Republic has contributed to this disruption.

U.S. Production and Market Share

U.S. Production of men's and boys' other cotton coats declined 18 percent from 808 thousand dozen in 1984 to 661 thousand dozen in 1985. The U.S. producers' share of the market declined from 38 percent in 1984 to 32 percent in 1985.

U.S. Imports and Import Penetration

U.S. Imports of Category 334 grew from 1,333 thousand dozen in 1984 to 1,425 thousand dozen in 1985, a 7 percent increase. The ratio of imports to domestic production increased from 165 percent in 1984 to 216 percent in 1985.

Duty-Paid Value and U.S. Producers' Price

All of the imports of Category 334 from the German Democratic Republic during the first seven months of 1986 entered under TSUSA No. 381–3905—men's and boys' cotton knit jogging jackets, not ornamented. These jackets entered the U.S. at duty paid landed values below U.S. producers' prices for comparable jackets.

[FR Doc. 86–23871 Filed 10–22–86; 8:45 am]
BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Socialist Federal Republic of Yugoslavia on Category 666 pt.

October 17, 1986.

On September 26, 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 the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of man-made fiber blankets in Category 666 pt. (only T.S.U.S.A. numbers 363.2562, 363.8506, and 363.8509), produced or manufactured in Yugoslavia.

The purpose of this notice is to advise that, If no solution is agreed upon in consultations with Yugoslavia, the Committee for the Implementation of Textile agreements may later establish limits for the entry and withdrawal from warehouse for consumption of such products produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on September 26, 1986 and extends through September 25, 1987 at a level of 1,467,269 pounds.

A summary market statement concerning 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 666 pt. 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 form the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solication 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.

Yugoslavia—Market Statement

Category 666—Man-Made Fiber Blankets, Including Nonwovens

September 1986.

Summary and Conclusion

U.S. Imports of Category 666—man-made fiber blankets—from Yugoslavia during the year ending July 1986 were 1.5 million pounds more than 10 times the 135 thousand pounds imported a year earlier. Imports in 1985 were 823 thousand pounds, fiften hundred times the amount imported in 1984.

The U.S. market for man-made fiber blankets is being disrupted by imports. Yugoslavia's position as the third largest supplier of these blankets makes it a major contributor to the U.S. market disruption.

Production and Market Share

U.S. production of man-made fiber blankets experienced a substantial decline in 1985. Man-made Fiber blanket production dropped from 50 million pounds in 1984 to 38 million pounds in 1985, a 24 percent decline.

The market for man-made fiber blankets increased four percent in 1985 over its 1984 level. However, there was a distinct drop in the U.S. producers' share of the market. In 1984 the domestic producers provided 99 percent of the market; in 1985, they provided only 73 percent.

Import and Import Penetration

U.S. Imports of Category 666—man-made fiber blankets—from all sources increased 34-fold in 1985 to a record level 14.5 million poinds. The ratio of imports to domestic production increased from less than one percent in 1984 to 38 percent in 1985.

Duty Paid Values and U.S. Producers Price

The duty-paid landed values of Category 666—man-made fiber blankets—from Yugoslavia are below the U.S. producers prices for comparable blankets. Over one half of Yugoslavia's Category 666—man-made fiber blankets—during January–July 1986 were imported under TSUSA number 363.8506.

[FR Doc. 86–23869 Filed 10–22–86; 8:45 am]
BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Agency Information Collection Activities Under OMB Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide this information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

DIS Former Employee Survey; DIS Form 188

This sixteen (16) question survey is mailed to currently or formerly DoD cleared individuals who were employees of a DoD contractor that is being inspected by the Defense Investigative Service (DIS). The information is needed to assist the DIS in determining whether the contractor is adequately safeguarding classified information. Response to the survey is voluntary. This request is for a two year pilot program to be reviewed annually.

DoD cleared or formerly cleared individuals
Respondents: 25,000
Burden Hours: 8,250

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Mark R.J. Borsi, DIS Headquarters, Project INSIGHT, Room 5335, 1900 Half St., SW., Washington, DC 20324–1700, telephone number (202) 475–0932.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 21, 1986.

[FR Doc. 86–24008 Filed 10–22–86; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Low Observable Technology

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in closed session on January 20–21, February 25–26, April 1–2, May 20–21, June 24–25, August 19–20, and September 23–24, 1987 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 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.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1986.

[FR Doc. 86–23948 Filed 10–22–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Submission of Public Information Collection Requirement to OMB for Review

SUMMARY: The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision of a Currently Approved Collection

Officer Training School Accessions Forms (ATC Forms 1413 and 1422).

These forms are used by Air Force recruiters in the processing of civilian applicants for entry into the Air Force Officer Training School program. Recruiters use the forms to collect or record information pertinent to the applicant's qualifications for appointment and future assignment. Individuals, Responses 8,400, Burden hours 16,800.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTAL INFORMATION: A copy of the information collection proposal may be obtained from MSGT Robert J. Dowd, Jr., HQ USAFRS/RSOO, Randolph AFB, TX 78150–5421, telephone number (512) 652–2245.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1986.

[FR Doc. 86–23949 Filed 10–22–86; 8:45 am]

BILLING CODE 3810–01–M

Submission of Public Information Collection Requirement to OMB for Review

SUMMARY: The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision of a Currently Approved Collection

Health Professions Accessions Forms (ATC Forms 1322, 1402, 1431 and 1437).

These forms are used by Air Force recruiters in the processing of civilian applicants for entry into the Air Force Health Professions career fields. Recruiters use the forms to collect or record information pertinent to the applicant's qualifications for appointment, classification, and future assignment. Individuals, Responses 2,804, Burden hours 8,412.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTAL INFORMATION: A copy of the information collection proposal may be obtained from MSGT Ronald Gregory, HQ USAFRS/RSH, Randolph AFB, TX 78150–5421, telephone number (512) 652–4334.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1986.

[FR Doc. 86–23950 Filed 10–22–86; 8:45 am]

BILLING CODE 3810-01-M

Submission of Public Information Collection Requirement to OMB for Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension of the Expiration Date of a Currently Approved Collection

Family Support Center Information (Air Force Forms 2800, 2801, 2804 and 2805).

Air Force Family Support Centers need to gather information from Air Force personnel and their families in order to ensure the effective delivery of services to families, to evaluate the effectiveness of programs to provide data to higher headquarters for Air Force wide planning and programming and to determine center usage. Individuals, Responses 156,150, Burden hours 15,615.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTAL INFORMATION: A copy of the information collection proposal may be obtained from Dr. Joe Stevens, USAF/DPPHF (AFFAM), Washington, DC 20330–5060, telephone (202) 697–4720.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1986.

[FR Doc. 86–23951 Filed 10–22–86; 8:45 am]

BILLING CODE 3610-01-M

Advisory Committee on the Air Force History Program; Meeting

October 16, 1986.

The Advisory Committee on the Air Force History Program will hold a meeting on December 8, 1986 from 8:30 a.m. to 4:00 p.m. and December 9, 1986 from 8:30 a.m. to 12:00 noon at Bolling Air Force Base (AFB), DC, Building 5681, Office of Air Force History's 4th floor conference room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force History Program and make recommendations thereon for the consideration of the Secretary of the Air Force. The meeting will be open to the public. Topics to be discussed include: organization and personnel, curent status of historical projects, and the status of the field history program.

For further information, contact Lt. Col. John E. Norvell, Executive Officer, Office of Air Force History, Bolling AFB, DC, telephone (202) 767–5088.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–23901 Filed 10–22–86; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

October 17,1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Minuteman III Penetration Aids will meet in Washington DC at the Defense Intelligence Agency on November 13, 1986 from 8:00 a.m. to 5:00 p.m. and at the Pentagon on November 14, 1986 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review, discuss and evaluate the effectiveness of penetration aids proposed for the Minuteman III.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–23906 Filed 10–22–86; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

October 17, 1986.

The USAF Scientific Advisory Board Airlift Cross Matrix Panel will meet at Military Airlift Command Headquarters, Scott AFB, IL on November 17, 1986, from 8:00 a.m. to 5:00 p.m. and November 18, 1986, from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the panel to review, discuss and evaluate communications and special operations of the Military Airlift Command.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Patsy J. Conner.

Air Force Federal Register Liaison Officer.

[FR Doc. 86–23907 Filed 10–22–86; 8:45 am]

BILLING CODE 3910-01-M

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the following functions and locations will be examined for possible conversion to contract: The Undergraduate Pilot Training Aircraft Maintenance function at Columbus AFB, MS; Laughlin AFB, TX; Reese AFB, TX; and Williams AFB, AZ; the Undergraduate Navigator Training Aircraft Maintenance function at Mather AFB, CA; and the Technical Training Center Equipment Maintenance function at Chanute AFB, IL; Lowry AFB, CO; and Sheppard AFB, TX.

For further information contact Mr. Bob Moore, HQ ATC/XPMRC, Randolph AFB, TX, telephone (512) 652–2384.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–23900 Filed 10–22–86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

[Project Number 118]

Notice of Intention To Build a Child Support Center

Notice is hereby given in accordance with the 16 July 1986 lawsuit agreement of Sierra Club vs March that construction of a Child Support Service Center will commence in approximately 30 days after the publication of this notice.

Description: This project will provide a safe, modern facility for child development services. The new building will be one story (19 feet) in height. Total area will be 18,750 square feet. The architectural design calls for a T-shaped building with a stucco exterior and a tile-colored metal roof. Adequate parking and service drives exist at the site. On the east and south sides of the center, a fenced outdoor play area with paved, sand, and lawn play areas will be developed. Shade trees, shrubs, ground cover plantings, and appropriate playground equipment are included in the design.

Location: The new center will be located at Presidio of San Francisco, California, south of Moraga Street and west of the Post Library on the present site of a softball field and tennis court.

John O. Roach, II,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 86-23908 Filed 10-22-86; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Agency Information Collection Activities Under OMB Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Facilities Available for the Construction of Repair or Ships

Standard Form 17

The Commander, Naval Sea Systems Command as the coordinator of Shipbuilding, Conversion and Repair is responsible for the design, development, acquisition, modernization, and conversion of Navy ships. By Letter of Agreement dated 9 November 1955, between the Department of Defense and Department of Commerce, the Office of the Coordinator of Ship Repair and Conversion for the Department of Defense and the Department of Commerce was established. The responsibilities of the Office of the Coordinator were vested in the Naval Sea Systems Command (formerly the Bureau of Ships). One of the functions of the Office of the Coordinator is to maintain adequate records covering available facilities and capacities of the shipbuilding and ship repair yards. The Merchant Marine Act of 1936, as amended, gives Maritime Administration the responsibility for surveying and keeping records on private shipyards. Data collected on Standard Form 17 is for determining shipyard capabilities for ship construction, ship repair and services rendered to Maritime and Navy ships.

Private Shipyards

Responses 305

Burden hours 1,220

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson-Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. A. Tarte, Naval Sea Systems Command (SEA-0712), Department of the Navy, Washington, DC 20362, telephone (202) 692-3503.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 21, 1986.

[FR Doc. 86-24007 Filed 10-22-86; 8:45 am]

BILLING CODE 3810-01-M

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Purchase of Steam From a Renewable Resource Energy Recovery Facility, U.S. Naval Base, Philadelphia, PA

Pursuant to regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40, Code of Regulations and the requirements of Executive Order 12382, Intergovernmental Department of the Navy policy for intergovernmental coordination of land and facility plans, programs and projects, the Navy hereby announces its intention to prepare a Draft Environemntal Impact Statement (DEIS) for the proposed purchase of steam from a renewable resource energy recovery facility at the U.S. Naval Base, Philadelphia, Pennsylvania.

In an effort to move toward greater reliance on energy technologies that utilize renewable resources, the Department of the Navy proposes to purchase steam energy from a privately constructed, owned and operated renewable resource energy recovery facility. Under the preferred alternative, the facility would be a mass burn municipal solid waste steam generation plant located at the Girard Point site on the U.S. Naval Base, Philadelphia, Pennsylvania. The Navy would agree to purchase a minimum amount of steam annually while the City of Philadelphia would guarantee the facility contractor 2,250 tons per day of municipal solid waste as fuel. Minimum alternatives to the proposed action to be addressed in the DEIS include:

1. No Action—Navy continues to produce its own steam using fossil fuels;

2. Construction of a Navy owned and operated renewable resource energy recovery facility.

The primary issues to be addressed in the DEIS include (1) effects on local and regional transportation systems; (2) effects on air quality; (3) socio-economic considerations; (4) energy conservation and effects on local and regional fossil fuel and renewable resources; (5) effects on Naval Shipyard operations; (6) effects on cultural resources.

It is the intent of this notice that there be an early and open process for determining the scope of the DEIS by identifying the significant issures related to the proposed action. Written comments and concerns will be accepted through 25 November 1986 and should be forwarded to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Building 77L, U.S. Naval Base.

Philadelphia, PA 19112, (Attn: Code 09X).

The scoping process shall also include a public meeting to solicit comments/concerns to be held at 7–12 PM on Novenber 6, 1986 at the Spectrum in Philadelphia, PA. At this meeting, the public will be invited to comment orally or in writing on issues or concerns they would like to see addressed in the DEIS. The meeting will be conducted by the U.S. Navy. Individuals wishing to present oral statements will be limited to approximately five minutes. Written statements will be collected at the meeting or may be mailed to the address noted above.

If further information regarding this notice is required, please contact Mr. Kenneth Petrone at Northern Division, Naval Facilities Engineering Command, telpehone number (215) 897–6280.

Dated: October 17, 1986.

Harold L. Stoller,

CDR JAGC USN, Federal Register LIaison Officer.

[FR Doc. 86–23858 Filed 10–2–86; 8:45 am]

BILLING CODE 3810–AE–M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet November 12–13, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda for the meeting will consist of discussions of key issues related to national security policy and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: October 17, 1986.

Harold L. Stoller,

Commander, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 86–23860 Filed 10–22–86; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee, Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Medical Research and Development Center (NMRDC) Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on November 5 and 6, 1986, at the Naval Medical Research Institute, Bethesda, Maryland. The meeting will commence at 8:00 A.M. and terminate at 5:00 P.M. on November 5, and commence at 8:00 A.M. and terminate at 4:30 P.M. on November 6, 1986. The entire meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NMRDC. The agenda for the meeting will consist of technical briefings and tours by NMRDC management and discussion among the Review Team members to begin collecting data for consolidation into a draft report. The entire meeting will consist of information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this matter contact: Commander T.C. Fritz, U.S. Navy, Office of the Chief of Naval Research (Code OONR), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: October 17, 1986.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 86–23859 Filed 10–22–86; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: November 9, 1986, 6:00 p.m. to 9:00 p.m., Full Council Meeting (Closed). November 10–12, 1986, 9:00 a.m. to 5:00 p.m., Full Council Meeting (Open).

ADDRESS: Ramada Renaissance Hotel, Conference Room A, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Karen Shepard Saunders, National Advisory Council on Adult Education, 2000 L Street, NW., Washington, DC 20036, 202/634–6300.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 312 of the Adult Education Act (20 U.S.C. 1209). The Council is established to advise the Secretary on policy matters concerning the management of the Act, review program and administration effectiveness, and make reports and submit recommendations to the President and Congress relating to Federal adult education activities and services.

The full Council meeting on November 9, 1986 will be closed to the public to discuss personnel matters. This session will touch upon issues that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (2) and (6) of Section 552b(c) of Title 5 U.S.C., and under the authority of Section 10(d) of the Federal Advisory Committee Act.

A summary of the activities of the closed meeting and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

The meeting of the full Council on November 10–12, 1986 is open to the public. The proposed agenda includes:

Oath of Office Ceremonies
Election of Officers

ABC/PBS Project Literacy U.S. (PLUS)
Fiscal Year 1986 Annual Report
Future Council Activities
Standing Committee Meetings and Reports

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 2000 L Street, NW., Suite 570, Washington, DC 20036, from the hours of 8:30 a.m. to 5:30 p.m.

Signed at Washington, DC, on October 15, 1986.

Lynn Ross Wood,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 86-23958 Filed 10-22-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangements With Japan and Korea

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following sales:

Contract No. S-JA-369, for the sale of 21.194 grams of natural uranium for use as standard reference material by Mitsubishi Nuclear Fuel Co., Ltd., Tokyo, Japan.

Contract No. S-KO-16, for the sale of 25.994 grams of natural uranium for use as standard reference material by the Korea Advanced Energy Research Institute, Choongnam, Korea.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated October 17, 1986.

George J. Bradley, Jr.

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-23959 Filed 10-22-86; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Fish and Wildlife Real Property Revised Proposed Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and request for comment. *BPA File No.:* RP. When commenting on this policy, please refer to the file number.

SUMMARY: In 1985, BPA issued a draft Fish and Wildlife Real Property Policy for public comment. The public reviewed the document during a 30-day written comment period. BPA began incorporating these comments into the policy. However, before BPA could issue a record of decision, some of the commenting parties brought up new issues and concerns previously not addressed in the Draft Real Property Policy. Because of these discussions, BPA sees the need for further public comment before issuing a final policy.

This second review of the proposed policy will allow interested groups to formally affirm their concerns and will allow all parties to review the revised policy. After consideration of coments received in response to this notice, BPA will issue its final policy.

Responsible Official: Thomas J. Clune, Senior Project Manager, Division of Fish and Wildlife, is the official responsible for the development of this policy.

DATES: Written comments should be received by 5 p.m., PST November 14, 1986.

BPA will hold the following public information and comment forum to discuss this policy and receive oral comments:

Thursday, November 6, 1986, 10 a.m. Lloyd Center Red Lion (Mount St. Helens Room), Portland, Oregon.

BPA may hold additional informal meetings upon request. If you would like such a meeting, contact Mark Danley, Public Involvement staff, at the address and phone number given below.

ADDRESSES: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: The BPA Public Involvement office, at the address listed above, 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. You may also obtain information from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terence Esvelt, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6225.

Mr. Robert Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic Rettenmund, Boise District Manager, 550 West Fort Street, Room 376, Boise, Idaho 83724, 208-334-9137.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

Bonneville Power Administration (BPA) funding of real property

constructed or acquired for fish and wildlife has grown. BPA's fiscal year (FY) 1986 budget included nearly $10 million for major capital improvements for fish and wildlife. Major capital improvements cost over $1 million and will last over 15 years. Such improvements include fish hatcheries and fish ladders and screens at irrigation diversion dams. The proposed FY 1987 budget includes approximately $13 million for similar major capial projects, as well as preliminary work associated with the acquisition of land or rights to lands to provide wildlife habitat. In addition, BPA funded about $5.7 million in FY 1986 for habitat improvements and expects to fund another $8.5 million in FY 1987. Habitat improvements consist of log weirs, riprap, vegetation, fencing, and other similar measures to promote salmon and steelhead production.

A. Legal Authority. BPA funds fish and wildlife activities under the Pacific Northwest Electric Power Planning and Conservation Act (Pacific Northwest Power Act) of 1980. The Pacific Northwest Power Act directs BPA to "protect, mitigate, and enhance fish and wildlife affected by the development and operation of hydroelectric projects of the Columbia River and its tributaries." The Pacific Northwest Power Act also created the Northwest Power Planning Council (Council) and directed them to author a Columbia River Basin Fish and Wildlife Program (Program). BPA uses the Program as a guide when implementing projects.

B. Purpose. The policy will address who should own and manage the land and improvements BPA acquires while fulfilling its fish and wildlife obligations. It will further clarify who will fund the operation and maintenance of these facilities.

C. Affected Publics. This policy will have the most effect on fish and wildlife agencies and Indian tribes because they now operate and maintain many Columbia River hatcheries and are candidates to manage BPA-funded hatcheries. It will also affect the Federal land management agencies because many of the BPA-funded habitat improvements are on their lands. Further, the policy will be of interest to the Council because its Program calls for the projects the policy will address.

D. Scope. The policy applies only to fish and wildlife facilities constructed or lands acquired by BPA pursuant to the Pacific Northwest Power Planning Act. These facilities are located in the four-State region of the Columbia River Basin: Oregon, Washington, Idaho and western Montana. The proposed policy provides for the determination of ownership and management issues on a case-by-case basis.

E. Major Issues. Specific issues include:

1. Whether the ownership of real property funded by BPA to protect, mitigate, and enhance fish and wildlife should remain with BPA, or with other entities such as State or Federal fish and wildlife agencies or Indian tribes.

2. The role BPA should perform in the management and operation of BPA-funded capital investments.

3. The role Federal and State fish and wildlife agencies, Indian tribes, and others should perform in the management and opoeration of BPA-funded capital investiments.

F. Policy Development to Date and Schedule. BPA received comments from the following parties on the first draft of the Real Property Policy issued in June, 1985:

U.S. Bureau of Land Management
U.S. Bureau of Reclamation
National Marine Fisheries Service
U.S. Fish and Wildlife Service
U.S. Forest Service:
Flathead National Forest
Pacific Northwest Region
Wallowa-Whitman National Forest
Idaho Department of Fish and Game
Oregon Department of Fish and Wildlife
Washington Department of Fisheries
Washington Department of Game
Columbia River Inter-Tribal Fish Commission
Idaho Legal Aid Services, Indian Law Unit
Upper Columbia United Tribes
Yakima Indian Nation
Northwest Power Planning Council
Pacific Northwest Utilities Conference Committee

All of these comments are part of the Public Record. They were used to revise the proposed policy now being offered for further comment. BPA will follow the schedule below in completing the final policy:

Activity and target date

1. Publish draft policy in Federal Register and mail draft policy to interested groups: End of October 1986.
Announce public meeting and comment opportunity.
2. Hold public meeting in Portland, OR: Mid-November 1986.
3. Close of public comment opportunity: End of November 1986.
4. Mail final policy and response to comments: Mid-January 1987.

II. Fish and Wildlife Real Property Revised Proposed Policy

Section 1. Purpose and Scope

This policy establishes principles regarding the ownership, management, and operation and maintenance (O&M) of real property funded by the Bonneville Power Administration (BPA) to meet the responsibilities of the BPA Administrator to protect, mitigate, and enhance fish and wildlife affected by the development and operation of hydrolectric projects of the Columbia River and its tributaries.

Section 2. Objectives

The objectives of this policy are to: a. Protect BPA's ratepayers' investment in real property funded by BPA;

b. Assure the continued, long-term contribution of such real property to the protection, mitigation, and enhancement of fish and wildlife in meeting the Administrator's responsibilities under the Pacific Northwest Power Act;

c. Achieve, to the extent practicable, the principle of sharing the cost of projects with other parties.

Section 3. Definitions

a. *Class I Real Property:* Land and improvements to land such as fish propagation facilities (including hatcheries, fish collection facilities, holding ponds, and acclimation ponds), fish ladders, fish screens, trap and haul facilities, and other, similar facilities.

b. *Class II Real Property:* Vegetation, rip-rap, boulders, gravel, berms, weirs, gabions, gravel recruitment structures, flow deflectors, structures for stream pooling, fencing, culverts, and other similar habitat and passage improvements once installed or otherwise permanently placed, except when appurtenant to BPA-funded Class I real property.

c. *Management:* Directing and supervising the operation and maintenance of real property, which includes, but is not limited to coordinating with other entities; defining objectives and performance standards; specifying practices and procedures; securing the performance of operation and maintenance; forecasting replacements and improvements; monitoring, evaluating, and reporting operational performance; and meeting administrative requirements.

d. *Operation and Maintenance (O&M):* All functions necessary to operate and preserve real property. In the case of capital improvements, O&M includes the replacement of unserviceable equipment. In the case of interests in land, O&M includes

inspections and other activities to assert, protect, and maintain the interest.

e. *Oversight:* Ensuring compliance with the provisions of Operation and Maintenance Agreements and the performance of the terms and conditions of the Agreement between BPA and the agency which will manage salmon and steelhead propagation facilities.

Section 4. Acquisition

The acquisition of real property funded by BPA must comply with the Uniform Land Acquisition and Relocation Assistance Policies Act of 1970, Pub. L. 91–646, 42 U.S.C. 4601 et seq.

Section 5. Rights Acquired by BPA

a. Except in the case of real property jointly owned by BPA and another entity (or owned completely by another entity) as provided in Section 8, BPA will acquire and hold fee title, easement, and leasehold interests in Class I real property acquired or constructed with BPA funds.

b. Except in the case of jointly owned real property by BPA and another entity (or owned completely by another entity) as provided in Section 8 of this policy, when a permit, easement, or lease must be obtained for the use of real property on which to locate Class I real property improvements funded by BPA, such permit, easement, or lease will be obtained and held by BPA.

c. BPA will not normally acquire or hold property interests in Class II real property. Agreements to fund Class II real property will require a demonstration prior to the placement of Class II property by the agency or other entity to which BPA is providing funds that it has executed an appropriate easement, contract, or permit with the owner of the land on which the Class II property is to be placed.

d. Class I real property associated with resident fish production may be provided to Federally recognized Indian tribes for the mitigation value of the property established by the Administrator under the Pacific Northwest Power Act.

Section 6. Management and Operation and Maintenance

a. *Funding.* The management of real property within the scope of this policy, including operation and maintenance, is eligible for BPA funding.

b. *Performance.* Responsibility for the management of Class I real property funded by BPA will rest with other appropriate entities, subject to BPA oversight and the terms of agreements between BPA and the managing entities. Such other entities normally will be State or Federal agencies or Indian tribes. Agreements to fund Class II real property will provide the agency or other entity with which BPA contracts the responsibility to perform appropriate operation and maintenance.

Section 7. Management of Salmon and Steelhead Propagation Facilities

BPA will select a Federal fish and wildlife agency to manage salmon and steelhead propagation facilities funded by BPA. In addition to other management responsibilities as defined in Section 3(c) of this policy, and subject to BPA oversight as defined in Section 3(e), and the terms of an agreement between BPA and the selected agency, the agency will be responsible for the following:

a. Meeting protection, mitigation, and enhancement objectives specified by BPA;

b. Integrating facility programming with harvest management;

c. Employing improved hatchery practices and techniques as developed by BPA-funded and other research investigations;

d. Systematically managing BPA-funded facilities to achieve objectives in the most cost effective manner.

Section 8. Cost Sharing

a. *Ownership.* BPA will consider joint ownership in Class I real property with another entity (or complete ownership by another entity) when such other entity shares with BPA the cost of acquiring the real property, constructing the facility, and the cost of performing O&M to redress adverse impacts to fish and wildlife.

b. *Management.* When BPA funds the construction of facilities or acquisition of real property, BPA will enter into a contract with one or more other entities to manage the real property at BPA's expense, or to fund the management of the real property. BPA will give preferred consideration to projects, for which cost sharing contracts are executed, when such projects meet the same biological objectives.

Section 9. Agreement

a. BPA funding will be contingent on advance written agreements which achieve the purposes stated in Section 2 of this policy.

b. Any agreements executed pursuant to this policy will meet applicable BPA and other Federal acquisition and financial assistance statutes and regulations.

Issued in Portland, Oregon, on October 16, 1986.

James J. Jura,

Administrator.

[FR Doc. 86–23970 Filed 10–22–86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Bishop Pipeline Corporation); Order Denying Request for Clarification

Issued: October 20, 1986.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On August 27, 1986, Bishop Pipeline Corporation filed a request for clarification of the transitional provisions of Order No. 436 [1] as they apply to a transportation transaction performed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. under former § 157.209(a)(1) of the Commission's Regulations. We will deny Bishop's request.

On July 1, 1985, Bishop entered into a contract with Tennessee whereby Tennessee agreed to provide transportation to high-priority end users.[2] In a July 10, 1985 amendment to the transportation contract, Bishop and Tennessee established three points for the receipt of Bishop's gas into Tennessee's system.[3]

On October 7, 1985, the transportation contract between Bishop and Tennessee was amended for the second time. The purpose of the October 7 amendment, as recited in the amendment itself, was to "provide Columbia Gulf Transmission Corporation as an additional point of delivery, add Baptist Memorial Hospital as a high priority end-user, and reflect the appropriate fuel use and unaccounted for percentage factor applicable to the Wharton County, Texas [p]oint of [r]eceipt." However, the October 7 amendment refers to the

[1] 33 FERC ¶ 61,007 (1985); FERC Statutes and Regulations ¶ 30,665 (1985).

[2] This transaction was the subject of a previous request for clarification in Bishop Pipeline Corporation, 33 FERC ¶ 61,448 (1985).

[3] The receipt points are meter station no. 1–1835 in the New Taiton Field, Wharton County, Texas, plus two other points in Lafourche Parish, Louisiana.

Wharton County, Texas receipt point as follows: "1) Tennessee's Meter No. 1–1835, MP 15–3 + 1.61 miles, Chase Energy production from the M.S. Pryor #1 Well in the New Taiton Field, Wharton County, Texas." [4] Bishop asserts that it was not its "intent in entering into the October 7, 1985 [a]mendment to limit its rights under the contract to restrict use of the Wharton County receipt point or the other two receipt points in Lafourche Parish to the receipt of gas from any specific well." Bishop contends that, if the October 7 amendment restricts its receipt points to one well, it will be unable to add new wells to the transportation service without instituting a new transaction under Order No. 436.

Bishop asserts that neither party intended to limit the right to attach new wells to the receipt points. Bishop contends that "where both parties to the contract ascribe to it a common interpretation, that interpretation will be controlling because the parties to the contract 'know what they intended.' " On the other hand, Bishop offers no explanation whatsoever as to why the October 7 amendment added references to specific production associated with all three receipt points. Nor can we imagine any reason for such a reference if the receipt points had been intended to accept gas from additional wells without further amendment.

In *U.S. Steel*, 34 FERC ¶ 61,199, *reh'g denied*, 35 FERC ¶ 61,261 (1986), we addressed the question of the intent of the parties to a transportation contract. U.S. Steel argued that the parties intended to have a two-year transportation agreement despite the language of the contract. We denied U.S. Steel's request for waiver and held that it would be "inappropriate . . . . to ignore one provision in the contract merely to permit another provision to take effect, or to rewrite a contract to conform it to our presumption of what the parties may have intended." *U.S. Steel*, 35 FERC at 61,602. We believe the same rationale applies here. Accordingly, we conclude that the October 7 amendment limits the transportation service to the identified wells. Bishop's request is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–23965 Filed 10–22–86; 8:45 am]

BILLING CODE 6717-01-M

[4] Second Revised Attachment A. The amendment also refers to identified wells for the receipt points in Lafourche Parish, Louisiana.

[Docket Nos. QF86–1095–000 et al.]

Certificate Applications for Qualifying Status as Small Power Production and Cogeneration Facilities; Hercules, Inc., et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Hercules, Inc.

[Docket No. QF86–1095–000]

October 17, 1986.

On September 26, 1986, Hercules Inc. (Applicant), of Hercules Plaza, Wilmington, Delaware 19894, 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 Kenvil, New Jersey and will consist of two combustion turbine generators, two heat recovery steam genertors with supplementary firing and one extraction/condensing steam turbine generator. The thermal energy will be used for feedwater heating and to provide process steam for a manufacturing facility. The electric power production capacity of the facility will be 55 MW. The primary energy source will be natural gas.

2. South Virginia Energy Associates, a Virginia Limited Partnership

[Docket No. QF87–001–000]

October 16, 1986.

On October 1, 1986, South Virginia Energy Associates, a Virginia Limited Partnership (Applicant), of 87 Elm Street, Cohasset, Massachusetts, 02025 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 Ashland, Virginia. The facility will consist of two combustion turbine-generators, two heat recovery steam generators and two extraction/condensing steam turbine-generators. Steam recovered from the facility will be used for hot water production, space cooling and refrigeration by Holley Farms in their poultry processing operations. The primary energy source for the facility will be coal and natural gas, with oil used when natural gas is not available. The net electric power production capacity of the facility will be 280 MW. Installation is expected to begin in March 1988.

3. Northeast Energy Associates, a Massachusetts Limited Partnership

[Docket No. QF86–1081–000]

October 16, 1986.

On September 23, 1986, Northeast Energy Associates, a Massachusetts Limited Partnership (Applicant), of 87 Elm Street, Cohasset, Massachusetts, 02025 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 Bellingham, Massachusetts. The facility will consist of three combustion turbine-generators, three heat recovery steam generators, and three extraction/condensing steam turbine-generators. Steam recovered from the facility will be utilized both in an absorption chiller to provide refrigeration for the Arctic Circle Cold Storage Corporation and by Cove Machinery for steam cleaning and winter space heating. The primary energy source for the facility will be natural gas or oil. The net electric power production capacity of the facility will be 280 MW. The installation of the facility will begin in February, 1988.

4. Enpex Corporation

[Docket No. QF86–1014–001]

October 17, 1986.

On October 9, 1986, Enpex Corporation (Applicant), of 11772 Sorrento Valley Road, Suite 257, San Diego, California 92121 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 on Doremus Avenue near Wilson Avenue in Newark, New Jersey. The facility will consist of one or more combustion turbine generator(s). a heat recovery steam generator (HRSG) and a steam turbine generator. Steam from the HRSG will be used for process applications. The net electric power production capacity of the facility will be 80 MW. The primary energy source will be natural gas. The

installation of the facility is expected to commence in October 1987.

5. ENESCO—The Energy Systems Company, Inc.

[Docket No. QF86-1076-000]

October 17, 1986.

On September 19, 1986, ENESCO-The Energy Systems Company, Inc. (Applicant), of 1810 Craig Road, Suite 237, St. Louis, Missouri 63146, 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 Woodbridge Township, near the City of Fords, New Jersey. The facility will consist of two combustion turbine generating units with two waste heat recovry steam generators, and an extraction/condensing steam turbine generating unit. Steam produced by the facility will be used in industrial processes. The maximum net electric power production capacity will be 85 MW. The primary energy source will be natural gas. The installation of the facility will begin in 1987.

6. Foster Wheeler Phillipsburg, Inc.

[Docket No. QF86-1104-000]

October 17, 1986.

On September 30, 1986, Foster Wheeler Phillipsburg, Inc. (Applicant), of 110 South Orange Avenue, Livingston, New Jersey 07039 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 cogneration facility will be located in Phillipsburg, New Jersey and will consist of two combustion turbine generators, two heat recovery steam generators, and an extraction/condensing steam turbine generator. The thermal energy recovered from the facility will be used for manufacturing plant space heating. The net electric power production capacity of the facility will be 68.3 MW. The primary energy source will be natural gas.

7. HERCO Development Associates, Limited Partnership

[Docket No. QF86-1080-000]

October 17, 1986.

On September 23, 1986, HERCO Development Associates, Limited Partnership (Applicant), c/o Metcalf & Eddy, Inc., P.O. Box 4043, Woburn, Massachusetts 01888-4043, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in the City of Holyoke, Massachusetts. The facility will consist of two solid waste fired boilers and a steam turbine generating unit. The electric power production capacity of the facility will be 17 MW. The primary energy source will be solid waste. Installation of the facility is scheduled to begin on March 1, 1986.

8. North Virginia Energy Associates, a Virginia Limited Partnership

[Docket No. QF86-1106-000]

October 17, 1986.

On September 29, 1986, North Virginia Energy Associates, a Virginia Limited Partnership (Applicant), of 87 Elm Street, Cohasset, Massachusetts 02025 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 Manassas, Virginia. The facility will consist of three (3) combustion turbine-generators, three (3) heat recovery steam generators and three (3) steam turbine-generators. Thermal energy recovered from the facility will be used in heat exchangers to generate hot water, and in absorption refrigeration units to produce chilled water that will be used by International Business Machine Corporation (IBM) for heating/cooling in their 2,000,000 square feet plant and office complex for the manufacturing process of computer components. The net electric power production capacity will be 420 megawatts. The primary energy source will be coal gas and natural gas, with oil used if and when natural gas is not available. Construction of the facility will begin on March 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. 86-23931 Filed 10-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-119-019]

Algonquin Gas Transmission Co.; Filing of Changes in FERC Gas Tariff

October 16, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on October 1, 1986, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Seventh Revised Sheet No. 100
Sixth Revised Sheet No. 200
Sixteenth Revised Sheet No. 203
Tenth Revised Sheet No. 204
Fourth Revised Sheet No. 222
Seventh Revised Sheet No. 300
Second Revised Sheet No. 364
Second Revised Sheet No. 365
Second Revised Sheet No. 366
Second Revised Sheet No. 373
Second Revised Sheet No. 374
Second Revised Sheet No. 375
First Revised Sheet No. 531
Sixth Revised Sheet No. 700
First Revised Sheet No. 781
Fifth Revised Sheet No. 801
Sixth Revised Sheet No. 802
Fifth Revised Sheet No. 803
Fifth Revised Sheet No. 804
Sixth Revised Sheet No. 805
Third Revised Sheet No. 806

Algonquin Gas states that these tariff sheets are being filed to reflect adjusted rates for service under Rate Schedules F-2 and F-3 for the period commencing November 1, 1986. These changes are made in accordance with the provisions of a Commission-approved settlement agreement in Algonquin Gas' Docket Nos. CP82-119-007 through -009 and reflect the application of the methodology previously approved by the Commission to the actual cost facts known with respect to the facilities constructed to render Rate Schedules F-2 and F-3 service beginning November 1, 1986.

Algonquin Gas requests that the Commission accept such tariff sheets, to be effective November 1, 1986.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 23, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23932 Filed 10-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC87-1-000]

El Paso Natural Gas Co.; Request for Waiver From Filing Requirements

October 17, 1986.

Take notice that on October 1, 1986, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC87-1-000 a request for waiver of the requirement that El Paso comply with the reporting deadline reflected in section 11.5(a), *Annual Supply Allocation Forecast Report*, of the Service Rules contained in its FERC Gas Tariff, First Revised Volume No. 1 (Tariff), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, El Paso states that it is required each year, on or before October 1, to submit to each of its customers and the Commission the Annual Supply Allocation Forecast Report (Forecast Report) which forecasts El Paso's annual supply of natural gas available for sale for each year of the succeeding ten-year period. El Paso states that it currently does not have the necessary data available to submit the Forecast Report prior to October 1, 1986; El Paso expects such data will be available before October 31, 1986, and will submit the Forecast Report to its customers and the Commission on or before October 31, 1986. In addition, El Paso avers that it has served a copy of this request upon all interstate pipeline system customers of El Paso, all interested state regulatory commissions and the parties to the Stipulation and Agreement at Docket Nos. RP72-6, *et al.*

Any person desiring to be heard or to make any protest with reference to said request should on or before October 27, 1986, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211). 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23933 Filed 10-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-164-000]

Mountain Fuel Resources, Inc. v. Northwest Pipeline Corp.; Complaint

October 17, 1986.

Take notice that on September 30, 1986, Mountain Fuel Resources, Inc. (MFR) tendered for filing a complaint against Northwest Pipeline Corporation (Northwest). MFR requests that the Commission institute a proceeding under section 5 of the Natural Gas Act and find that Northwest's minimum annual commodity charge applicable to Rate Schedule PL-1 must be eliminated because it is unjust, unreasonable, unduly discriminatory and anticompetitive.

In particular, MFR argues that Northwest's minimum annual non-gas commodity charge (minimum commodity charge) unduly discriminates against MFR, a PL-1 customer, in favor of the ODL-1 customers. Northwest's Pl-1 customers traditionally have had other sources of gas supply, while ODL-1 customers has historically been considered full-requirements customers. However, given the Settlement in Northwest's last NGA § 4 general rate filing and Congress' and the Commission's expansion of the transportation markets, it is now possible for ODL-1 customers, who have traditionally been full-requirements customers, to obtain gas supplies from sources other than Northwest. PL-1 customers pay commodity and damand charges, and, in addition, a minimum commodity charge based upon 60% of their annual contract demand. ODL-1 customers also pay commodity and demand charges but, unlike PL-1 customers, they do not pay a minimum commodity charge.

MFR asserts that Northwest can no longer justify its minimum commodity charge on the theory that only PL-1 customers have alternative sources of supply, because the ODL-1 customers, who constitute approximately 97% of Northwest's market, have caused a much greater impact on Northwest's take-or-pay liability by making alternative purchases and substituting transportation for sales.

Additionally, MFR states that since Northwest has eliminated variable costs from its minimum commodity charge to comply with Commission Order No. 380, MFR has been able to purchase gas more cheaply from other suppliers—even while paying the minimum commodity charge for gas not taken. However, MFR contends its ability to pursue a least-cost purchasing policy has been seriously hampered by its large minimum commodity charge obligation to Northwest, which has imposed an unreasonable constraint on MFR's least-cost purchasing strategies.

MFR further contends that as long as Northwest can rely on its minimum commodity charge, it has no incentive to address the PL-1 customers' needs; it has guaranteed coverage of *all* fixed costs allocated to its PL-1 service. MFR argues that this produces the anticompetitive result that consumers served by MFR ultimately pay a higher price for gas than is necessary.

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 November 17, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23934 Filed 10-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-32-000 et al.]

ONEOK Exploration, Inc.; Application

October 15, 1986.

Take notice that on October 6, 1986, ONEOK Exploration, Inc. (Applicant) of 100 West Fifth Street, Tulsa, Oklahoma 74103, filed an application pursuant to section 7 of the Natural Gas Act, and § 157.23, *et seq.*, of the Federal Energy Regulatory Commission's Regulations, for certificates of public convenience and necessity as shown on the attached Exhibit "D", to continue service previously authorized to be rendered by Imperial Oil Company or Imperial Oil & Gas, Inc. (hereinafter jointly referred to as Imperial) and certain individuals, which is on file with the Commission and open to public inspection.

Effective July 1, 1985, through assignments Imperial and the certain individuals listed in the application assigned to Applicant all of their right, title, and interest in and to the properties underlying the gas purchase contracts listed on Exhibit "D" attached hereto.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 28, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

EXHIBIT D

Contract date	Small prod. certificate #	Docket No.	Purchaser	Properties covered	Spud date
03/30/77	CS 71-272	CI87-32-000	KN Energy	Davis #1-18, Sec. 18-27S-16W	09/28/76
				Long #1-12, Sec. 12-27S-17W	09/23/76
				Kiowa County, KS	
05/03/76	CS 71-272	CI87-37-000	Panhandle Eastern	Wolgamott #1-13, Sec. 13-29N-16W	10/12/75
				Woods County, OK	
02/17/72	CS 71-272	CI87-42-000	Same	Davis Ranch 'D' #1-13, Sec. 13-35S-15W	03/08/75
				Davis Ranch 'D' #2-13, Sec. 13-35S-15W	07/18/75
				Davis Ranch 'E' #1-13, Sec. 13-35S-15W	04/28/75
				Davis Ranch 'F' #1-13, Sec. 13-35S-15W	05/15/75
				Davis Ranch 'A' #1-6, Sec. 6-35S-14W	06/21/71
				Davis Ranch 'B' #1-1, Sec. 1-35S-15W	09/11/71
				Davis Ranch 'C' #1-6, Sec. 6-35S-14W	10/13/71
				Barber County, KS	
05/07/75	CS 71-272	CI87-33-000	Same	E W B Ranch 'A' #1-7, Sec. 7-35S-14W	11/12/74
				E W B Ranch 'A' #2-7, Sec. 7-35S-14W	04/26/74
				E W B Ranch 'B' #1-7, Sec. 7-35S-14W	04/08/75
				Barber County, KS	
08/05/76	CS 71-272	CI87-40-000	Northern Natural	Lippoldt #1-29, Sec. 29-31S-31W	01/14/75
				Seward County, KS	
08/05/77	CS 71-272	CI87-34-000	Same	Mc Colm #1-14, Sec. 14-30S-21W	12/26/74
				Clark County, KS	
11/19/84	CS 71-272	CI87-36-000	Same	Brooks #1-26, Sec. 26-28S-21W	10/25/73
				Smith 'A' #1-26, Sec. 26-28S-21W	08/04/73
				Ford County, KS	
08/11/72	CS 71-272	CI87-44-000	ANR Pipeline CO	Atkinson #1-26, Sec. 26-32S-29W	03/30/75
				Boian #1-6, Sec. 6-33S-29W	11/04/72
				Crooked 'L' Ranch, Sec. 21-32S-28W	02/25/77
				Patton #1-10, Sec. 10-32S-29W	09/08/72
				Sanders Ranch #3-19, Sec. 19-32S-28W	09/07/77
				Sanders Ranch #1-23, Sec. 23-32S-29W	10/10/74
				Sanders Ranch #2-23, Sec. 23-32S-29W	02/04/75
				Sanders Ranch #2-24, Sec. 24-32S-29W	05/04/75
				Sanders Ranch #3-24, Sec. 24-32S-29W	01/27/77
				Collingwood Unit #2-6, Sec. 6-33S-29W	01/19/74
				Collingwood Unit #4-6, Sec. 6-33S-29W	03/13/74
				Meade County, KS	
01/18/72	CS 71-272	CI87-43-000	Panhandle Eastern	Roberts 'A' #1-32, Sec. 32-32S-29W	10/14/71
				Roberts 'B' #1-33, Sec. 33-32S-29W	02/23/72
				Meade County, KS	
02/25/71	CS 71-272	CI87-41-000	Cities Service Gas	Blunk #1-25, Sec. 25-34S-14W	11/16/70
06/16/61	CS 71-272	CI87-38-000		Graves #1-19, Sec. 19-34S-13W	05/21/70
				Barber County, KS	
01/01/71	CS 71-272	CI87-35-000	KN Energy Co	Boyd #1-23, Sec. 23-23S-17W	07/13/70
				Pawnee County, KS	
08/05/74	CS 71-272	CI87-39-000	Same	Neeland #1-4, Sec. 4-24S-16W	02/15/71
				Potts #1-5, Sec. 5-24S-16W	09/20/70
				Potts #2-5, Sec. 5-24S-16W	08/30/76
				Russell #1-8, Sec. 8-24S-16W	03/04/71
				Edwards County, KS	

[FR Doc. 86-23935 Filed 10-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-29-000]

The Petroleum Corporation of Delaware; Application for Abandonment

October 16, 1986.

Take notice that the Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service as described herein.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to section 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM86-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-29-000, B, Oct. 3, 1986	The Petroleum Corporation of Delaware, 3811 Turtle Creek Boulevard, Dallas, Texas 75219-4419.	El Paso Natural Gas Company, Lea and Eddy Counties, New Mexico, and Sutton County, Texas.	[1]	

[1] Applicant, a small producer certificate holder in Docket No. CS72-352, requests authorization for a limited-term abandonment of certain sales of gas to El Paso for a period of two years. Applicant states that the contracts dated August 16, 1983, May 14, 1979, and April 1, 1983, have primary terms which expire September 1, 1993, and December 1, 1986. Applicant states it is subject to substantially reduced takes without payment. By letter dated September 18, 1986, El Paso advised Applicant it would not oppose the application. The wells involved, NGPA price category and deliverability are shown below:

Well	NGPA price category	Estimated deliverability (Mcf/day)
Tenneco Federal No. 1	Section 104, recompletion	40
Superior Federal No. 3	Section 104, 1973-1974 biennium	400
Hull No. 1	Section 108 stripper	10

Note.—Applicant states that it proposes to preserve its leasehold interests through sales to one or more alternate markets.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial Succession.

[FR Doc. 23936 Filed 10-23-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-429-022]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariffs

October 16, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 2, 1986 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2 revised tariff sheets as listed in Appendix A attached hereto. The purpose of this filing is as follows:

Texas Eastern has filed previously tariff sheets reflecting the partial implementation of an overall increase in firm sales service to certain customers under Rate Schedule DCQ, GS, and SGS authorized by the May 2, 1985 Joint Offer of Settlement (i.e. 102,893 dth per day increase out of a total 182,893 dth per day increase). The November 27, 1985 tariff filing was approved by the Commission Order issued December 9, 1985. The tariff sheets set forth on Appendix A (with the exception of rates shown on Sheet 14 applicable to Rate Schedule SS-III, changes on Sheet No. 97 and Sheet 101 applicable only to the City of Somerset) are being filed pursuant to the May 2, 1985 Joint Offer of Settlement and the Commission's Order issued August 1, 1986 in Docket No. CP84-429-015.

(1). Revised Billing Determinants

Sheet No. 16 and Sheet No. 22 set forth the billing determinants for the Contract Adjustment Demand Charge under Rate Schedule DCQ and GS to be effective November 1, 1986. As required by ordering Paragraph E(1) of the Commission's August 1, 1986 Order, the billing determinant for Algonquin Gas Transmission Corporation (Algonquin) does not include the 4,612 dth per day increase for which Algonquin has not received authorization for in Docket No. CP86-480-000.

(2). Rate Schedule CTS and Exchange Agreement

Sheet Nos. 74U through 74Z and Sheet Nos. 172L through 172T set forth Texas Eastern's new Rate Schedule CTS and related Form of Service Agreement, respectively. This new Rate Schedule was approved with the Commission's approval of the May 2, 1985 Joint Offer of Settlement. Pursuant to this Rate Schedule and the executed service agreement thereunder, Texas Eastern will transport on a firm, long-term basis up to 80,000 dth of gas per day for Columbia Gas Transmission Corporation ("Columbia"). Sheet Nos. 1177 through 1193 set forth the Exchange Agreement dated September 29, 1986 between Texas Eastern and Columbia. This Exchange Agreement was also approved with the May 2, 1985 Joint Offer of Settlement. Pursuant to the Exchange Agreement, Texas Eastern and Columbia will exchange up to 80,000 dth per day at existing points of interconnection between Texas Eastern and Columbia. Such exchange is necessary to effectuate the transportation service provided by Texas Eastern's Rate Schedule CTS to Columbia and assist in the implementation of the foregoing firm sales service.

(3). Revised Sales Entitlements

Texas Eastern filed a Rate Schedule SGS Service Agreement on July 24, 1986 between Texas Eastern and the City of Somerset, Kentucky ("Somerset") converting Somerset from Rate Schedule GS to Rate Schedule SGS. Commission

Order issued August 19, 1986 in Docket No. CP82–535–003 approved such Service Agreement. Accordingly, Sheet Nos. 97 and 101 reflect the conversion of Somerset from Rate Schedule GS to Rate Schedule SGS.

Exhibit 6 of the May 2, 1985 Joint Offer of Settlement pertaining to section 12.3A and 12.3B provides for respective increases in the sales entitlements of those Texas Eastern customers contracting for additional quantities in the 1986 Contract Adjustment Program. Sheet Nos. 96A, 97, 98, and 101–101E as filed herein reflect such increases pursuant to Commission Order issued August 1, 1986.

(4). Rates

Substitute Revised Eighty-first Revised Sheet No. 14 and Eighty-first Revised Sheet Nos. 14A through 14D, set forth rates applicable to Rate Schedules DCQ, GS, SGS, and Rate Schedule CTS pursuant to the Contract Adjustment Program and rates applicable to Rate Schedule SS–III. The Contract Adjustment Demand rate is based on the approved actual cost of 1985 facilities and the approved estimated cost of 1986 facilities inclusive of the reallocated increments authorized in Docket No. CP84–429–015. Texas Eastern has applied the same cost of service factors as approved in Texas Eastern's July 10, 1986 filing reflecting actual cost for the 1985 program including the 14.704 percent rate of return currently subject to refund in Texas Eastern's general rate filing in Docket No. RP85–177 *et al.* A schedule supporting the proposed Contract Adjustment Demand rate is included in the filing. The estimated Rate Schedule SS–III Firm Demand rate and Firm Daily Delivery Quantity Withdrawal Charge are set forth on Substitute Revised Eighty-first Revised Sheet No. 14 (Page 2 of 4) of this filing in accordance and as approved by the Commission order issued June 3, 1986 in Docket No. CP85–803–000 authorizing Texas Eastern to render said firm service under Rate Schedule SS–III.

Pursuant to Commission Order issued July 31, 1986 in Docket No. CP86–82–000, Texas Eastern on September 4, 1986 filed tariff sheets reflecting the Rate Schedule FTS–II initial demand rates. Since an order has not been issued by the Commission as of the date of this instant filing with respect to the Rate Schedule FTS–II rate, Substitute Revised Eighty-first Revised Sheet No. 14 as filed herein does not include such rate. In the event the Commission approves the above-mentioned Rate Schedule FTS–II rate with respect to the September 4, 1986 tariff filing prior to the issuance of a Commission order approving the instant filing herein, Texas Eastern herewith submits as part of the FERC Gas Tariff, Fourth Revised Volume 1, six copies of Alternate Substitute Revised Eighty-first Revised Sheet No. 14 as set forth in Appendix A(2).

Texas Eastern respectfully requests the Commission to waive all necessary rules and regulations to permit the tariff sheets listed on Appendix A(1), or in the alternative, Appendix A(1) and Appendix A(2) with the exception of Substitute Revised Eighty-first Revised Sheet No. 14 in Appendix A(1), attached hereto to become effective November 1, 1986. Texas Eastern will note, however, Article IX (Tariff Sheets) of the May 2, 1985 Joint Offer of Settlement with respect to the Contract Adjustment tariff sheets provides that such filing be permitted to become effective as designated without suspension.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions and on the affected party with respect to Rate Schedule X–128.

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, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 23, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix A

Fourth Revised Volume No. 1

(1) Substitute Revised Eighty-first Revised Sheet No. 14
Eighty-first Revised Sheet No. 14A
Eighty-first Revised Sheet No. 14B
Eighty-first Revised Sheet No. 14C
Eighty-first Revised Sheet No. 14D
Fourth Revised Sheet No. 16
Fourth Revised Sheet No. 22
Original Sheet No. 74U
Original Sheet No. 74V
Original Sheet No. 74W
Original Sheet No. 74X
Original Sheet No. 74Y
Original Sheet No. 74Z
Fifth Revised Sheet No. 96A
Eleventh Revised Sheet No. 97
Tenth Revised Sheet No. 98
Tenth Revised Sheet No. 101
Fourth Revised Sheet No. 101A
Seventh Revised Sheet No. 101B
Fourth Revised Sheet No. 101C
Sixth Revised Sheet No. 101D
Fourth Revised Sheet No. 101E
Original Sheet No. 172L
Original Sheet No. 172M
Original Sheet No. 172N
Original Sheet No. 172O
Original Sheet No. 172P
Original Sheet No. 172Q
Original Sheet No. 172R
Original Sheet No. 172S
Original Sheet No. 172T

Original Volume No. 2

Original Sheet Nos. 1177–1193

Fourth Revised Volume No. 1

(2) Alternate Substitute Revised Eighty-first Revised Sheet No. 14

[FR Doc. 86–23937 Filed 10–22–86; 8:45 am]
BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the procedures for refunding to adversely affected parties the $2,750,000 obtained as a result of a consent order between the DOE and Pyrofax Gas Corporation. The funds are being held in escrow following the settlement of an enforcement proceeding brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed by November 24, 1986. Comments should refer to the Pyrofax proceeding, Case No. HEF–0157, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20558.

FOR FURTHER INFORMATION CONTACT: Jacqueline A. MacDonald, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the

issuance of the Proposed Decision and Order set out below. The Proposed Decision explains tentative procedures that the DOE has formulated to distribute the $2,750,000, plus accrued interest, that the DOE obtained under the terms of a consent order with Pyrofax Gas Corporation. Pyrofax provided these funds to settle all claims and disputes with the DOE regarding the manner in which the firm applied the Federal price regulations to its sales of propane. The consent order covered Pyrofax's propane sales between November 1, 1973, and January 27, 1981. Firms or individuals that purchased propane from Pyrofax during this time period may be eligible to receive a portion of the consent order funds.

The DOE audit that uncovered Pyrofax's alleged pricing violations identified 126 firms that Pyrofax's practices may have injured. In the Proposed Decision, OHA suggests that a portion of the consent order funds be distributed to the firms among these that can prove injury. To receive a refund, OHA proposes that an identified purchaser submit either a monthly schedule of its Pyrofax propane purchases, or a statement verifying that it was a Pyrofax customer is willing to rely on the data in the audit files. Those applying for refunds greater than $5,000 would need to prove that they did not pass along the alleged overcharges to their own customers.

The Proposed Decision also describes a tentative process by which Pyrofax customers not identified in the DOE audit might apply for refunds. Tentatively, an unidentified purchaser applying for a refund would need to submit a monthly schedule of its Pyrofax propane purchases. Like an identified purchaser, an unidentified purchaser claiming a refund greater than $5,000 would need to prove that it absorbed the alleged overcharges.

Refund applications should not be filed until public notice of the final refund procedures is given. At this time, however, OHA welcomes written suggestions regarding the proposed refund procedures. Comments should be submitted in duplicate within 30 days of publication of this notice. All comments received will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 16, 1986.

Richard T. Tedrow,

Deputy Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

October 16, 1986.

Name of Petitioner: Pyrofax Gas Corporation.

Date of Filing: October 13, 1983.

Case Number: HEF-0157.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Pyrofax Gas Corporation (Pyrofax). This Proposed Decision and Order outlines tentative procedures which the OHA has established to distribute funds received pursuant to that consent order.

I. Background

Pyrofax, headquartered in Houston, Texas, is a "reseller-retailer" of propane as that term was defined in 10 CFR § 212.31. A DOE audit of Pyrofax's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. Subsequently, Pyrofax signed a consent order with the DOE. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, the consent order states that Pyrofax does not admit that it violated the regulations.

The DOE audit alleged that between November 1, 1973, and January 27, 1981, Pyrofax committed possible pricing violations in its propane sales. The consent order, signed on March 23, 1981, settled all disputes between the DOE and Pyrofax regarding these alleged violations. The consent ordered required Pyrofax to deposit $2,750,000 into an interest-bearing escrow account for ultimate distribution by the DOE. Of this amount, $2,183,000 represented alleged overcharges to Pyrofax customers identified in the DOE audit. The remaining $567,000 represented alleged overcharges to individuals not directly identified in the audit—primarily Pyrofax home delivery customers. Pyrofax remitted the total sum of $2,750,000 on July 31, 1981.[1]

II. Proposed Refund Procedures

The DOE procedural regulations set forth general guidelines for OHA to follow in revising a plan to distribute funds received following an enforcement proceeding. 10 CFR Part 205, Subpart V. These guidelines, called Subpart V, may be used to compensate persons injured by a firm's violations of the Mandatory Petroleum Price Regulations. The Subpart V process is used to determine both who the firm's alleged pricing violations injured, and the extent of their injuries. For a detailed description of Subpart V procedures, *see Office of Enforcement,* 9 DOE ¶ 82,508 (1981), *and Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (*Vickers*).

In past Subpart V proceedings, we have distributed consent order funds in two stages. We plan to adopt a similar approach to the Pyrofax case. In the first stage, we will give refunds to Pyrofax customers who can show that they were injured by the firm's pricing practices between November 1, 1973 and January 27, 1981. In the second stage, we will consider plans to distribute any funds that remain after all first-stage claims have been paid. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) *(Amoco).*

A. *Presumptions used to formulate refund procedures.* In the first stage of this refund proceeding, we must consider whether Pyrofax propane purchasers were injured by the alleged overcharges, or whether they passed through the overcharges to their own customers. To help determine the level of a purchaser's injury without incurring inordinate expenses, we plan to adopt two rebuttable presumptions and two findings regarding injury, discussed below. (DOE procedural regulations specifically authorize the use of presumptions and findings in refund cases. *See* 10 CFR 205.282(e).)

Our first presumption is that Pyrofax customers claiming small refunds were injured by the alleged overcharges. Without this presumption, each applicant would have to sort through records dating as far back as 1973 to gather proof that it absorbed the alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, we have decided that in this case, as in numerous similar cases, applicants entitled to refunds under $5,000 will not need to submit detailed proof of injury. *See Texas Oil & Gas Corp.; Office of Special Counsel,* 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

The second presumption is that Pyrofax's alleged overcharges did not injure spot purchasers. (Spot purchasers are those who were not regular Pyrofax customers.) Spot purchasers, because they were not obliged by contract to purchase fixed volumes from Pyrofax, had considerable discretion as to when and where they bought their propane. Thus, we propose that a spot purchaser would not have bought Pyrofax propoane unless it felt sure that it could recover all of its costs in a subsequent resale. *See Vickers,* 8 DOE at 85,396-97. A spot purchaser, therefore, should not receive a refund unless it presents evidence to both rebut this presumption and establish the extent of its injury.

In addition, we propose to find that end users (those who actually used Pyrofax propane for purposes other than resale) were injured by the alleged overcharges. Since end

[1] As of September 30, 1986, the Pyrofax escrow account contained $4,551,614, including accrued interest.

users were not subject to price controls, they were not required to keep records showing whether or not they passed through the Pyrofax propane cost increases to their own customers. Thus, an analysis of the impact of the alleged overcharges on end users is beyond the scope of this proceeding.

Finally, we propose to find that public utilities, agricultural cooperatives, or other firms whose prices are regulated by government agencies or cooperative agreements need not submit detailed proof of injury. Such firms would have routinely passed through price increases to their customers. Likewise, their customers would share the benefits of cost *decreases* resulting from refunds. Such firms applying for refunds should submit plans explaining both how their customers will benefit from the refund, and how they will alert the appropriate regulatory body or membership group to monies recieved. Such firms should note, however, that their sales to nonmembers will be treated the same as sales by any other reseller.

The findings and rebuttable presumptions discussed above will apply equally to the Pyrofax customers identified in the DOE audit, and to those purchasers who the audit did not identify. The methods for refunding money to identified and unidentified customers are explained below.

B. *Refunds to identified purchasers.* As in previous cases, we will use the information in the audit files to distribute part of the consent order fund. In this case, the audit files identify 129 Pyrofax customers and the portion of the escrow account to which each is entitled. Based on a review of the audit files, we have determined that some of these identified customers are spot purchasers. As previously explained, spot purchasers, listed in Appendix 2, will not be eligible for refunds unless they can prove injury. The remaining identified purchasers, listed in Appendices 1 and 3, may apply for refunds as described below.

In applying for a refund, an identified purchaser should submit a statement that it purchased propane from Pyrofax and is willing to rely on the data in the audit files. An identified reseller or retailer or Pyrofax propane claiming a refund greater than $5,000 must submit a detailed proof that is absorbed the alleged overcharges and as a result was injured. Generally, we require such a firm to demonstrate (i) that it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices. Alternatively, such a firm may choose to limit its claim to $5,000. *See Vickers,* 8 DOE at 85,396. *See also Office of Enforcement,* 10 DOE ¶ 85,029 at 88.125 (1982) (Ada).

C. *Refunds to other purchasers.* The numerous individuals who purchased Pyrofax propane for home heating purposes were not identified in the DOE audit. The home delivery customers, and other as yet unidentified purchasers who believe they were injured by Pyrofax's alleged overcharges, may apply for refunds under the "volumetric method." Under this method, a successful claimant's refund is computed by multiplying a factor called the volumetric by the number of gallons of Pyrofax propane the claimant purchased. The volumetric factor in this case is $0.00757 per gallon, representing the average dollar refund an applicant may receive per gallon of Pyrofax propane it purchased.[2]

A Pyrofax customer applying for a refund by the volumetric method must submit a monthly schedule of the number of gallons of propane it purchased from Pyrofax between November 1, 1973 and January 27, 1981. As required of identified purchasers, unidentified resellers or retailers of Pyrofax propane whose claims exceed $5,000 must submit the detailed proof of injury discussed in section B above.

All applicants should know that, as in previous cases, only claims for at least $15 plus interest will be processed. We have adopted this minimum because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.,* 9 DOE at 85,225. *See also* 10 CFR 205.286(b).

In the unlikely event that valid claims exceed the funds in the escrow account, claims will be prorated. If funds remain after these first stage proceedings, we will solicit proposals for distributing the balance of the account.

D. *Summary of refunds application procedures.* Through the procedures described above, we believe we will be able to distribute the Pyrofax consent order fund as equitably and efficiently as possible. The information each applicant must provide, if these proposed procedures are adopted, is summarized below:

(1) If the applicant was identified in the audit files it should submit a statement verifying that it purchased propane from Pyrofax and is willing to rely on the information in the audit files. Identified purchasers are listed in the Appendices.

(2) If the applicant was not identified in the audit files, it must submit a monthly schedule of the number of gallons of Pyrofax propane it purchased between November 1, 1973, and January 27, 1981.

(3) All resellers and retailers of Pyrofax propane whose claims exceed $5,000 must submit proof, as explained in this proposed Decision, that they absorbed the alleged overcharges.

(4) Each applicant must indicate whether it has received a refund, from any source, for the alleged overcharges identified in the ERA audit underlying this proceeding.

(5) If the applicant's firm has changed ownership since the consent order period, the applicant must provide the names and addresses of the previous owners. In addition, the applicant must either state the reasons why it should receive the refund instead of the other owners, or provide a signed statement from the other owners indicating that they do not claim a refund.

(6) Each applicant must indicate whether it is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. It these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Pyrofax Gas Corporation pursuant to the consent order executed on March 23, 1981, will be distributed in accordance with the foregoing decision.

Appendix 1

PYROFAX GAS CORPORATION

First purchasers	Share of settlement [1]
ACF Industries, 750 Third Avenue, New York, New York 10017	$202
Agway Petroleum Corporation, Post Office Box 706, Syracuse, New York 13221	2,971
Allied Chemical Corporation, Columbia Rd. and Park Ave., Morristown, New Jersey 07960	1,495
Allied New Hampshire Gas Co. (Northern Utilities), Post Office Box 508, Portsmouth, New Hampshire 03801	4,615
American Bread Company, 702 Murfreesboro Road, Nashville, Tennessee 37210	76
American Hoechst Corporation, 1041 Rt. 201-206 N., Somerville, New Jersey 08876	5,866
Anchor Hocking Glass Corporation, 109 N. Broad Street, Lancaster, Ohio 43130	3.892
Armco Steel Corporation, 703 Curtis Street, Middletown, Ohio 45042	31,747
Armstrong Cork, Concord Street, Lancaster, Pennsylvania 17604	28,822
Ashland Gas Service, Post Office Box 391, Ashland, Kentucky 41101	1,906
Athens Oil Company, 200 West Union Street, Athens, Ohio 45701	622
Auburn Steel Co., Inc., 635 West 11th Street, Auburn, Indiana 46706	5,719
Baxter Kelly & Faust, 215 Commerce Boulevard, Anderson, South Carolina 29621	155
Bechtel Power Corporation, 50 Beale Street, San Francisco, California 94119	18,708
Berks Welding, Stevens Rd. and Portland St., West Conshohocken, PA 19428	1,978
Berkshire Gas Company, 115 Cheshire Road, Pittsfield, Massachusetts 01201	13,443
Bethlehem Steel Corporation, Martin Tower, Bethlehem, Pennsylvania 18016	2.041
Buckeye Ware Inc., 1389 State Rte. 164, Columbiana, Ohio 44408	5,739
Cabot Corporation, Satellite Division, 125 High Street, Boston, Massachusetts 02110	5,106
Cargill, Inc., Gainesville, Georgia 30543	6,475
Carr Lowery Company, 2201 Kloman Street, Baltimore, Maryland 21203	7,016
Colotex Corporation, W. Pittston, Pennsylvania 18643	1,343
Central Foundry Company, Post Office Box 188, Holt, Alabama 35404	225,629
Champion Building Products, One Champion Plaza, Stamford, Connecticut 06912	153
Cherokee Brick and Tile Company, Post Office Box 4567, Macon, Georgia 31208	2,163
City of Harrisburg Arkansas, Harrisburg, Arkansas 72432	961
City of Lebanon Tennessee, Lebanon, Tennessee 37087	694
City of Tallahassee Florida, Tallahassee, Florida 32300	2,951
Collier Gas Company 1016 S. Madison Street Whiteville, North Carolina 28472	18
Connecticut Natural Gas Co., 100 Columbus Boulevard, Hartford, Connecticut 06103	23,153

[2] We computed the volumetric factor by dividing the $2,750,000 escrow principal amount by the estimated 363,210,214 gallons of propane Pyrofax sold during the consent order period. The gallon figure is an estimate based on incomplete audit file records. We have requested a precise gallonage figure from the DOE archives; if this information becomes available before we issue the final Pyrofax Decision and Order, we will revise the volumetric factor.

PYROFAX GAS CORPORATION—Continued

First purchasers	Share of settlement [1]
Consolidated Gas Transmission Corp., 445 W. Main Street, Clarkesburg, West Virginia 26301	1,225
Cornell-Dubilier Elect. Corp., 150 Avenue L, Newark, New Jersey 07101	297
Crane Company, 300 Park Avenue, New York, New York 10022	205
Dan River Inc., 2291 Memorial Drive, Danville, Virginia 24541	26,423
Dana Corporation, 4500 Dorr Street, Toledo, Ohio 43697	812
Dayton Power and Light, 25 North Main Street, Dayton, Ohio 45459	93,467
Delmarva Power and Light Company, 800 King Street, Wilmington, Delaware 19899	28,283
Diebold, Inc., 818 Mulberry Road, SE., Canton, Ohio 44707	3,517
Dietrich Industries Inc., 2121 Elida Road, Lima, Ohio 45802	1,362
Digital Equipment Corporation, 146 Main Street, Maynard, Massachusetts 01754	50
Disston, Inc., Post Office Box 3000, Danville, Virginia 24541	612
Dresser Ind. Inc. (tool group), 1505 Elm Street, Dallas, Texas 75221	3,726
Eastern Shore Rendering Company, Post Office Box 1551, Salisbury, Maryland 21801	7,090
Eastern Stainless Steel Corp., Post Office Box 1975, Baltimore, Maryland 21203	13,382
Elite Processing Co., Inc., Post Office Box 209, Department 10, Ridgway, Pennsylvania 15853	2,779
Everlon Fabrics Corporation, Railroad Avenue, Closter, New Jersey 07624	3,794
Excello Corporation, 2855 Coolidge, Troy, Michigan 48084	758
Fetterolf Development Corporation, Post Office Box 103, Skippack, Pennsylvania 19474	550
Flame Right Gas Inc., Newport Road, Gordonville, Pennsylvania 17529	4,052
Fletcher Brick, Highway 25, Fletcher, North Carolina 28732	3,694
Grumman Aerospace, d/b/a Flexible Bus Company, 1111 Stewart Avenue, Bethpage, New York 11714	4,532
Flexible Corporation, Post Office Box 3190, Marietta, Georgia 30062	766
Franklin Aluminum, 881 Bevis Road, Franklin, Georgia 30217	956
Frito Lay Inc., Frito Lay Tower, Dallas, Texas 75235	502
General Electric, 3135 Easton Turnpike, Fairfield, Connecticut 06430	56,321
General Steel Industries, Inc., 11 S. Meramec Avenue, St. Louis, Missouri 63105	7,935
Grefco, 3450 Wilshire Boulevard, Los Angeles, California 90010	5,905
Gibson Greeting Cards Inc., 2100 Section Road, Cincinnati, Ohio 45237	57
Glenshaw Glass Company, 1101 William Flynn Highway, Glenshaw, Pennsylvania 15116	79,545
GTE Sylvania (KY), Post Office Box 396, Madisonville, Kentucky 42431	8,904
Hook Bros. L-P Gas Company, Princeton, Texas 75077	1,519
Indiana Farm Bureau, 120 E. Market Street, Indianapolis, Indiana 46204	91,719
ITT Grinnell Corporation, 260 W. Exchange Street, Providence, Rhode Island 02901	1,423
Macy's d/b/a J. Homestock, Inc., 151 West 34th Street, New York, New York 10001	[2] 117
Levitt's Furniture Corp., Group 1, d/b/a J. Homestock, Inc., 180 State Line Plaza, Enfield, Connecticut 06082	[2] 110
John-Manville Corporation, Ken-Caryl Ranch, Denver, Colorado 80217	168,626
Johnson Bronze Company, 500 S. Mill Street, New Castle, Pennsylvania	408
Kaiser Aluminum and Chemical, 300 Lakeside Drive, Oakland, California 94643	4,534
Kerr Glass Manufacturing, 501 S. Shotto Place, Los Angeles, California 90020	308
Lear Siegler Inc., 3171 S Bundy Drive, Santa Monica, California 90406	1,803
Lennox Crystal Inc., Lenox Road, Mount Pleasant, Pennsylvania 15666	548
Linde Company, One Linde Drive, Goldsboro, North Carolina 27530	2,270
Lithonia Lighting Inc., Industrial Boulevard, Conyers, Georgia 30207	5,333
Manchester Gas Company, 1260 Elm Street, Manchester, New Hampshire 03101	2,772
Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554	59,358

PYROFAX GAS CORPORATION—Continued

First purchasers	Share of settlement [1]
Nabisco Inc., River Rd. and Deforest Ave., Hanover, New Jersey 07936	135
New Jersey Natural Gas Company, 601 Bang Avenue, Asbury Park, New Jersey 07712	16,776
New Jersey Zinc, 100 Plum Street, Trenton, New Jersey 08638	17,645
North American Rockwell, New Castle, Pennsylvania 16100	20,247
North Electric Company, Post Office Box 11315, Kansas City, Missouri 64112	109
Ohio Steel Tube, 2 Oliver Plaza, Pittsburgh, Pennsylvania 15222	275
Otis Elevator Company, 750 3rd Avenue, New York, New York 10017	1,177
Owens Corning Fiberglass, Fiberglass Tower, Toledo, Ohio 43659	282
PPG Industries Inc., One Gateway Center, Pittsburgh, PA 15222	9,609
Pennsylvania Gas and Water Company, 39 Public Square, Wilkes Barre, Pennsylvania 18711	7,669
Peterbilt Motors (Tenn), Madison, Tennessee 37115	989
Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19103	165,399
Philadelphia Gas Works, 1800 N. 9th Street, Philadelphia, Pennsylvania 19122	309,021
Pilgrim Glass, Ceredo, West Virginia 25507	1,522
Pittsburg Forging, Coraopolis, Pennsylvania 15108	1,890
Pretty Products, Inc., 437 Cambridge Road, Coshocton, Ohio 43812	299
Prior Coated Metals (Ga), Marietta, Georgia 30000	322
Public Service Electric & Gas Company, 80 Park Plaza T5E, Newark, New Jersey 07101	150,280
Royster Company, Two Commercial Place, Norfolk,Virginia 23510	2,358
Scott Paper Company, Scott Plaza 1, Philadelphia, Pennsylvania 19113	192
Shenango China, Post Office Box 120, New Castle, Pennsylvania 16103	9,631
South Jersey Gas Company, 1 S. Jersey Plaza, Hammonton, New Jersey 08037	3,910
Southern Coil Coating, Post Office Box 160, Sumter, South Carolina 29150	118
Southern G.C.M., Griffin, Georgia 30223	164
Specialty Paper Company, 802 Miami Chapel Road, Dayton, Ohio 45401	157
Square D. Company, 1415 S. Roselle Road, Palatine, Illinois 60067	15,608
Standard Register, Post Office Box 1167-T, Dayton, Ohio 45401	330
Standard Steel Company, 3441 N.W. Guam, Portland, Oregon 97208	1,810
Sybron-Taylor Instr. Co., 1100 Midtown Tower, Rochester, New York 14604	616
Tecumseh Products Company, 100 E. Patterson, Tecumseh, Michigan 49286	4,676
Thatcher Glass Manufacturing Company, 7-T Riversville Road, Glenville, Connecticut 06830	13,246
Tifton Aluminum Company, Southwell Boulevard, Tifton, Georgia 31794	5,014
Tuck Industries, 1 A LeFervre Lane, New Rochelle, New York, 10801	2,174
Universal Cyclops Specialty Steel, 652 Washington Road, Pittsburgh, Pennsylvania 15228	3,571
Universal Rundle Corporation, North and East Street, New Castle, Pennsylvania 16103	463
Waterford Park Inc., Post Office Box 254, Chester, West Virginia 26034	8,173

[1] These figures do not include accrued interest.
[2] The $227 due to J. Homestock, Inc., is divided between the company's two former owners: Macy's of New York and Levitt's Furniture Corporation. (Levitt's purchased Homestock from Macy's in August 1977.)

Appendix 2

Spot purchasers [1]	Share of settlement [2]
Diversified Chemicals and Propellants, 700 T. Enterprise Drive, Oak Brook, Illinois 60521	$188,343
Dixie Chemical, Old Cherry Point Road, New Bern, North Carolina 28560	419
East Side Gas Company, 5010 N. Post Road, Indianapolis, Indiana 46240	419
Petrolane Gas Service, 632 S. 84th Street, Milwaukee, Wisconsin 53214	1,240
Gas Inc., 4205 Jonesboro Road, Union City, Georgia 30291	723
Gas Oil Products, 85 Sterncrest Drive, Moreland Hills, Ohio 44022	485
Good Housekeeping Gas Company, 3210 W. Beaver Street, Jacksonville, Florida 32205	4,008
H.J. Poist Gas Company, 360 Main Street, Laurel, Maryland 20707	792
Midway Bottle Gas Company, 757 Stultz Road, Martinsville, Virginia 24112	382
Pengite Company, Malvern, Pennsylvania 19355	48,574
Pulici Gas and Oil (PA), Hawley, Pennsylvania 18428	100
Savannah Valley Gas Company, Route 6, Box 8, Elberton, Georgia 30635	303
Stenger Gas Corporation, Kent Plaza Shopping, Chestertown, Maryland 21620	199
Sure Flame Gas Co., Inc., 334 West Main Street, Springfield, Kentucky 40069	2,517
U.G.I. Corporation, Post Office Box 858, Valley Forge, Pennsylvania 19482	32,878

[1] The audit files indicate that these companies purchased Pyrofax propane on an irregular, sporadic basis. They are thus considered "spot purchasers," and are not entitled to refunds. These firms may submit evidence to the contrary, however. For example, if a firm is an end user or public utility, it will be eligible for a refund even if it is a spot purchaser.
[2] These figures do not include accrued interest.

Appendix 3

First purchasers, addresses unknown	Share of settlement [1]
Energy Imports	$17,680
Roncari Industries	[2] 2
Star Finishing Company	[2] 12
Valley Service Company	59

[1] These figures do not include accrued interest.
[2] As the Proposed Decision and Order states, we will not process refund claims for under $15.00.

[FR Doc. 86-23894 Filed 10-22-86; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed During Week of September 19 Through September 26, 1986

During the Week of September 19 through September 26, 1986, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulatons. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 15, 1986.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 19 through Sept. 26, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 22, 1986	Mountain Fuel Supply Company and Wexpro Company, Washington, DC.	KEF-0080	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with the July 23, 1986 Consent Order entered into with Mountain Fuel Supply Company and Wexpro Company.
Do	Natural Resources Defense Council, Washington, DC	KFA-0057	Appeal of an information request denial. If granted: The August 27, 1986 Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and Natural Resources Defense Council would receive additional information in reference to the Holmes & Narver "NTS Area and Facilities Maps Notebook."
Do	The Spokesman-Review Spokane, WA	KFA-0056	Appeal of an information request denial. If granted: The September 15, 1986 Freedom of Information Request Denial issued by Bonneville Power Administration would be rescinded, and The Spokesman-Review would receive access to the names and/or addresses of people whose houses were tested for radon under the Bonneville Power Administration's testing programs.
Sept. 29, 1986	Amoco/Nebraska, Lincoln, NE	RM21-44	Request for modification/rescission. If granted: The April 24, 1986 Decision and Order (Case No. RQ21-65) issued to Nebraska would be modified regarding the State's Application for Refund submitted in the Amoco second stage refund proceeding.
Do	Paullina Grain Company, Inc., Paullina, IA	KEE-0074	Exception to the reporting requirements. If granted: Paullina Grain Company, Inc. would not be required to file Form EIA-782B, "Retailers'/Resellers' Monthly Sales Report."

Refund Applications Received

Week of Sept. 19 to Sept. 26, 1986

Date received	Name of refund proceeding/name of refund applicant	Case No.
09/19/86	Aminoil/Fred G. McKenzie Company	RF139-159
09/19/86	Farstad/Ken Lystad	RF261-3
09/22/86	Conoco/Consolidated Freightways	RF220-405
09/22/86	GCO/Conoco, Inc	RF254-3
09/22/86	AC Motor Express	RF270-47
09/22/86	Colandres Trucking, Inc	RF270-48
09/22/86	J. S. Caruth & Sons, Inc	RF270-49
09/22/86	Central Storage & Transfer Co	RF270-50
09/22/86	Warren Trucking Co	RF270-51
09/22/86	Shaver Transportation Co	RF271-8
09/22/86	Cumberland & Ohio Co. of Texas	RF271-9
09/22/86	Lexington-Fayette County	RF272-5
09/22/86	Brown Trucking Company	RF272-6
09/23/86	Tenneco/Council & Company, Inc	RF7-144
09/23/86	Blue Bell, Inc	RF270-52
09/23/86	A. B. F. Freigth Systems, Inc	RF270-53
09/24/86	Texas Foundries, Inc	RF270-54
09/24/86	Illinois Central Gulf Railroad Co	RF271-10
09/24/86	The Pittsburgh & Shawmut Railroad Co	RF271-11
09/25/86	OMI Corporation	RF271-12
09/25/86	Maine Central Railroad Company	RF271-13
09/25/86	Delaware and Hudson Railway Company	RF271-14
09/25/86	Craig Distributing Company	RF270-55
09/25/86	Oneida Motor Freight	RF270-56
09/25/86	H&W Motor Express Company	RF270-57
09/25/86	Hale-Halsell Company	RF270-58
09/25/86	The Permian Corporation	RF270-59
09/25/86	Roseville Community Schools	RF270-60
09/25/86	Carlton & Stubing, Inc	RF270-61
09/25/86	De Camp Bus Lines	RF270-62
09/25/86	A. N. Webber, Inc	RF270-63
09/25/86	Roy Widener Motor Lines, Inc	RF270-64
09/26/86	Amoco/Nebraska	RQ251-328
09/22/86 through 09/26/86	Gulf Refund Applications	RF40-3393 through RF40-3435
09/22/86 through 09/26/86	Marathon Refund Applications	RF250-1368 through RF250-1424
09/22/86 through 09/26/86	Mobil Refund Applications	RF225-10254 through RF225-10288

[FR Doc. 86-23893 Filed 10-22-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59787 FRL-3091-1]

Toxic and Hazardous Substances Control; Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-22415 beginning on page 35425 in the issue of Friday, October 3, 1986, make the following correction: On page 35426, in the first column, under "Y 86-256", in the second line, insert "(G)" before "Esterified".

BILLING CODE 1505-01-M

[OPTS-59228A; FRL-3098-2]

Certain Chemical; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-86-57. The test marketing conditions are described below.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Monica Chatmon, Premanufacture Notice Management Branch, Chemical Control Division (TS-794) Environmental Protection Agency, RM. E-613, 401 M St. SW., Washington, DC 20460, (202-382-2259).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-86-57. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-86-57. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of dates of the shipments to the customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-86-57

Date of Receipt: August 18, 1986.

Notice of Receipt: September 2, 1986 (51 FR 31174).

Applicant: Westvaco Corporation.

Chemical: (S) Lignosulfonic acid, triethanolamine salt.

Use: (G) Dispersant for agricultural, dyestuffs, and colorants products.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: Twelve Months.

Commencing on: September 25, 1986.

Risk assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restriction of an exemption should any new information come to its attention which casts significant doubt on its findings that the test market substance activities will not present any unreasonable risk of injury to health or the environment.

Dated: September 25, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 86-24000 Filed 10-22-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59789; FRL-3098-3]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 87-1—October 23, 1986.

Y 87-2—October 26, 1986.

Y 87-3—October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87-1

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) Polyurethane to be used in the textile industry. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of one worker, up to 2 to 3 hrs/day.

Environmental Release/Disposal. 25 kg/day released to washout. Disposal by Publicly Owned Treatment Works (POTW).

Y 87-2

Importer. Confidential.

Chemical. (G) 2-propenoic acid, 2 methyl propenoic acid, oxy alkenyl stearyl ethoxylate,polymer.

Use/Import. (G) Paint, ink additive. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 87-3

Manufacturer. Confidential.

Chemical. (G) Polyurethane.

Use/Production. (G) Polyurethane to be used in the textile industry. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 1 worker, up to 2 to 3 hours.

Environmental Release/Disposal. 25 kg/day released to washout. Disposal by POTW.

Dated: October 10, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-24001 Filed 10-22-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51645; FRL-3098-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-five such PMNs and provides a summary of each.

DATES: Close of Review Period:

P87-5, 87-6, 87-7, 87-8, 87-9, 87-10, 87-11, 87-12, 87-13, 87-14, 87-15, 87-16, 87-17, 87-18 and 87-19—December 31, 1986.

P 87-20, 87-21, 87-22, 87-23, 87-24, 87-25, and 87-26—January 3, 1987.

P 87-27, 87-28, 87-29, 87-30, 87-31, 87-32, 87-33 and 87-34—January 4, 1987.

P 87-35, 87-36, 87-37 and 87-38—January 5, 1987.

P 87-39—January 6, 1987.

Written comments by:

P 87-5, 87-6, 87-7, 87-8, 87-9, 87-10, 87-11, 87-12, 87-13, 87-14, 87-15, 87-16, 87-17, 87-18 and 87-19—December 1, 1986.

P 87-20, 87-21, 87-22, 87-23, 87-24, 87-25, and 87-26—December 4, 1986.

P 87-27, 87-28, 87-29, 87-30, 87-31, 87-32, 87-33 and 87-34—December 5, 1986.

P 87-35, 87-36, 87-37 and 87-38—December 6, 1986.

P 87-39—December 7, 1986

ADDRESS: Written comments identified by the document control number "[OPTS-51645]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Condifential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-5

Importer. MTC America Incorporated.

Chemical. (S) 2-methyl-4-methoxy-diphenylamine.

Use/Import. (G) Intermediate for chemical synthesis. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; irritation: Skin—Non-irritant, Eye—Irritant; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 87-6

Importer. Confidential.

Chemical. (G) Substituted acrylate methacrylate polymer with styrene.

Use/Import. (G) Dispersively used coatings. Import range: 3,000 to 32,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 9 workers, up to 3 hrs/day, up to 62 days/yr.

Environmental Release-Disposal. 5 to 6 kg/batch released to land. Disposal by approved landfill.

P 87-7

Importer. Confidential.

Chemical. (G) Styrenated acrylic methacrylic polymer.

Use/Import. (G) Industrially used coating with a dispersive use. Import range: 1,000 to 40,000 kg/yr.

Toxicity Data. No date submitted.

Exposure. Processing: dermal, a total of 11 workers, up to 4 hrs/day, up to 20 days/yr.

Environmental Release/Disposal. 10 kg/batch released to land. Disposal by approved landfill.

P 87-8

Importer. Confidential.

Chemical. (G) Styrenated substituted acrylate methacrylate polymer.

Use/Import. (G) Industrially used automotive coating. Import range: 3,000 to 32,300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: a total of 5 workers, up to 2 hrs/day, up to 260 days/yr.

Environmental Release/Disposal. .15 to 6.9 kg/batch released to land. Disposal by approved landfill.

P 87-9

Importer. Confidential.

Chemical. (G) Complex polyester with neopentyl glycol.

Use/Import. (G) Dispersively used coating. Import range: 1,250 to 50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: A total of 9 workers, up to 4 hrs/day, up to 40 days/yr.

Environmental Release/Disposal. 13 to 15 kg/batch released. Disposal by approved landfill.

P 87-10

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester.

Use/Production. (G) Industrially used polymer having a dispersive use. Prod. range: 50,000 to 200,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 33 workers, up to 8 hrs/day, up to 219 days/yr.

Environmental Release/Disposal. 5 to 122 kg/batch released to land. Disposal by incineration and approved landfill.

P 87-11

Importer. Confidential.

Chemical. (G) Acrylic methacrylic polymer.

Use/Import. (G) Industrial coating polymer. Import range: 3,000 to 50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 11 workers, up to 4 hrs/day, up to 30 days/yr.

Environmental Release/Disposal. 10 kg/batch released to land. Disposal by incineration and approved landfill.

P 87-12

Manufacturer. Confidential.

Chemical. (G) Complex alkylated polyether.

Use/Production. (G) Additive having open industrial use. Prod range: 60,000 to 200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 53 workers, up to 6 hrs/day, up to 260 days/yr.

Environmental Release/Disposal. 0.2 to 50 kg/batch released to land. Disposal by incineration and landfill.

P 87–13

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg. Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–14

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg. Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–15

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg. Irritation: Skin—Slight.

Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–16

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–17

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–18

Manufacturer. The Dow Chemical Company.

Chemical. (G) Alkylated hydroquinone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration and navigable waterway.

P 87–19

Importer. Confidential.

Chemical. (G) Substituted sulfocarbopolycyclyazo-sulfophenylamino heteromonocyclic amino carbomonocyclic disulfonic acid, sodium salt.

Use/Import. (S) Industrial textile dye. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 87–20

Manufacturer. Confidential.

Chemical. (G) Heteropolycycle substituted ethyl methacrylate.

Use/Production: (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 87–21

Manufacturer. Enron Chemical Company.

Chemical. (S) Butyl 1,1,1,3,3,3-hexamethyl disilazanoto magnesium.

Use/Production: (S) Industrial reagent for catalyst manufacture and industrial catalyst for olefin polymerization. Prod. range: 275 to 3,000 kg/yr.

Toxicity Data. No data submitted.

P 87–22

Manufacturer. E.I. du Pont de Nemours & Company, Inc.

Chemical. (G) Aliphatic aromatic polyester.

Use/Production: (G) Open—non-dispersive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential. Disposal by incineration.

P 87–23

Manufacturer. E.I. du Pont de Nemours & Company, Inc.

Chemical. (G) Polyester urethane.

Use/Production: (G) Open—non-dispersive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential. Disposal by incineration.

P 87–24

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic amine.

Use/Production: (G) Curing agent for epoxy resins. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–25

Manufacturer. American Hoechst Corporation.

Chemical. (G) Substituted p-cresidine sulfonic acid salt.

Use/Production: (S) Site-limited intermediate for fiber reactive dyes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 87–26

Manufacturer. Texaco Chemical Company.

Chemical. (S) Ethanamine, 2,2'-[oxybis(2,1-ethanediyloxy)] bis-.

Use/Production: (S) Industrial epoxy curing agent and polyamides. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.569 g/kg; Acute dermal: >8.0 g/kg; Eye—Extremely, Skin—moderate, Skin Sensitization—sensitizer, Ames test: Non-mutagenic.

Exposure. Manufacture: dermal and inhalation, a total of 24 workers, up to 8 hrs/day, up to 38 days/yr.

Environmental Release/Disposal. 0.072 kg/day to 3.7×10^{-4} kg/day released to land.

P 87–27

Importer. Confidential.

Chemical. (G) Alkenyl succinate, metal salt.

Use/Production: (G) Petroleum additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,000 mg/kg; Primary dermal: 0.5 ml; Irritation Eye—Irritant.

Exposure. Processing: dermal, a total of 20 workers.

Environmental Release/Disposal. .3 to 10 kg/batch released to water with <1 kg/batch to air. Disposal by navigable waterway.

P 87–28

Manufacturer. Confidential.

Chemical. (G) Polyether polyurethane polymer.

Use/Production: (G) Paint additive. Prod. range: Confidential.

Toxicity Data. No data on PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 87–29

Manufacturer. Confidential.

Chemical. (G) Polyoxyalkylene alkyl silicone.

Use/Production: (S) Surfactant for polyurethane foam. Prod. range: Confidential.

Toxicity Data. No data on PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 87–30

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of ethanol, 2,2'-thiobis; ethanol 2-mercapto; oxirane methyl; and methylene bis-(4-cyclohexyl isocyanate).

Use/Production: (S) Site-limited and industrial polymer for adhesives, sealants and coatings. Prod. range: 25,000 to 100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 49 workers, up to 4 hrs/day, up to 40 days/yr.

Environmental Release/Disposal. 5 kg/batch released to land. Disposal by approved landfill.

P 87–31

Manufacturer. Products Research & Chemical Corporation.

Chemical. (S) Polymer of ethanol, 2,2'-thiobis; ethanol 2-mercapto reaction product with propylene oxide; and 1,3-propanediol, 2-ethyl-2-(hydroxymethyl).

Use/Production: (S) Industrial thermosetting polymer in sealants, adhesives and coatings. Prod. range: 100,000 to 300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 68 workers, up to 2 hrs/day, up to 250 days/yr.

Environmental Release/Disposal. 3 to 5 kg/batch release to land. Disposal by approved landfill.

P 87–32

Manufacturer. Andrews Paper & Chemical Company, Inc.

Chemical. (S) Sodium 5-sulfosalicylate.

Use/Production: (S) Industrial and commercial diazo reproduction paper. Prod. range: 5,000 to 20,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation 2 workers, up to 4 hrs/day, up to 20 days/yr.

Environmental Release/Disposal. 50 kg/batch released to air and water. Disposal by publicly owned treatment work (POTW).

P 87–33

Manufacturer. Confidential.

Chemical. (G) Substituted benzoic acid.

Use/Production: (G) Destructive use: chemical intermediate.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 87–34

Importer. Lonza Incorporated.

Chemical. (G) Substituted alkyl cyanoacetate.

Use/Import. (S) Polymer intermediate. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 87–35

Importer. Confidential.

Chemical. (G) Tertiary aliphatic amine.

Use/Import. (G) Plastic additive. Import range: Confidential.

Toxicity Data. Acute oral: 5 ml/kg; Acute dermal: >2.0 ml/kg; Irritation: Skin—Non-irritant; Eye—Servere, Skin Sensitization: Non-sensitizer.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 5 workers, up to 4 hrs/day, up to 60 days/yr.

Environmental Release/Disposal. No release.

P 87–36

Manufacturer. Confidential.

Chemical. (G) Alkenes, reaction products with triglycerides and sulfur.

Use/Production: (G) Lubricant additive—contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: 5000 mg/kg; Irritation: Skin—Non-irritant; Ames test: Non-mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 87–37

Importer. Akron Chemical Company.

Chemical. (G) Xanthogen polysulphides.

Use/Import. (S) Accelerator for vulcanization of natural and synthetic dry rubber polymers and accelerator for vulcanization of natural and synthetic rubber latex.

Toxicity Data. Acute oral: 2.5 and 5.0 g/kg; Acute dermal: Irritation: Skin—Moderate, Eye—Non-irritant; Ames test—Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 87–38

Manufacturer. Confidential.

Chemical. (G) Poly alkyl diacid condensation product.

Use/Production: (G) Industrially used coating. Prod. range: 5,000 to 102,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: A total of 12 workers, up to 8 hrs/day, up to 260 days/yr.

Environmental Release/Disposal. 2.2 to 74 kg/batch released to land. Disposal by incineration.

P 87–39

Importer. Showa Denko America, Incorporated.

Chemical. (G) *Bacillus* sp. enzyme.

Use/Import. (S) Industrial, commercial and consumer laundry detergent additive, which hydrolizes protein stains in soiled clothing: liquid formulation and laundry detergent additive, which hydrolizes protein stains in soiled clothing, granular formula. Import range: Confidential.

Toxicity Data. Acute oral: 10 g/kg; Irritation: Skin—Slight, Eye—Non-irritant, Skin sensitization—non-sensitizer, Ames test—Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

Dated: October 14, 1986.

Denise Devoe,

Acting Division Director Information Management Division.

[FR Doc. 86-24002 Filed 10-22-86; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Approval of Requests of Other Financing Institutions To Retire Stock

AGENCY: Farm Credit Administration.

ACTION: Notice of decision.

SUMMARY: Several Federal Intermediate Credit Banks ("FICBs") of the Farm Credit System ("System") have received requests from commercial banks and agricultural credit corporations who discount agricultural loans with the FICBs as other financing institutions ("OFIs") under authority of the Farm Credit Act of 1971, as amended, to retire participation certificates and allocated legal reserves held by the OFIs in the FICBs. The FICBs indicated their willingness to approve those requests subject to the Farm Credit Administration ("FCA") granting an exception to the FCA Capital Directive No. 1 ("Capital Directive") issued by the FCA on February 14, 1986, pursuant to section 4.3(b)(2) of the Farm Credit Act of 1971, as amended, establishing minimum capital adequacy requirements for System banks and associations. The Capital Directive prohibited retirement of capital stock of the FICB, other than voting stock, unless an exception were granted by the FCA on a case-by-case basis.

Notice is hereby given that the Farm Credit Administration Board, at its regular meeting held on Tuesday, October 7, 1986: (1) Granted an exception to the Capital Directive to permit retirement of such equities in accordance with FICB policies and agreements with the OFIs as provided in 12 CFR 614.4560, 615.5320; and (2) Amended the Capital Directive to exclude such retirements from its scope. As a result, decisions relating to the retirement of participation certificates and allocated legal reserves held by OFIs shall be made by the respective FICBs pursuant to the terms of the contractual arrangements between the parties and applicable FCA regulations.

Frank W. Naylorm Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 86-23885 Filed 10-22-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOME LOAN BANK BOARD

Homestead Savings and Loan Association, Woodward, OK, Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Homestead Savings and Loan Association, Woodward, Oklahoma, on October 10, 1986.

Dated: October 16, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-23941 Filed 10-22-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Orchard Valley Financial Corp.; Application To Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbaking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 12, 1986.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Orchard Valley Financial Corporation*, Englewood, Colorado; to engage *de novo* through its subsidiary, First State Insurance, Hotchkiss, Colorado, in insurance sales pursuant to § 225.25(b)(8) of the Baord's Regulation Y. These activities will be conducted in an area surrounding Hotchkiss, Colorado, not to exceed a population of 5,000.

Board of Governors of the Federal Reserve System, October 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23896 Filed 10-22-86; 8:45 am]

BILLING CODE 6210-01-M

Tri-County 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 section 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 13, 1986.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Tri-County Bancorp, Inc.*, Crobin, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Tri-County National Bank, Corbin, Kentucky.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CB&T Financial Corp.*, Fairmont, West Virginia; to acquire 100 percent of the voting shares of the Union Bank of Harrisville, Harrisville, West Virginia.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Illinois Community Bancorp, Inc.*, Peoria, Illinois; to acquie 97.66 percent of the voting shares of Northwest Community Bank, Peoria, Illinois, and First Tazwell Bancorp, Inc., Peoria, Illinois and thereby indirectly acquire First National Bank of East Peoria, East Peoria, Illinois. Comments on this application must be received by November 12, 1986.

2. *First Citizens of Paris, Inc.*, Paris, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the Citizens National Bank of Paris, Paris, Illinois. Comments on this application must be received by November 7, 1986.

3. *Mid States Bancshares, Inc.*, Moline, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Moline, Moline, Illinois. Comments on this application must be received by November 12, 1986.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoeinig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lenexa National Bancshares, Inc.*, Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Lenexa Bancorporation, Inc., Lenexa, Kansas, and thereby indirectly acquire The Lenexa National Bank, Lenexa, Kansas. Comments on this application must be received by November 12, 1986.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *County Bancorporation, Inc.*, Jackson, Missouri; to acquire 100 percent of the voting shares of Delta Counties Bank, Sikeston, Missouri a *de novo* bank.

2. *Middleburg Bancorp, Inc.*, Middleburg, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Deposit Bank, Middleburg, Kentucky.

Board of Governors of the Federal Reserve System, October 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23897 Filed 10-22-86; 8:45 am]

BILLING CODE 6210-01-M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Scholarships; Closing Date for Nominations from Eligible Institutions of Higher Education.

Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93-642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR 1801, and were published in the **Federal Register** on June 19, 1976 (43 FR 26366).

In order to be assured of consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, CN 6302, Princeton, N.J. 08541-6302 postmarked no later than Sunday, December 1, 1986.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 86-23946 Filed 10-22-86; 8:45 am]

BILLING CODE 9500-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs and Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Anti-Infective Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on October 7, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated October 17, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-23925 Filed 10-22-86; 8:45 am]

BILLING CODE 4160-01-M

Dermatologic Drugs Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Dermatologic Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on October 7, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: October 17, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-23926 Filed 10-22-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78N-0124]

Human Drugs; Depo-Provera Sterile Aqueous Suspension

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that, by letter dated September 29, 1986, the Upjohn Co. withdrew (1) its supplemental new drug application (NDA) for Depo-Provera (medroxyprogesterone acetate) Sterile Aqueous Suspension as a contraceptive agent in humans, and (2) its appeal of the Report (initial decision) of the Public Board of Inquiry refusing approval of the supplemental NDA. The availability of the Board's Report was announced by a notice published in the **Federal Register** of October 29, 1984 (49 FR 43507). As a result of Upjohn's actions, the appeal is moot and the supplemental application

is no longer before the agency. The Report stands as final with respect to the issues decided by the Board based on the information before it.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Jr., Division of Regulations Policy (HFC–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

Dated: October 17, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–23924 Filed 10–20–86; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee Meeting; Notice of Meeting Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice to change the location of the Orthopedic and Rehabilitation Devices Panel meeting scheduled October 31, 1986. The meeting was announced by notice in the **Federal Register** of September 26, 1986 (51 FR 34258). To accommodate a larger audience, the meeting location, instead of being held in the Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, DC, will be held in the Auditorium, Health and Human Services North Bldg., 330 Independence Ave. SW., Washington, DC. Persons attending must enter the building at the C St. entrance.

FOR FURTHER INFORMATION CONTACT: Michael S. Gluck, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

Dated: October 17, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–23927 Filed 10–22–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BERC–390–GN]

Medicare and Medicaid: Information on the Consolidated Omnibus Budget Reconciliation Act of 1985

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

ACTION: General notice.

SUMMARY: This notice provides brief descriptions of those provisions or parts of provisions of Pub. L. No. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (several that affect Medicare and 2 that affect Medicaid) that HCFA has to date identified as being self-executing. These provisions are so clear and specific that they can be implemented without first issuing regulations. (With further analysis, HCFA may add other provisions to the list of those that are self-executing.)

Conforming amendments may later be added to the HCFA regulations to reflect the changes described in this notice. The statutory effective dates of these provisions and the anticipated increase or decrease in program outlays are shown in the descriptions of the sections.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias (202) 245–0383.

Background

Title IX of Pub. L 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985, contains provisions that affect Medicare, Medicaid, and the Maternal and Child Health programs. With one exception, the provisions described in this notice are contained in Title IX. The sole exception is section 13205 of Title XIII (Revenues, Trade, and Related Programs) which is cited in section 9129 of Title IX, and which extends Medicare coverage, and application of the Hospital Insurance (Medicare Part A) tax, to the earnings of newly hired State and local government employees.

Description

I. Section 9101. Rate of Increase in Payments for Inpatient Hospital Services

Paragraph (a) amends section 5(c) of the Emergency Extension Act of 1985 (Pub. L. 99–107) to extend the freeze on Medicare payments for inpatient hospital services, effective for the period October 1, 1985 through April 30, 1986. (Other provisions affected by § 5(c) were described in interim final regulations published on May 6, 1986 (51 FR 16772)).

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated increase in program outlays	35	200	225	250	275	300

II. Section 9123. Extension and Payment for Hospice Care

a. Elimination of Sunset.

Section 9123(a) extends coverage of hospice care indefinitely by removing, from section 122(h)(1)(A) of Pub L. 97–248, the phrase ". . . and before October 1, 1986."

b. Increase in Daily Rates for Hospice Care.

Section 9123(b) amends section 1814(i)(1)(B) and (C) of the Social Security Act (the Act) to provide that—

1. For services furnished on or after April 1, 1986—

- The daily rate of payment for routine home care shall be $63.17;
- The daily rate for other services included in hospice care shall be $10 more than the rate of payment recognized as of July 1, 1985;

2. The effective date for requiring the Secretary to review and adjust payment rates at least annually and report to Congress on those adjustments and on the adequacy of those rates to ensure participation of an adequate number of hospice programs is October 1, 1986 instead of October 1, 1985.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated increase in program outlays	5	55	90	120	160	210

III. Section 9124. Limiting the Penalty for Late Enrollment in Medicare Part A

Amends section 1818(c) of the Act to provide that increases in Part A premiums, required for individuals who do not enroll in Part A as soon as they are eligible to do so or do not continue their enrollment for periods during which they could be enrolled—

- May not exceed 10 percent of the monthly premium amount determined for that year; and
- Shall apply for 2 years for each 12-month period during which the individual could have been enrolled but was not. For current enrollees who have already paid increased premiums for periods equal to or greater than the period specified in the preceding sentence, the increase will be eliminated beginning with premiums for July 1986, which is also the effective date for the amendments. (Section 1818 applies to those few individuals who can become entitled to Medicare Part A only by paying a monthly premium.)

Anticipated Increase in Program Outlays: $5M a year.

IV. Section 9126. Access to Skilled Nursing Facilities

a. Optional Prospective Rates for Certain Skilled Nursing Facilities (SNFs).

Amends section 1888 of the Act to provide that—

1. A SNF that received Medicare payment for fewer than 1,500 patient days during the preceding fiscal year may elect to be paid on a prospective basis for all routine service costs, including capital-related costs applicable to routine services, in a fiscal year.

2. The Secretary shall establish the prospective payment amounts for each Federal fiscal year at least 90 days before that year begins.

3. The Secretary may pay for ancillary services on a reasonable charge basis (instead of a reasonable cost basis) if the Secretary determines that such basis will provide an equitable level of reimbursement and will ease the facility's reporting burden.

4. Effective for fiscal years that begin on or after October 1, 1986.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated increase in program outlays	0	30	85	95	105	115

V. Section 9201. Extension of Working Aged Provision.

This amendment eliminates the age 69 upper limit on individuals subject to the working aged provision. Medicare is now secondary payer for services covered under an employer group health plan for employed individuals age 65 or older and spouses age 65 or older of employed individuals of any age if these individuals elect to be covered by the employer plan. (Previously Medicare was secondary for employed individuals age 65–69 and the spouses age 65–69 of employed individuals any age through 69 who elected the employer plan.) This extension of the working aged provision is accomplished by amending section 1862(b)(3)(A) of the Act. Sections 1837(i)(3) and 1838(e) of the Act are also amended to remove age 70 as a factor in the determination of the special enrollment period for Medicare Part B and the effective date of enrollment for affected employees. Section 9201 also makes conforming amendments in the Age Discrimination in Employment Act of 1967, which requires employers to offer the same health benefits, under the same conditions to older and younger employees and spouses.

Effective for services furnished on or after May 1, 1986.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated decrease in program outlays	0	−225	−260	−285	−320	−355

VI. Section 9211. Provisions Relating to Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs).

a. Financial Responsibility for Patients Hospitalized on the Effective Date of Enrollment or Disenrollment. Amends section 1876(c) of the Act to add a new subsection (c)(7) to provide as follows:

1. For a beneficiary who enrolls in an HMO or CMP that has a risk-basis contract, and who, on the effective date of enrollment is an inpatient of a hospital that is subject to the prospective payment system (PPS)—

- The HMO or CMP is not responsible for payment of inpatient services under Part A of Medicare until the day after the date of discharge;
- Medicare pays for the Part A inpatient hospital services under section 1886(d) of the Act until the patient is discharged; and
- Medicare also pays the HMO or CMP the amounts that are due on behalf of the beneficiary under section 1876(a)(1)(D) of the Act.

2. For an enrollee of a risk-basis HMO or CMP who, on the effective date of disenrollment is an inpatient of a PPS hospital—

- The HMO or CMP continues to be responsible for inpatient hospital services under Medicare Part A until the patient is discharged;
- Medicare makes no payment to the hospital under the prospective payment system; and
- Medicare makes no payment to the HMO or CMP on behalf of the beneficiary after the effective date of disenrollment.

3. Applies to enrollment and disenrollments that become effective on or after April 7, 1986.

b. Disenrollments.

1. Amends section 1876(c)(3)(B) of the Act to provide that an individual may disenroll effective on the first day of the calendar month following the date on which he or she requested disenrollment. (Under previous law, disenrollment could not be effective until the first day of the second month following the date on which the individual requested disenrollment.)

2. Effective for requests for termination of enrollment submitted on or after May 1, 1986.

c. Review of Marketing Material.

Amends section 1876(c)(3)(C) of the Act to—

1. Add a prohibition against using any marketing material unless it—

- Has been submitted to the Secretary at least 45 days before its distribution; and
- Has not been disapproved by the Secretary.

2. Require the Secretary to review all marketing material and disapprove any that he or she determines is materially inaccurate or misleading or otherwise makes a material misrepresentation.

3. Effective for materials distributed on or after July 1, 1986.

d. Prompt Publication of the AAPCC.

(AAPCC stands for adjusted average per capita cost, which is determined annually by HCFA and is used as a basis for the determination of per capita payment rates.)

1. Amends section 1876(a)(1)(A) of the Act to require the Secretary to publish, by September 7 of each year, the AAPCC for the succeeding calendar year.

2. Effective for payment rates applicable to 1987 and subsequent years.

VII. Section 9219(a). Working Aged Technical Corrections

a. Premium Penalty.

Section 9219(a)(1) eliminates from section 1839(b) of the Act the requirement that Medicare Part A entitlement accompany employer group health plan coverage in a month for that month to be excluded in determining if and by how much the premium must be increased for late enrollment in either Part A or Part B of Medicare. For months beginning with January 1983 (when the working aged provisions were effective), employer plan coverage is sufficient basis for excluding the month. The amendment permits recalculation or elimination of the increase in premiums for months after May 1986.

b. Special Enrollment Periods.

Section 9219(a)(2) eliminates, from section 1837(i) of the Act, Medicare Part A entitlement as a requirement for a special enrollment period. It also eliminates an anomaly that limited multiple special enrollment periods to

those individuals who had enrolled in Medicare Part B when first eligible. These amendments are effective August 1, 1986. However, section 9219(a)(3)(B) permits any individual who would have been entitled to a special enrollment period that would have begun after November 1984, if these amendments had been in effect, to have a special enrollment period beginning August 1986.

VIII. Section 9301. Medicare Physician Payment Provisions.

a. Extension of Current Freeze on Payment Rates. Amends section 5(c) of the Emergency Extension Act of 1985 (Pub. L. 99–107) to extend the freeze on physician payments to the period October 1, 1985 through April 30, 1986.

b. Extension of Certain Provisions Through December 31, 1986.

Note.—A "participating physician" is one who has in effect an agreement with the Secretary to accept assignment of benefits for all services he or she furnishes to Medicare beneficiaries.

1. Extension.

Amends section 1842(b)(4) of the Act to provide as follows:

i. For services furnished during the period May 1–December 31, 1986—

- Prevailing charge levels determined for a nonparticipating physician shall be no higher than the prevailing charge levels set for the 12-month period beginning July 1, 1983; and
- The economic index-adjusted prevailing charge levels determined for a participating physician are increased by an annual index that is 1 percent greater than it would otherwise have been.

ii. For services furnished during calendar years beginning on or after January 1987, prevailing charge levels for physicians who were not participating when they furnished the services may not be higher than the levels set for participating physicians for the preceding calendar year without regard to the MEI (Medicare Economic Index) adjustment for the May–December 1986 period.

iii. The customary charges for services furnished during the period May 1 through December 31, 1986, by physicians who were not participating when they furnished the services, shall be as follows:

- If the physician was not a participating physician at any time during the 12 month period beginning October 1, 1984, the customary charges are the same as the customary charges recognized for the 12-month period beginning July 1, 1983;
- If the physician was a participating physician at any time during the 12-month period beginning October 1, 1984, the customary charges are determined on the basis of the physician's actual charges billed during the 12-month period ending March 31, 1985.

iv. For the period May 1–December 31, 1986, and for calendar year 1987, the customary charges determined for a physician who was not a participating physician on September 30, 1985 shall not recognize any increases in actual charges for services furnished during the 15-month period July 1, 1984–September 30, 1985 over the level of actual charges billed during the 3-month period ending June 30, 1984.

v. For calendar year 1987, customary charges determined for a physician who was not a participating physician on April 30, 1986 shall not recognize any increases in actual charges for services furnished during the 7-month period October 1, 1985–April 30, 1986 over the actual charges billed during the 3-month period ending June 30, 1984.

vi. For calendar years 1987 and 1988, customary charges determined for a physician who was not a participating physician on December 31, 1986 shall not recognize increases in actual charges for services furnished during the 8-month period May 1–December 31, 1986 over actual charges billed by the physician during the 3 month period ending June 30, 1984.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated decrease in program outlays	−125	−450	−525	−575	−575	−550

2. Continued Enforcement.

Amends section 1842(j)(1) of the Act to require the Secretary to monitor charges made by a physician during any portion of the 30-month period beginning July 1, 1984 during which he or she was not a participating physician.

3. Period for Entering Participation Agreements.

i. Requires the Secretary to provide that, during April 1986, physicians and suppliers may—

- Enter into participation agreements for the 8-month period beginning May 1, 1986; or
- Terminate an agreement previously entered into for fiscal year 1986.

ii. Specifies that a physician or supplier that had entered into a participation agreement for fiscal year 1986 will be deemed to have entered into such an agreement for the 8-month period beginning May 1, 1986 and for each succeeding year, unless the physician or supplier terminates the agreement before the beginning of the respective period.

iii. Requires the Secretary to publish, at the beginning of the 8-month period, a new directory of participating physicians and suppliers.

4. Effective for services furnished on or after May 1, 1986.

c. Incentives for Participating Physician Program.

1. Amends section 2306(e) of the Deficit Reduction Act of 1984 (Pub. L. 98–369) to—

- Extend its provisions through 1986;
- Increase funds to $18,000,000; and
- Provide that a significant portion of those funds shall be used to expand the participating physician and supplier program and to develop professional relations staff to deal with billing and other problems of participating physicians and suppliers.

2. Improvement of Participating Physician Directories. Amends section 1842(i) of the Act to provide that—

- Instead of a single directory, there shall be several, for appropriate geographical areas; and
- Copies of the appropriate directory shall be sent to each participating physician residing in the area.

3. Elimination of Physician Assignment Rate List. Further amends section 1842(i) of the Act to eliminate the requirement for annual publication of a list of physicians and suppliers showing the percent of their Medicare claims that were paid under assignment. The remainder of section 1842(i) is redesignated as section 1842(h) (4) through (6).

4. Information on the Participating Physician and Supplier Program. Further amends section 1842(h) of the Act by adding a new paragraph (h)(7) to require the Secretary to provide that each "explanation of benefits" (notice to beneficiaries, indicating what benefits have been paid to them or their representatives) shall include—

- A reminder about the participating physician and supplier program (including the limitation on the charges that may be imposed by such physicians and suppliers); and
- The toll-free number or numbers that a beneficiary may call to obtain information on participating physicians and suppliers.

5. Effective on a date specified by the Secretary, which shall be no later than October 1, 1986.

d. Changing Customary and Prevailing Charge Updates for Physician Services and Other Part B Services from October to January.

1. Payment Updates. Amends section 1842(b)(3) of the Act to change several dates that related the process to the Federal fiscal year.

2. Participating Agreements. Amends section 1842(h)(2) of the Act to remove language that equated "year" with the Federal fiscal year, so that provisions can be related to the calendar year, which is uniform.

3. Directories. Amends section 1842(h)(4) (which was previously paragraph (i)(2)) by striking out the word "fiscal" wherever it appears.

4. Effective for services furnished on or after October 1, 1986.

5. Transition. Provides that, with respect to payment for Part B services furnished during the period October 1 through December 31, 1986, customary and prevailing charges and lowest charges shall be determined on the same basis as for services furnished on September 30, 1986. (The first January update would be in January 1987.)

IX. Section 9303. Payment for Clinical Laboratory Services

a. Changing the Month of Annual Update from July to January.

Amends section 1833(h) of the Act as follows:

1. It provides that the annual update of fee schedules for clinical laboratory services shall be effective on January 1 instead of July 1. (This change applies to tests performed on or after July 1, 1986.)

2. It postpones for 6 months the requirement that fee schedules be established nationwide instead of on a regional, statewide, or carrier service area basis.

3. It requires the Secretary to provide that the annual adjustment for 1986 shall be effective on January 1, 1987, shall apply through 1987, and shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) that occurs over an 18-month period rather than a 12-month period.

b. Providing Ceiling on Rates. Paragraph (b)(2) adds section 1833(a)(4)(B) to establish a ceiling on payments and a limitation amount, as follows:

1. For clinical laboratory tests performed between July 1, 1986 and December 31, 1987, payment shall be the least of the actual charges for the test, the fee schedule amount, and 115 percent of the median of all the fee schedules established for that test for that laboratory setting.

2. For clinical laboratory tests performed after December 31, 1987, and so long as the fee schedule for the test has not been established on a nationwide basis, the payment shall be the lesser of the actual charge and 110 percent of the median of all the fee schedules established for that test for that laboratory setting.

3. Effective for clinical diagnostic laboratory tests performed on or after July 1, 1986.

c. Miscellaneous Provisions.

1. Method of Payment for Non-independent Laboratories. Amends section 1833(h)(5)(C) to make clear that payment for clinical laboratory tests performed by any laboratory except a rural health clinic may be made only to a provider or on the basis of an assignment. Effective for tests performed on or after January 1, 1987.

2. Extending Medicare Proficiency Testing Authority. Amends section 1123(a) to extend, through September 30, 1987, the Secretary's authority to develop and conduct testing to determine the proficiency of certain health care personnel. (Not limited to laboratory.) Effective April 7, 1986.

[Millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated changes in program outlays	−5	+10	+50	+75	+85	+95

X. Section 9304(b). Computation of Customary Charges for Certain Former Hospital-Compensated Physicians

("Hospital-compensated physician" means a physician who is compensated by a hospital for physician services furnished to patients of that hospital.) Establishes rules, applicable for the 8-month period from May 1 through December 31, 1986, for the determination of the physician's customary charges for services performed during that period.

a. If the physician was a hospital-compensated physician at any time between October 31, 1982 and January 31, 1985, but as of February 1985 was no longer hospital-compensated, the customary charges shall be based on the physician's actual charges billed for the 12-month period ending March 31, 1985.

b. If the physician was not a participating physician on September 30, 1985 and is not participating on May 1, 1986, those charges (determined under the preceding paragraph) shall be deflated (to take into account the legislative freeze on actual charges for services of nonparticipating physicians) to 85 percent of the customary charges.

c. If, during the period from February 1, 1985 to December 31, 1986, a physician changes from being a hospital compensated physician to not being a hospital-compensated physician, his or her customary charges shall be determined in the same manner as for a physician considered to be a new physician. Costs/savings are inestimable.

XI. Section 9313. Part B Premiums

a. Amends sections 1839 (e) and (f) of the Act to change or add dates in order to extend, for one more year, the provisions that—

1. Require that the Part B premium be equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over (which is approximately 25 percent of program costs); and

2. Protect most enrollees against premium increases for years in which there is no cost-of-living increase in social security cash benefits, or in which the cost of-living increase is smaller than the premium increase (The aim is to prevent the increase in the premium from reducing the portion of the cash benefit available to the enrollee for purposes other than premium payment. However, increases due to late enrollment are not precluded.)

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated changes in program income	0	0	−75	+225	+350	+350

XII. Section 9528. Annual Calculation of Federal Medical Assistance Percentage (FMAP)

a. Amends section 1101(a)(8)(P) of the Act to provide that the FMAP shall be calculated annually instead of every two years.

b. Effective for fiscal years 1987 and thereafter. The requirement for publication by November of the preceding year is waived for the 1987 rate and the Secretary is required to publish those rates as soon as possible after the amendment is enacted.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated changes in program income	0	+$64	* * *	* * *	* * *	* * *

XIII. Section 13205 Medicare Coverage of, and Application of Hospital Insurance Tax to, Newly Hired State and Local Government Employees

In summary, section 13205 provides (1) that newly hired State and local employees who initially begin performing substantial and regular service for remuneration after March 31, 1986 are subject to the hospital insurance (HI) portion of the FICA tax; (2) that, a State may request an agreement with the Secretary of HHS to cover individuals who were State or local employees on March 31, 1986; (3) that quarters of coverage earned by State and local employees under this provision may be used in conjunction with regular SSA quarters of coverage to insure the individual, but for HI entitlement purposes only; and (4) that, for purposes of establishing HI entitlement based on disability under this provision, an individual may not be considered under a disability before April 1, 1986. Section 13205 does not grandfather in individuals who were State or local employees before April 1, 1986, that is, it does not provide for taxing or crediting earnings received before April 1, 1986.

a. Application of Hospital Insurance Tax to Newly Hired Employees of State and Local Government. Amends section 3121(u) of the Internal Revenue Code to provide for application of the hospital insurance tax to newly hired State and local employees.

b. Entitlement to Hospital Insurance Benefits.

1. Revision of Definition of Medicare Qualified Government Employment. Amends section 210(p) of the Act to provide that State and local government employment (as well as Federal government employment) is qualifying for quarters of coverage for entitlement to hospital insurance.

2. Entitlement to Hospital Insurance Benefits. Amends section 226, 226A, and 1811 of the Act by changing "Medicare qualified Federal Employment" to "Medicare qualified government employment" and "Federal employment" to "government employment" as appropriate.

c. Optional Medicare Coverage of Current Employees. Amends section 218 of the Act to require the Secretary, at the request of any State, to enter into an agreement to cover current, as well as newly hired, employees.

d. Effective for services performed after March 31, 1986.

[In millions of dollars]

	Fiscal year					
	1986	1987	1988	1989	1990	1991
Anticipated revenue increase	23	182	328	462	623	751

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No 13.773, Medicare—Hospital Insurance; and No. 13774, Medicare Supplementary Medical Insurance)

Dated: September 12, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-23954 Filed 10-22-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-86-1646]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of inforamtion to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbes of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Program—Demolition or Disposition of Public Housing Projects—Final Rule—24 CFR Part 970—Public Housing Demolition, Disposition and Conversion Handbook 7486.1.

Office: Public and Indian Housing

Form No.: None

Frequency of submission: On Occasion

Affected public: Non-Profit Institutions

Estimated burden hours: 3,600

Status: Extension

Contact: Pris P. Buckler, HUD, (202) 755-6640; Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated October 10, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: HUD Application for Property Appraisal and Commitment, Master Conditional Commitment Procedure.

Office: Housing

Form No.: HUD-92800, 92800-5B, 91322, 91322.1, 91322.2, and 91322.3

Frequency of submission: On Occasion

Affected public: Individuals or Households and Businesses or Other For-Profit
Estimated burden hours: 541,950
Status: Revision
Contact: Gerald White, HUD, (202) 755–6700; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 1, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Lead-Based Paint Hazard Elimination in Public Housing (FR–1748).
Office: Public and Indian Housing
Form No.: None
Frequency of submission: On Occiasion
Affected public: Individuals or Households, State or Local Governments, and Non-Profit Institutions
Estimated burden hours: 94,000
Status: Extension
Contact: Thomas Sherman, HUD, (202) 755–5380–Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7 (d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 10, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Statement of Taxes.
Office: Administration
Form No.: HUD–434
Frequency of submission: On Occasion
Affected public: State or Local Governments, Businesses or Other For-Profit, and Federal Agencies or Employees
Estimated burden hours: 150
Status: Extension
Contact: Eugene Morroni, HUDS (202) 755–6449; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: October 10, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgagee's Application For Insurance Benefits (Multifamily Mortgage).
Office: Administration
Form No.: HUD–2747
Frequency of submission: On Occasion
Affected public: State or Local Government, Businesses or Other For-Profit, and Federal Agencies or Employees
Estimated burden hours: 25
Status: Extension
Contact: Eugene Morroni, HUD, (202) 755–6449; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).s

Dated: October 10, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: American Housing Survey—1987 Metropolitan Sample (AHS–MS).
Office: Policy Development and Research
Form No.: AHS–61, 62, 63, 66, 67, 68, and 590
Frequency of submission: Annually
Affected public: Individuals or Households
Estimated burden hours: 25,393
Status: Revision
Contact: Duane T. McGough, HUD, (202) 755–5060; Arthur F. Young, Census, (301) 763–2863; Robert Fishman, OMB (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act U.S.C. 3535(d).

Dated: October 10, 1986.

Donald C. Demitros,

Acting Director, Office of Information, Policies and Systems.

[FR Doc. 86–24011 Filed 10–22–86; 8:45am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–07–4410–13]

Availability of California Desert Plan Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 101(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared the Final Environmental Impact Statement (FEIS) on the 1985 Amendment review of the California Desert Plan and Eastern San Diego County Management Framework Plan.

DATE: Comments on the FEIS are being accepted for 30 days from the date of this notice.

ADDRESS: For further information contact Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, CA 92507.

SUPPLEMENTARY INFORMATION: Twenty amendments were accepted for consideration. The amendments propose changes in planning guidelines for waste disposal and agriculture, as well as site-specific measures. The latter include changes in vehicle access restrictions, Areas of Critical Environmental Concern (ACEC) and Special Areas, grazing allotments, wild horse and burro management, and multiple-use class designation. Under the preferred alternative, 17 amendments would either be accepted or accepted with modification, and three would be rejected.

Comments on the FEIS should be submitted to the following address to assure timely processing: 1985 Plan Amendments, Bureau of Land Management, California Desert District, 1696 Spruce Street, Riverside, CA 92507.

A limited number of copies of the FEIS are available upon request at the address listed above. Copies are also available for review at two other locations:

USDI, Bureau of Land Management, 2800 Cottage Way, Room E–2841, Sacramento, California 95825
USDI, Bureau of Management, 1725 I Street NW., Suite 906, Washington, DC 20240.

Ed Hastey,

State Director.

[FR Doc. 86–23909 Filed 10–22–86; 8:45am]

BILLING CODE 4310–40–M

[CA–010–07–4322–02]

Bakersfield District Grazing Advisory Board Meeting; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Notice of Bakersfield District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given that the formal meeting of the Bakersfield District Grazing Advisory Board to the Bureau of Land Management, U.S. Department of the Interior, will meet on Tuesday, November 18, 1986 instead of November 13, 1986. The time and location will remain the same as previously published on October 8, 1986 (51 FR 36068): 9 a.m. until 4 p.m., in Room 335 of the Federal Building, 800 Truxtun Avenue, Bakersfield, California.

FOR FURTHER INFORMATION CONTACT: Marta L. Witt, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301; (805) 861–4191.

Dated: October 15, 1986.

Timothy R. Salt,

Associate District Manager.

[FR Doc. 86-23899 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-40-M

Casper District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Casper District Advisory Council Meeting

SUMMARY: The Casper District Advisory Council will meet on November 7, 1986, in the City Council Chambers of the City Hall in Buffalo, Wyoming. The meeting will begin at 10:00 am MST.

The meeting agenda will include election of officers for the council, an update on the public lands access issues, the latest mineral sales update, a briefing on rangeland monitoring, and comments from the public. Other topics may be considered as suggested by council members or the public.

Meetings are open to public participation. Persons who desire to address the council are asked to contact Chuck Wilkie at 307/261-5101 in advance of the meeting.

Dated: October 15, 1986.

James W. Monroe,

District Manager.

[FR Doc. 86-23910 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-22-M

[NM-030-07-4322-14]

Las Cruces District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM) Las Cruces District, New Mexico, Interior.

ACTION: Notice of Meeting.

SUMMARY: This will be the first meeting of the newly rechartered Board. The primary agenda items will be election of officers and review of the 8100 (Range Improvement) Program.

DATE: The meeting will be held November 24, 1986, beginning at 10:00 a.m. It is anticipated that the meeting will adjourn by 3:30 p.m., but may run until 4:30 p.m., depending on the amount of discussion generated. Public comment will be heard by the Board at 1:15 p.m.

ADDRESS: The meeting will be held in the Conference Room of the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico.

FOR FURTHER INFORMATION CONTACT: H. James Fox, Disrict Manager, Las Cruces District, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico 88005, Phone: (505) 525-8228.

SUPPLEMENTARY INFORMATION: In addition to the primary agenda items, the members will hear a brief summary of major BLM activities in the Las Cruces District. The presentation on the 8100 Program will include review of the following:

1. Fiscal Year (FY) 86 accomplishments;
2. FY 87-88 project proposals;
3. District Rangeland Improvement Action Plan;
4. Policy on compliance with stipulations and time frames for completion of projects undertaken by grazing permittees;
5. New Mexico BLM State Director's policy on wildlife projects, specifically that 25% of 8100 money should be spent on wildlife projects.
6. Proposal for increasing public & user participation in allotment planning.

H. James Fox,

District Manager.

[FR Doc. 86-23902 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-FB-M

[WY-920-06-4990-11-6001; W-96746]

Proposed Reinstatement of Terminated Oil and Gas Lease

October 17, 1986.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-96746 for lands in Johnson County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-96746 effective October 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-24004 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-22-M

[AZ-020-06-4212-12; A 20346-0]

Realty Action: Exchange of Public Lands, Navajo County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 17 N., R. 15 E.,
Sec. 22, W½NW¼, NW¼SW¼.
T. 20 N., R. 15 E.,
Sec. 24, W½SW¼, SE¼SW¼.
T. 15 N., R. 16 E.,
Sec. 6, Lots 1-4, 8.
T. 16 N., R. 16 E.,
Sec. 28, A11.
T. 17 N., R. 16 E.,
Sec. 24, Lots 1-4, W½E½, W½.
T. 18 N., R. 16 E.,
Sec. 4, Lot 1, SE¼NE¼, E½SE¼.
T. 14 N., R. 17 E.,
Sec. 8, SE¼;
Sec. 22, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 24, NE¼.
T. 16 N., R. 17 E.,
Sc. 6, Lots 4 and 5.
T. 17 N., R. 17 E.,
Sec. 28, W½E½, W½.
T. 13 N., R. 18 E.,
Sec. 12, E½E½.
T. 17 N., R. 18 E.,
Sec. 4, Lots 1-4, S½N½, S½.
T. 14 N., R. 19 E.,
Sec. 4, Lots 1-4, S½N½, S½;
Sec. 10, NE¼, N½SE¼, SE¼SE¼;
Sec. 12, N½;
Sec. 28, SE¼SE¼.
T. 15 N., R. 19 E.,
Sec. 12, Lots 1-3, N½, SW¼;
Sec. 14, All.
T. 13 N., R. 23 E.,
Sec. 22, NW¼SE¼, SE¼SE¼.
Containing 6,358.11 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws, including the mining laws, but not

the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall teminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date shown below interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be reviewed by the State Director, who may modify, vacate, or sustain this reality action.

Dated: October 16, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86-23911 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-32-M

[CA-940-07-4520-12 (Group 876)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Siskiyou County

T. 40 N., R. 11 W.

2. This plat representing the metes-and-bounds survey of Tracts 44 and 45 in Township 40 North, Range 11 West, Mount Diablo Meridian, California, under Group No. 876, California, was accepted September 30, 1986.

3. This plat will immediately become the basic record of describing the land for all authorizing purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest, and the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-23912 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12 (Group 778)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Siskiyou County

T. 16 N., R. 7 E.

2. This plat (5 sheets) representing the dependent resurvey of portions of the east and north boundaries, and a portion of the subdivisional lines, with a subdivision of sections 3, 14, and 15, the dependent resurvey of Homestead Entry Survey (HES) No. 225, and certain mineral surveys, and the metes-and-bounds survey of Tracts 62, 63, and 64, Township 16 North, Range 7 East, Humboldt Meridian, California, under Group No. 778, California, was accepted September 30, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Department of Agriculture, Forest Service, Klamath National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-23913 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12 (Group 946)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Marin County

T. 4 N., R. 10 W.

2. This plat (2 sheets) representing the dependent resurvey of a portion of the Rancho Nicasio (Lot 38) and California State Tideland Surveys Nos. 225, 226, and 229, and the survey of a portion of the exterior boundaries of the Golden Gate National Recreation Area, in Township 4 North, Range 10 West, Mount Diablo Meridian, California, under Group No. 946, California, was accepted September 16, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the National Park Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-23914 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12 (Group 851)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Del Norte County

T. 14, N., R. 2 E.

2. This plat representing the dependent resurvey of the east boundary and a portion of the south and north boundaries, in Township 14 North, Range 2 East, Humboldt Meridian, California under Group No. 851, California, was accepted September 26, 1986.

T. 15, N., R. 2 E.

3. This plat representing the dependent resurvey of a portion of the east boundary in Township 15 North, Range 2 East, Humboldt Meridian, California, under Group No. 851, California, was accepted September 26, 1986.

4. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

5. This plat was executed to meet certain administrative needs of the U.S. Department of Agriculture, Forest Service, Six Rivers National Forest.

6. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage

Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Service.

[FR Doc. 86–23915 Filed 10–22–86; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12 (Group 851)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Del Norte County

T. 13 N., R. 2 E.
T. 13 N., R. 3 E.

2. This plat representing the dependent resurvey of a portion of the east boundary of Township 13 North, Range 2 East, and a portion of the former west boundary of Township 13 North, Range 3 East, and the survey of section 40. Township 13 North, Range 3 East, Humboldt Meridian, California, under Group No. 851, California, was accepted September 26, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Department of Agriculture, Forest Service, Six Rivers National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86–23916 Filed 10–22–86; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12 (Group 847)]

Filing of Plat of Survey; California

October 15, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Humboldt County

T. 6 N., R. 5 E.
T. 5 N., R. 5 E.

2. This plat (in three sheets) representing the dependent resurvey of a portion of the First Standard Parallel North, along the south boundary, Township 6 North, Range 5 East, and the east and west boundaries of Township 5 North, Range 5 East, and the metes-and-bounds survey of Tracts 37 through 48, Township 5 North, Range 5 East, Humboldt Meridian, California, under Group No. 847, California, was accepted September 30, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Forest Service and the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86–23917 Filed 10–22–86; 8:45 am]

BILLING CODE 4310–40–M

[ID–943–07–4520–12]

Filing of Plats of Survey; Idaho

The plats of survey of the following lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

Boise Meiridan

T. 17 N., R. 21 E., Accepted July 9, 1986, Officially filed September 22, 1986.
T. 48 N., R. 3 W., Accepted July 23, 1986, Officially filed September 22, 1986.
T. 10 S., R. 23 E., Accepted July 23, 1986, Officially filed September 23, 1986.
T. 11 S., R. 28 E., Accepted August 28, 1986, Officially filed September 23, 1986.
T. 1 S., R. 1 W., Accepted September 15, 1986, Officially filed September 30, 1986.

The above plats represent dependent resurveys and subdivisions.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: October 15, 1986.

Sharron Deroin,

Chief, Land Services Section.

[FR Doc. 86–23918 Filed 10–20–86; 8:45 am]

BILLING CODE 4310–GG–M

[WY–940–07–4520–12]

Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., October 8, 1986.

Wind River Meridian

T. 1 S., R. 1 W.

The plat, in seven sheets, representing the dependent resurvey of portions of the west boundary, subdivisional lines and subdivision of certain sections, and the survey of a portion of the subdivision and parcels of certain sections, T. 1 S., R. 1 W., Wind River Meridian, Wyoming, Group No. 376, was accepted September 30, 1986.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: October 10, 1986.

Richard L. Oakes,

Chief Cadastral Surveyor for Wyoming.

[FR Doc. 86–23947 Filed 10–22–86; 8:45 am]

BILLING CODE 4310–22–M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through December 1986

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the Federal Register December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the

proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the six Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November or December of 1986. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein:

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–1961.

1. Boise Cascade Corporation, Columbia Basin Project, Washington: Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Five ID's, Boise Project, Idaho-Oregon: Irrigation repayment contract; 22,800 acre-feet of storage in Arrowrock Reservoir, formerly reserved for the Hillcrest Unit under a 1921 contract which has been terminated; FR notice published July 14, 1986, Vol. 51, page 25406.

3. Brewster Flat ID, Chief Joseph Dam Project, Washington: Amendatory repayment contract; land reclassification of approximately 360 acres to irrigable; Repayment obligation to increase by $189,000.

4. Individual irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon and Washington; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon: Water service contracts; $1.50 per acre-foot or $20 minimum per annum, not to exceed 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Fifty-three Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming: Contract amendments to extend term for which contract water may be subleased to other parties.

8. Cascade Reservoir water users, Boise Project, Idaho: Repayment contracts for irrigation and M&I water; 59,721 acre-feet of stored water in Cascade Reservoir.

9. Boise Water Corporation, Boise Project, Idaho: M&I water service contract; 1,000 acre-feet annually of storage in Anderson Ranch Reservoir for a term of up to 40 years.

10. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

11. City of Cle Elum, Yakima Project, Washington; Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

12. South Columbia Basin ID, Columbia Basin Project, Washington: Supplemental repayment contract for Irrigation Block 24; 1,892 irrigable acres.

13. City of Boise, Boise Project, Idaho: M&I water service contract; 340 acre-feet annually of storage in Anderson Ranch Reservoir for a term of up to 40 years.

14. Douglas County, Galesville Project, Oregon: SRPA cost escalation loan repayment contract: $1,000,000 proposed obligation.

15. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 1,300 acre-feet for a term of 40 years.

16. Three irrigation districts, Flathead Indian Irrigation Project: repayment of costs associated with rehabilitation of irrigation facilities.

Mid-Pacific Region: Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978–5030.

1. 2047 Drain Water Users Association, CVP, California: Water right settlement contract: FR notice published July 25, 1979, Vol. 44, Page 43535.

2. Tuolumne Regional Water District, CFP, California: Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California: Water service contract: 400 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Friant-Kern Canal Contractors, Friant-Kern Unit, CVP, California: Renewal of existing long-term water service contracts with numerous

contractors on the Friant-Kern Canal whose contracts expire 1989–1995. Water quantities in existing contracts range from 1,200 to 175,440 acre-feet.

6. South San Joaquin ID and Oakdale ID, CVP, California: Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River: FR notice published June 6, 1979, Vol. 44, page 32483.

7. San Luis Water District, CVP, California: Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

8. Mid-Valley Water Authority, CVP, California: Temporary water supplies up to 100,000 acre-feet.

9. City of Avenal, CVP, California: Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities and chane the point of diversion.

10. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

11. United Water Conservation District, SRPA, California: Loan repayment contract, $18,730,000 proposed obligation.

12. State of Hawaii, Molokai Project, SRPA: Contract amendment to provide for use of facilities for M&I purposes.

13. State of California: CVP, California: Contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and 92) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the current draft of a the Coordinated Operations Agreement.

14. Pixley ID, SRPA, California: Loan repayment contract, $12,300,000 proposed obligation.

15. Madera ID, Madera Canal, CVP, California: Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

16. Hills Valley ID, CVP, California: Amendatory water service contract, to provide an additional 400 acre-feet and reallocate 800 acre-feet of water from the Ducor ID for a total increase of 1,200 acre-feet.

17. Tri-Valley Water District, CVP, California: Amendatory water service contract, to provide an additional 160 acre-feet.

18. County of Tulare, CVP, California: Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

19. Truckee-Carson ID and Sierra Pacific Power Company, Newlands Project, Nevada: Warren Act contract to wheel 9,500 acre-feet of nonproject water through project facilities.

20. Panoche Water District, CVP, California: Amendatory water service contract providing for change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

21. Solano ID, Solano Project, California: Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

22. City of Lindsay, CVP, California: Amendatory contract to provide for biannual payments rather than monthly payments for water service.

23. Shasta Dam Area Public Utilities District, CVP, California: Renewal of M&I water supply contract; less than 6,000 acre-feet.

24. Grasslands Water District, CVP, California: Interim interruptible water service contract; 100,000 acre-feet of Project water in lieu of agricultural drainage water for waterfowl habitat.

25. U.S. Fish and Wildlife Servie, CVP, California: long-term contract for water supply for Federal refuge in Grasslands area of California.

26. City of Redding, CVP, California: Amendatory M&I water supply contract.

27. P-Canal Water Users Association, Klamath Project, California/Oregon: Agricultural water service contract, less than 20,000 acre-feet.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado: Repayment contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

3. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract; 16,000 acre-feet per year for irrigation. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

4. San Juan Water Commission, Animas-La Plata Project, New Mexico: M&I repayment contract; 19,700 acre-feet per year. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

5. San Juan Water Commission, Animas-La Plata Project, New Mexico: M&I repayment contract; 5,800 acre-feet per year. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

6. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 3,300 acre-feet per year for irrigation use. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement in principle.

7. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 25,800 acre-feet per year for irrigation use in Colorado; 800 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement in principle.

8. Navajo Indian Tribe, Animas-La Plata Project; New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement in principle.

9. Grand Valley Water Users Association, Orchard Mesa Irrigation District, Public Service Company of Colorado, Grand Valley Project, Colorado: Contract to continue operation and maintenance of Grand Valley powerplant.

10. State of Wyoming, Seedskadee Project, Wyoming: One contract for repayment of reimbursable cost associated with the modification of Fontenelle Dam pursuant to the Reclamation Safety of Dams Amendments of 1984 (P.L. 98–404); one amendatory repayment contract to increase existing repayment contract ceiling.

11. Miscellaneous water users, Upper Colorado Region, Blue Mesa Reservoir, Colordo River Storage Project, Colorado: M&I users, 20 acre-feet and less for 20–40 years.

12. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

12. Overland Ditch and Reservoir Company, Colorado: Amendatory repayment contract to repay an additional $1,500,000 costs for reconstruction of its dam, pursuant to the SRPA of 1956, P.L. 84–984, as amended.

13. Upper Yampa Water Conservancy District, Colorado: Repayment contract to repay a loan of $4,478,000 for the construction of Stagecoach Dam and Reservoir pursuant to the SRPA of 1956, Pub. L. 84–984, as amended.

14. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado, 25,800 acre-feet per year for irrigation use in Colorado; 800 acre-feet per year for irrigation use in New Mexico.

15. Ute Mountain Ute Indian Tribe, Dolores Project, Colorado: Repayment contract for 1,000 acre-feet per year for M&I use and 22,900 acre-feet per year for irrigation.

16. Weber River Water Users, Weber River Project, Utah: Emergency contract to replace needle valves.

17. Emery County Water Conservancy District, Utah Power and Light, Emery County Water Project Utah: New repayment contract with Utah Power and Light for the purchase of approximately 2,600 acre-feet of project water; amendatory contract with Emery County Water Conservancy District relieving them of their repayment obligation for the 2,600 acre feet of project water.

18. Uncompahgre Valley Water Users Assocation, Lower Gunnison Basin Unit, Colorado River Water Quality Improvement Programs, Colorado: Agreement for discontinuance for winter water flows and administration of associated operation and maintenance costs.

Lower Colorado Region: Bureau of reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293–8536.

1. Amendment to Contract No. 176r–696 between the Bureau of Reclamation and the Department of the Army to increase the maximum amount of water deliverd to the Yuma Proving Grounds from 55 acre-feet to 975 acre-feet, pursuant to the recommendation of the Arizona Department of Water Resources.

2. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts; a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the city of Tucson, Arizona.

4. Contracts with five agricultural entities located near the Colorado River in Arizona, Boulder Canyon Project: Water service contracts for up to 1,920 acre-feet per year total.

5. Gila River Indian Community, CAP, Arizona: Water service contract; contract for delivery of up to 173,100 acre-feet per year.

6. Sunset Mobile Home Park, Boulder Canyon Project, Arizona: M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

7. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

8. Eastern Municipal Water District, Hemet, California: Repayment contract for $8.3 million SRPA escalation loan.

9. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: Contracts for repayment of Federal expenditures for construction of distribution systems.

10. Water delivery contracts with the State of Arizona, the Bureau of Land Management, and several private entities which are in the process of being organized for a yet undetermined amount of Colorado River water for M&I use. The purpose of these contracts is to afford legal status to various noncontractual water users within the State of Arizona.

11. Contract with the State of Arizona for a yet undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

12. Contract with 16 individual holders of miscellaneous present perfected rights to Colorado River water totalling 66 acre-feet, pursuant to the January 9, 1979, Supplemental Decree of the United States Supreme Court (439 U.S. 419) in *Arizona* v. *California*.

13. County of San Bernardino, San Bernardino, California: Repayment contract for $13.4 million SRPA loan.

14. Contracts for delivery of surplus water from the Colorado River, when available, with Emilio Soto and Sons, for 1,836 acre-feet per year; Kennedy Liverstock, for 480 acre-feet per year; and the Metropolitan Water District of Southern California, for 180,000 acre-feet per year.

Southwest Region: Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 97101, telephone (806) 378–5430.

1. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use.

2. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

3. Vermejo Conservancy District, Vermejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96–550.

4. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas; Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

5. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (P.L. 97–293).

6. Rio Grande Water Conservation District, Alamosa, Colorado: Contract for the district to be the vender of the Closed Basin District, San Luis Valley Project, surplus water if available.

7. Carlsbad ID, Carlsbad Project, New Mexico; Repayment contract for the costs incurred by the United States for replacing the needle valves at Fort Sumner Dam.

8. Conejos Water Conservancy District, San Luis Valley Project, Colorado: Amendatory contract to place OM&R costs on a variable basis commensurate with the availability of project water.

9. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs incurred by the United States for the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

Missouri Basin Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings Montana 59107–6900, Telephone (406) 657–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Missouri Basin Region, Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, and Nebraska: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota: Industrial water service contract; up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

3. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

4. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97–293).

5. Oahe Unit, P–SMBP, Dakota: Cancellation of master contract and participating and security contracts in accordance with P.L. 97–293 with South Dakota Board of Water and Natural Resources and Spink County and West Brown Irrigation Districts.

6. Owl Creek ID, Owl Creek Unit, P–SMBP, Wyoming: Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

7. Almena ID No. 5, Almena Unit, P–SMBP, Kansas: Deferment of repayment obligation for 1986.

8. Almena Irrigation District No. 5, Almena Unit, P–SMBP, Kansas; Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $576,090 outstanding.

9. Corn Creek ID and Earl Michael, Glendo Unit, P–SMBP, Wyoming, and Nebraska: Irrigation contracts.

10. Webster ID No. 4, Webster Unit, P–SMBP, Kansas: Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $970,816 outstanding.

11. Webster Irrigation District No. 4, Webster Unit, P–SMBP, Kansas deferment of repayment obligation for 1986.

12. Green Mountain Reservoir, Colorado-Big Thompson Project: Proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River drainage of western Colorado.

13. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

14. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, Narrows Unit, P–SMBP, Colorado: Water service contracts for repayment of costs and cost sharing agreement.

15. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas: Deferment of repayment obligation for 1986.

16. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas: Irrigation water service and repayment contract and Emergency Drought Act loan contract amendment to adjust payments due to reduced water supply, $866,231 outstanding.

17. Fryingpan-Arkansas Project, Colorado: East Slope Storage system consisting of Pueblo, Twin Lakes, and Turquoise Reservoir; Contract negotiations for temporary and long-term storage and exchange contracts.

18. Farwell Irrigation District, Nebraska; D&MC contract for the correction of drainage and seep area of the project.

19. Twin Loups Irrigation District, Pick-Sloan Missouri Basin Program: Amend repayment contract to include increase project construction cost and adjust payments to full current payment capacity.

20. Northern Colorado Water Conservancy District, Colorado-Big Thompson Project, Colorado; cost sharing of modification of Horsetooth Reservoir Dams.

21. Cedar Bluff Irrigation District No. 6 and the State of Kansas, Cedar Bluff Unit, P–SMBP, Kansas; negotiate contract with the State of Kansas for use of all or part of the conservation pool Cedar Bluff Reservoir for recreation, fish and wildlife purposes for payment of the irrigation district's cost obligation. Amend the Cedar Bluff Irrigation District's contract considering rights gained and obligations assumed by the State of Kansas.

22. Garrison Diversion Conservancy District, Garrison Diversion Unit, P–SMBP, North Dakota; cooperative agreement for cost sharing and construction of municipal, rural, and industraial water systems in North Dakota under the Act of May 12, 1986 (P. L. 99–294).

23. North Dakota Westlands Trust, Inc., Garrison Diversion Unit, P–SMBP, North Dakota; contract for administration of Federal grant to preserve, enchance, restore, and manage wetlands and associated wildlife habitat in the State of North Dakota under the Act of May 12, 1986 (P. L. 99–294).

24. Whitney Irrigation District, Nebraska, Small Reclamation Projects Act Loan Contract; deferment of all or part of 1986 payment.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearing will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the even modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary. Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impacts(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: October 15, 1986.

C. Dale Duvall,

Commissioner of Reclamation.

[FR Doc. 86–23929 Filed 10–22–86; 8:45 am]

BILLING CODE 4310–09–M

Minerals Management Service

Availability of Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Exploration Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR §§ 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-

related Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico in the 3-month period preceding this Notice.

Activity/Operator	Location	Date
Placid Oil Company; Geophysical Exploration for Mineral Resources (Use of Explosives); SEA No. L86-64.	Green Canyon, Blocks 167 and 212; Offshore Louisiana.	Aug. 1, 1986.
Forest Oil Corporation; Geophysical Exploration for Mineral Resources (Use of Explosives); SEA No. L86-70.	Eugene Island, Blocks 190 and 191; Offshore Louisiana.	Aug. 26, 1986.
Tenneco Oil Exploration and Production; 10 exploratory wells; SEA No. N-2526.	Florida Middle Ground, Blocks 455, 456 and 587; Leases OCS-G 8363, 8364, and 8368, respectively; 120 miles southeast of Panama City, Florida.	Sept. 5, 1986.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Parkway, New Orleans, Louisiana 70123, Telephone (504) 736-2519.

SUPPLEMENTAL INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 8, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-23919 Filed 10-22-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-349 (Preliminary)]

Certain Welded Carbon Steel Pipes and Tubes From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigation, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: Effective October 2, 1986, the Commission instituted the subject investigation (51 FR 36873, October 16, 1986) and scheduled a public conference to be held on October 24, 1986. For the convenience of the parties to the investigation, the conference has been rescheduled for 9:30 a.m. on October 27, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

AUTHORITY: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 20, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-24033 Filed 10-22-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30911]

Chicago, Missouri & Western Railway Co.; Exemption Acquisition and Operation; Illinois Central Gulf Railroad Co.

The Chicago, Missouri & Western Railway Company (CM&W) has filed a Notice of Exemption: (1) To acquire and operate the Illinois Central Gulf Railroad Company's (ICG) line between Joilet, IL and Kansas City, MO, and East St. Louis, IL, (2) to acquire ICG's 8.33% equity interest in the Kansas City Terminal Railway Company, and (3) to acquire incidental trackage rights over ICG's line between South Joilet and Kensington Station in Chicago, IL. Comments must be filed with the Commission and served on: John F. DePodesta, Pepper, Pepper, Hamilton & Scheetz, 1777 F Street, NW., Washington, DC 20006, (202) 842-8100, and Theordore E. Cornell III, Seyfarth, Shaw, Fairweather & Geraldson, 55 East Monroe Street, Chicago, IL 60603 (312) 346-8000.

The transaction is related to Finance Docket No. 30912, where Venango River Corporation (Venango), the parent of CM&W, has filed a petition for exemption from 49 U.S.C. 11343 to permit Venango to continue in control of CM&W and Chicago South Shore and South Bend Railroad, another rail carrier subsidiary that Venango already controls. The transaction in Finance Docket No. 30911 is also related to Finance Docket No. 30913 where CM&W has filed a petition for exemption from 49 U.S.C. 11301 to issue securities in an amount not to exceed $105 million to finance the acquisition of the above-described rail properties. These petitions will be handled separately from this notice.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 15, 1986.

By the Commission, Jane F Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary

[FR Doc. 86-24015 Filed 10-22-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30915]

Otter Tail Valley Railroad Co.; Acquisition and Operation Exemption; Burlington Northern Railroad Co.

Otter Tail Valley Railroad Company (OTVR) has filed a notice of exemption to acquire and operate Burlington Northern Railroad Company's 176-mile line between St. Cloud and Moorhead, MN, including branch lines to Foxhome, Hoot Lake, and Downer, MN. This transaction will also involve the issuance of securities of OTVR, which will be a Class III carrier after the acquisition. The issuance of these securities is an exempt transaction under 49 CFR 1175.1 [51 FR 4928 (February 10, 1986)]. Any comments must be filed with the Commission and served on deborah A. Phillips; Weiner, McCaffrey, Brodsky & Kaplan, Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797, and Lawrence M. Stroik, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 1, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86–24016 Filed 10–22–86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–55 Sub-182X]

CSX Transportation, Inc.; Exemption; Abandonment in Railroad Services; Bell County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of the entire 1.93 miles of its Tom's Creek Branch, Corbin Division, in Bell County KY, subject to the condition that the properties be left intact pending a final determination as to their eligibility for inclusion in the *National Register of Historic Places*, and further subject to standard labor protection.

DATES: This exemption will be effective on November 21, 1986, and petitions for reconsideration must be filed by November 12, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 182X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley concurred in the result. Vice Chairman Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86–23854 Filed 10–22–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31000]

Union Pacific Corp. and BTMC Corp.; Control of Overnite Transportation Co.; Notice of Intent

On September 25, 1986, pursuant to 49 CFR 1180.4(b), Union Pacific Corporation (UPC) BTMC Corporation (BTMC) and Overnite Transportation Company (Overnite) have notified the Commission of their intent to file an application seeking Commission approval for UPC to acquire control of Overnite through stock ownership.

UPC owns the Union Pacific Railroad Company and Missouri Pacific Railroad Company, two Class I railroads. Overnite is a motor carrier authorized to transport general commodities in the 48 contiguous states, Hawaii and the District of Columbia. Under an agreement dated September 18, 1986, BTMC, a wholly-owned subsidiary of UPC, will make an offer to purchase for cash all outstanding shares of Overnite common stock, which will be placed in a voting trust along with Overnite common stock previously acquired by UPC. BTMC will then be merged with and into Overnite with Overnite as the surviving corporation and with all remaining holders of Overnite common stock receiving the cash price specified in the offer. As a result of the merger, all shares of the surviving company will be placed in a voting trust. Subject to Commission approval, the voting trust will be terminated, giving UPC control of Overnite.

The parties intend to file their application approximately 2 months after the filing of their notice of intent, on or about November 25, 1986. *See* 49 CFR 1180.4(b)(1). However, they state that they may petition the Commission for permission to file the application as early as November 1, 1986. The parties further intend to submit market impact analyses based on 1985 data, except where such data is not yet available.

This Commission's regulations do not specifically apply to rail/motor consolidation applications. However, our railroad consolidation regulations provide suitable procedures for the consideration of the forthcoming application. Those regulations, subject to appropriate modification, shall apply to this proceeding.

We find that the proposed acquisition is of regional and national significance and represents a major market extension by UPC. Therefore, the application will be filed under the requirements of 49 CFR Part 1180 relating to significant transactions, subject to such modifications as may be ordered by the Commission in response to appropriate requests or on our own motion. An order asking for additional information on specific issues may be issued subsequent to the publication of this decision.

Dated: October 20, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–24017 Filed 10–22–86; 8:45 am]

BILLING CODE 7035-01-M

[Docket Nos. AB–33 (Sub-No. 42X) and AB–37 (Sub-No. 22X)]

Union Pacific Railroad Co.; Exemption; Discontinuance of Operations; and Oregon-Washington Railroad & Navigation Co.; Exemption; Abandonment; Shoshone County, ID

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the discontinuance of operations by Union Pacific Railroad Company over, and the abandonment by the Oregon-Washington & Navigation Company of 2.02 miles of track in

Shoshone County, ID, subject to standard labor protection.

DATES: This exemption is effective on November 24, 1986. Petitions for stay must be filed by November 3, 1986 and petitions for reconsideration must be filed by November 12, 1986.

ADDRESSES: Send pleadings referring to Docket Nos. AB–33 (Sub-No. 42X) and AB–37 (Sub-No. 22X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' representative: Jeanna L. Regier, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

Decided: October 16, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–24018 Filed 10–22–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 86–16]

Revocation of Registration Denial of Applications; Augustine Appiah, M.D.

On January 21, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Augustine Appiah, M.D. (Respondent) 2638 Two Notch Road, Columbia, South Carolina. The Order proposed to revoke DEA Certificate of Registration AA7261287 previously issued to Respondent, and to deny any pending applications for registration. The statutory basis for the Order to Show Cause under 21 U.S.C. 824(a)(3) was the cancellation of Respondent's state controlled substance registration by the South Carolina Department of Health and Environmental Control on March 6, 1985. This action terminated Respondent's authority to possess, prescribe, dispense, administer or otherwise handle controlled substances in South Carolina.

Respondent, proceeding *pro se*, requested a hearing on the issues raised by the Order to Show Cause, and the matter was placed on the docket of Administrative Law Judge Francis L. Young. The Administrative Law Judge gave agency counsel the opportunity to file a motion for summary disposition, based on Respondent's lack of state authorization. Agency counsel filed a motion for summary disposition with supporting documents. Respondent replied to the motion for summary disposition. On July 16, 1986, Judge Young issued his findings of fact, conclusions of law and opinion. On August 15, 1986, Judge Young transmitted the entire record to the Administrator.

The Administrative Law Judge found, and the Administrator finds, that Respondent is without authority to possess, prescribe, dispense, administer or otherwise handle controlled substances in the State of South Carolina. Therefore, Respondent cannot be registered by DEA. This conclusion is consistent with a long line of cases holding that DEA cannot register a practitioner who lacks state authority to handle controlled substances. See *Emerson Emory M.D.*, Docket No. 85–46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1985); *Floyd A. Santer*, Docket No. 79–23, 47 FR 51831; *James Wavmon Mitchell, M.D.*, Docket No. 79–16, 44 FR 71466 (1979).

The Administrative Law Judge found, as does the Administrator, that in cases where the practitioner lacks state authority to handle controlled substances, a motion for summary disposition is properly entertained and must be granted. It is well settled that when no fact question is involved, or when the facts are agreed, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory, since Congress does not intend administrative agencies to perform meaningless tasks. See *United States* v. *Consolidated Mines and Smelting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smurthwaite, M.D.*, Docket No. 77–29, 43 FR 11873 (1978); *Phillip E. Kirk, M.D.*, Docket No. 82–36, aff'd *sub nom Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Respondent asserted that the actions of the South Carolina authorities were an attempt to ruin him professionally. Whatever complaint Respondent has with the action of the South Carolina authorities cannot be resolved by DEA. Respondent is without state authority to handle controlled substances. Therefore, DEA cannot register him under the plain language of 21 U.S.C. 823.

Having examined the record in this matter, the Administrator adopts in its entirety the proposed findings of fact and conclusions of law of the Administrative Law Judge. Accordingly, under the authority given the Attorney General in 21 U.S.C. 823 and 824, and delegated to the Administrator under 21 U.S.C. 877 and 28 CFR 0.100 *et seq.*, the Administrator revokes Certificate of Registration AA7261287, and denies any pending applications for renewal of that application, for reason that Augustine Appiah, M.D. is not authorized by the State of South Carolina to possess, prescribe, dispense, administer or otherwise handle controlled substances. The revocation and denial are effective immediately.

Dated: October 17, 1986.

John C. Lawn,

Administrator.

[FR Doc 86–23964 Filed 10–22–86; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 714, from 9:00 a.m. to 5:00 p.m., on November 25, 1986.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1987.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of U.S.C. 552(b)

and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Stephen J. McCleary, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86-24010 Filed 10-22-86; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506

1. Date: November 3, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

2. Date: November 3-4, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

3. Date: November 10, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Publication Subvention category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

4. Date: November 13-14, 1986
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

5. Date: November 13-14, 1986
Time: 9:00 a.m. to 5:30 p.m.
Room: 430
Program: This meeting will review applications submitted for Humanities Projects in Libraries and Public Humanities Projects, Division of General Programs, for projects after April 1, 1987.

6. Date: November 14, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the Humanities submitted to the Publication Subvention category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

7. Date: November 17, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Editions category of the Texts Programs, Division of Research Programs for projects beginning after April 1, 1987.

8. Date: November 18-19, 1986
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1987.

9. Date: November 20-21, 1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 430
Program: This meeting will review applications in the fields of the humanities submitted to the Editions category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

10. Date: November 24,1986
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Editions category of the Texts Program, Division of Research Programs, for projects beginning after April 1, 1987.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86-24009 Filed 10-22-86; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Materials Research Advisory Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee.

Date and Time: Thursday, November 6, 1986, 8:30 a.m. to 5:00 p.m. Friday, November 7, 1986, 8:30 a.m. to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 "G" Street, NW., Washington DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Lewis H. Nosanow, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC 20050. Telephone: (202) 357-9794.

Minutes: May be obtained from the Contact Person, Dr. Lewis H. Nosanow, at the above stated address.

Purpose of Meeting: To provide advice and recommendations concerning support of materials research.

AGENDA

Thursday, November 6, 1986

8:30 a.m.—Organizational Matters; Adoption of Minutes
9:00 a.m.—Discussion of Director's Briefing on Materials Research
10:30 a.m.—Discussion of Materials Science Study
12:00 noon—Working Lunch
1:00 p.m.—Discussion of FY 1987 Budget
2:00 p.m.—Discussion of Division's Long-Range Plans and Initiatives
3:30 p.m.—Discussion of Possible New Initiatives
5:00 p.m.—Adjourn

Friday, November 7, 1986

8:30 a.m.—Organizational Matters
9:00 a.m.—Meeting with NSF Director, Erich Bloch
10:30 a.m.—Further Discussion of Long-Range Plans and Initiatives
12:00 noon—Working lunch
1:00 p.m.—DMR-IUCR Program
2:00 p.m.—Trends and Opportunities Update
3:00 p.m.—Women, Minority, and Handicapped Issues
4:00 p.m.—Educational Issues
5:00 p.m.—Adjourn

October 17, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86-23887 Filed 10-22-86; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Accident Reports, Safety Recommendations, and Responses to Safety Recommendations

Report No.	NTIS No.	Date	Subject
NTSB/HAR-86/03	PB86-916203	Aug. 8, 1986	Highway accident report—tractor semitrailer/station wagon runaway, collision, and fire, Van Buren, AK, June 21, 1985.
NTSB/AAR-86/01 Summary	PB86-910404	June 30, 1986	Aircraft accident/incident summary, reports—Soldotna, AK—Feb. 4, 1986; San Juan, PR—June 27, 1985.
NTSB/MAR-86/11	PB86-916412	Sept. 16, 1986	Marine accident report—near capsizing of the charter passenger vessel MERRY JANE, Bodega Bay, CA, Feb. 8, 1986.
NTSB/MAR-86/10	PB86-91611	...do...	Marine Accident report—collapse of the U.S. Mobile offshore drilling unit PENROD 61, Gulf of Mexico, Oct. 27, 1985.

Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports, call 703-487-4650 and to order subscription to report, call 703-487-4630.

SAFETY RECOMMENDATIONS

Recommendation No.	Respondent	Date	Subject
M-86-102	USCG	Oct. 14, 1986	Amend CFR 107 to require the thorough inspection of the entire length of self-elevating MODU legs at the time of regular drydock examination.
M-86-103	...do...	...do...	Develop an inspection procedure which will provide guidance to Coast Guard marine inspectors in conducting inspections of the entire length of the MODU legs.
M-86-104	...do...	...do...	Develop seakeeping, equipment, and manning standards for standby vessels in attendance of MODUs.
M-86-105	...do...	...do...	Require that existing covered lifeboats that do not meet standards be phased out of service on MODUs.
M-86-106	...do...	...do...	Require that MODUs operating in the Gulf of Mexico have detailed severe weather evacuation plans.
M-86-107	...do...	...do...	Publish guidelines and provide assistance to aid MODU owners and operators in the Gulf of Mexico to develop effective severe weather evacuation plans.
M-86-108	Int. Assoc. of Drilling Contrs.	...do...	Encourage member contractors who operate MODUs to develop joint severe weather evacuation plans.
M-86-109	Penrod Drilling Co.	...do...	Amend instructions contained in the operation manuals of all company-owned MODUs to provide the toolpushers with complete instructions concerning the operation of leg jacking machinery.
M-86-110	...do...	...do...	Amend emergency procedures for MODUs to establish a chain of command below the toolpusher for the abandon-rig operations in an emergency.
M-86-111	...do...	...do...	Develop radio procedures which require persons originating or receiving radio messages on MODUs to identify themselves.
M-86-112	...do...	...do...	Develop a detailed severe weather evaculation plan which sets forth the order in which personnel will be evacuated.
M-86-113	USCG	Oct. 3, 1986	Require that life preservers be worn by passengers of small ocean and coastwise passenger vessels up to 65 feet in length, while on open deck when leaving or entering ports susceptible to breaking waves.
M-86-114	...do...	...do...	Conduct research into means to dispense flotation devices to persons in the water who are beyond the range of currently available hand-thrown devices.
M-86-115	NOAH	...do...	Place a precautionary note on the navigation chart for Bodega Bay, CA to advise mariners that the safest part of the passage between Bodega Head and Bodega Rock is along the deeper part of the passage.
H-86-50	Governors of all States	Oct. 2, 1986	Prohibit the issuance of licenses for the operation of large commercial trucks and vehicles capable of transporting more than 10 passengers to persons with diagnosed seizure disorders.
H-86-51	...do...	...do...	Require physicians licensed to practice in your jurisdiction to report the name, address, and date of birth of any person diagnosed or treated for a seizure disorder to the central State driver licensing agency without delay.
H-86-52	...do...	...do...	Provide immunity from liability for physicians reporting information about patients with diagnosed seizure disorders.
H-86-53	AMA	...do...	Inform membership of the circumstances of the accident on May 31, 1985, near Snow Hill, NC, and urge physicians to emphasize to their patients with diagnosed seizure disorders to refrain from driving until their seizure disorder is controlled.
H-86-54	NHTSA	...do...	Amend FMVSS 221 to require that body panel joints for schoolbus body structures be tested in tension or peel unless they can only be tested in shear.
H-86-55	...do...	...do...	Amend FMVSS 221 to include all body panel joints that enclose the occupant space.
H-86-56	...do...	...do...	Resume testing of schoolbus floor joints to comply with FMVSS 221.
H-86-57	Thomas Built Buses, L.P.	...do...	Strengthen the floor panel joints of all newly-manufactured schoolbuses to comply with the requirements of FMVSS 221.
H-86-59	NHTSA	Sept. 2, 1986	Adopt standards to require emergency interior lighting for intercity-type buses that is of sufficient intensity and duration to aid occupants in identifying exit routes.
H-86-60	...do...	...do...	Revise FMVSS 217 to require that the identification of and operating instructions for emergency exits on intercity-type buses be attached to the buses.
H-86-65	Bureau of Motor Carrier Safety	Sept. 16, 1986	Amend Part 391 of the Federal Motor Carrier Safety Regulations and the driver out-of-service criteria to provide for declaring out-of-service at the time and place of a roadside inspection.

SAFETY RECOMMENDATIONS—Continued

Recommendation No.	Respondent	Date	Subject
H-86-66	....do	....do	Study the feasibility of implementing a point system for safety inspection violations that are not grounds for a commercial vehicle to be declared out-of-service, but based on quantity, would be cause for declaring a vehicle out-of-service.
H-86-67	....do	....do	Oversee and monitor the States which currently participate in the Motor Carrier Safety Assistance Program, and encourage them to adopt and enforce all regulations.
H-86-68	FHA	....do	Modify the Manual on Uniform Traffic Control Devices to include specific language that requires contractors to maintain highway regulatory signs during periods of construction.
H-86-69	....do	....do	Evaluate techniques used by States to prohibit commercial vehicles from routes, determine the effectiveness of strategies, and revise the Manual on Uniform Traffic Control Devices.
H-86-70	Arkansas State Highway and Transp. Department	....do	Provide specific language in work permit specifications that require contractors to maintain highway regulatory signing along roadsides while construction activities are going on.
H-86-71	Governors of AK, FL, NM, TX, and WY	....do	Actively participate in the Bureau of Motor Carrier Safety's Motor Carrier Safety Assistance Program.
A-86-97	FAA	Oct. 8, 1986	Require placards, where applicable, in all airplanes certificated under CAR Part 3 that have not been certified in accordance with CAR 3.772.
A-86-98	....do	Oct. 9, 1986	Require periodic instrument proficiency checks for all second in command pilots in commuter air carrier operations.
A-86-99	....do	....do	Direct POI's to require that pilots in command be tested and required to demonstrate proficiency in flying instrument approach procedures.
A-86-100	....do	....do	Direct POI's to require commuter air carrier operators to delineate in their manuals missed approach procedures.
A-86-101	....do	....do	Include guidance to POI's regarding the standards and level of precision to which pilots in command should be tested.
A-86-102	....do	....do	Verify that commuter air carrier operators use appropriate vision-restricting devices for their pilots during training.
A-86-103	....do	....do	Expedite the program which proposes standards for the use and evaluation of aircraft flight simulator devices to be used in training programs.
A-86-104	....do	....do	Direct PMI's to deviations in cockpit instrumentation and equipment installations of commute air carriers.
A-86-105	....do	....do	Direct POI's to ensure that commuter air carrier training emphasize the differences in instrumentation and equipment in the fleet.
A-86-106	....do	....do	Require all crewmembers have access to and use their own set of instrument approach charts.
A-86-107	....do	....do	Direct POI's to caution commuter air carrier operators that have flight instrument rules authorization not to schedule on the same flight members with limited experience.
A-86-108	....do	....do	Requesting POI's to check airmen program to assure that company pilots are evaluated properly.
A-86-109	....do	....do	After a specified date, install and use ground proximity warning devices in all multi-engine, turbine-powered fixed wing airplanes.
A-86-110	....do	....do	Establish a minimum level of direct surveillance to oversee commuter air carrier operation.
A-86-111	....do	....do	Provide a minimum level of continued surveillance of commuter air carrier operators when the POI is occupied.
A-86-112	....do	....do	Conduct noise measurement surveys of makes and models of aircraft not equipped with interphone systems.
A-86-113	....do	....do	Require the installation and use of interphone systems in the cockpits of those aircraft which are used in passenger-carrying operations.
A-86-114	....do	....do	Establish requirements for the placement of nighttime visibility markers at airports where transmissometers are not used.
A-86-115	....do	....do	Amend definition of radar arrival in ATC Handbook.
A-86-116	....do	....do	Amend the definition of nonradar arrival in the ATC Handbook.
H-85-22	Justice Cabinet Kentucky	Oct. 1, 1986	Revise accident report forms to reflect misuse of child restraints.
H-85-22	Wyoming State Highway Dept	....do	Same as above.
H-85-20	FHA	....do	Motor vehicle collisions with trees along highways, roads, and streets.
H-85-49	Missouri Governor	Oct. 3, 1986	Alcohol testing of drivers involved in fatal accidents.
H-85-22	Maryland Governor	Oct. 6, 1986	Revise accident forms to reflect misuse of child restraints.
H-85-49—50	New York Governor	....do	Alcohol testing of drivers involved in fatal accidents.
H-85-22	Maine State Police	Oct. 7, 1986	Redesigning the accident report forms to collect data on child restraint use.
H-85-49—50	Dept. of Public Safety Minnesota	....do	Alcohol testing of drivers involved in fatal accidents
H-85-49—50	Maryland Governor	....do	Same as above.
H-85-12	Illinois Dept. of Transp	Oct. 8, 1986	Require schoolbus drivers to be trained and tested in laws, regulations, and policy governing pupil transportation safety.
H-84-72	....do	....do	Establish a classified driver's license system which requires drivers to take an exam and road test in the vehicle for which they are licensed to operate.
H-79-31	....do	....do	Enact legislation to require the driver of a motor vehicle to possess a certificate authenticating the driver's completion of a bus driver training course.
H-85-36—38	FHA	....do	Transportation of hazardous materials.
A-86-117	....do	....do	Amend the ATC Handbook to require that intercept criteria be applied when deviations from the localizer course by IFR arrivals are noted.
A-86-118	....do	....do	Amend the ATC Handbook to require that the pilot be informed that he is off course for a safe approach and ask his intentions.
A-86-119	Regional Airline Assoc	Oct. 9, 1986	Develop standards for pilot training program
A-86-120	....do	....do	Encourage the use of flight simulators or ATD in the pilot training program.
A-86-121	....do	....do	Encourage standardization of instrumentation and equipment in the cockpits of their airplane fleets.
A-86-122	....do	....do	Encourage a policy of pilot scheduling which would prevent the scheduling on the same flight of crewmembers with limited experience.
A-86-123	FAA	Oct. 7, 1986	Issue an AD to owners and operators of A36TC Beech Bonanza airplanes serial No. EA-1 through EA-241 and EA-243 through EA-272, requiring compliance with the fuel system modifications.

Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Recommendation No.	Respondent	Date	Subject
H-85-22	Governor Mass	Sept. 25, 1986	Redesigning the accident report forms to collect data on child restraint use.
H-85-49-50	Bus. Trans. and Housing Agency (CA)	Sept. 29, 1986	A chemical test of all drivers suspected of driving under the influence of alcohol and/or drugs.
H-85-49-50	Indiana Dept. of Highways	Sept. 30, 1986	Same as above.
H-81-72-77	FHA	Oct. 8, 1986	Highway grade crossing accidents involving trucks transporting bulk hazardous materials.
H-79-19	do	do	Tractor-trailer penetrating concrete median barrier.
A-86-48	FAA	Oct. 1, 1986	Provide surveillance of operators to assure adjustment and calibration of fuel quantity indicting system.
A-86-49	do	do	Encourage the development and application of fuel tank dipsticks and dripsticks for general aviation airplanes used in operations that will allow flightcrews to verify the quantity of fuel on board.
A-86-50	do	do	Require that air carriers operating general aviation type airplanes use calibrated dipsticks or dripsticks to verify fuel quantities on board.
A-84-104	do	do	Issue an AD applicable to all Cessna Model 177, 206, 207, and 210 airplanes produced before 1975 to require the installation of quick drains on the fuel reservoir tanks.
A-84-105	do	do	Supplement the preflight inspection procedure of its pilot handbooks and flight manuals applicable to all Cessna Model 177, 206, 207, and 210 produced before 1975 to include information relating to the location of fuel reservoir tanks and drains.
A-86-106	do	do	Supplement pilot handbooks and manuals applicable to Cessna Models 177, 206, 207, and 210 produced before 1975 to include information relating to the location of fuel reservoir tanks and drains.
A-86-107	do	do	Require installation of a decal on the low fuselage of these models, irrespective of date of manufacture, to assist in locating the tanks.
A-83-24	do	Oct. 6, 1986	Encourage industry to expedite the development of flight director systems which provide enhanced pitch guidance logic.
A-86-4 & 85-21	DOD	Oct. 3, 1986	Identification of amounts of hazardous ingredients in hazardous waste shipments; establishment of a 24-hour communications system.
P-78-43	American Society of Engineers	Oct. 8, 1986	Development guidelines for the installation and operation of pipeline monitoring alarms on single-feed systems.
P-82-47	do	do	To advise against cutting gas mains under pressure unless it can be performed safely.
P-83-28	do	do	Monitor gas pipeline segments that have been isolated from gas under pressure through the use of valves.
P-84-86	do	do	Develop guidelines for bypassing and isolating segments of pipelines or control equipment for gas under pressure.
R-83-60	do	do	Establish supervisory procedures at crew-change terminals.
R-83-61	do	do	Fitness of employees when coming on duty.
R-83-60	Illinois Central Gulf	Oct. 3, 1986	Establish supervisory procedures at crew-change terminals.
R-83-61	do	do	Fitness of employees when coming on duty.
R-78-10	DOT	Oct. 9, 1986	Oversight capability of rail transit safety.

Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include addressee's name, date of the letter, and the recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Monica Revelle,

Alternate Federal Register Officer.

October 17, 1986.

[FR Doc. 86-23920 Filed 10-22-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 22, 1986 (51 FR 33678). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1986 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Waste Management, October 30 and 31, 1986, Washington, DC. The Sbucommittee will review the following radioactive waste management topics: (1) The BWIP (Hanford) site, including health and safety issues, (2) the Staff's review of DOE's five final Environmental Assessments, (3) assessing compliance with the EPA Standard, (4) rulemaking to conform Part 60 to EPA Standard, (5) states' implementation of LLRWPAA, (6) alternatives to shallow land burial, (7) safety assessment of alternatives to shallow land burial, and (8) status of NRC waste package corrosion program.

Safety Philosophy, Technology, and Criteria, November 5, 1986, Washington, DC. The Subcommittee will: (1) Continue its review of USI A-17, "Systems Interaction in Nuclear Power," (2) review the status of the NRC work on steam generator overfill, and (3) discuss the implications of the Chernobyl Accident.

Extreme External Phenomena, November 20, 1986, Washington, DC. The Subcommittee will continue its review of the Diablo Canyon Long-term seismic program and the NRC Staff's Seismic Safety Research Program.

Spent Fuel Storage, November 21, 1986, Washington, DC. The Subcommittee will continue its review of 10 CFR Part 72 and Monitored Retrievable Storage (MRS).

Regional Operations, December 2, 1986, Chicago, IL. The Subcommittee will begin its review of the activities of the NRC Regional Offices. This meeting will focus on the activities of the Region III Office.

Instrumentation and Control Systems, December 18, 1986, Washington, DC. The Subcommittee will discuss the effect of adverse conditions such as high

temperature on solid-state components in nuclear power plants.

Regional Operations, January 20, 1987, Washington, DC. The Subcommittee will continue its review of the activities of the Office of Inspection and Enforcement.

Standardization of Nuclear Facilities, January 21, 1987, Washington, DC. The Subcommittee will review NRC evaluation of Chapter I ("Overall Requirements") of the EPRI Advanced Light Water Reactor Program.

Structural Engineering, January 21 and 22, 1987, Albuquerque, NM. The Subcommittee will review containment integrity and Category I structures, programs, and test facilities.

Decay Heat Removal Systems, January 22, 1987 (tentative), Washington, DC. The Subcommittee will continue its review of the NRR Resolution Position for USI A–45.

Joint Seabrook/Occupational and Environmental Protection Systems/ Severe Accidents, Date to be determined (mid-November), Washington, DC. The Subcommittees will continue the review of Public Service of New Hampshire's updated probabilistic risk assessment for the Seabrook Nuclear Power Plant and its potential for supporting a reduction of the emergency planning zone for the site.

AC/DC Power Systems Reliability, Date to be determined (December), Washington, DC. The Subcommittee will review the proposed Station Blackout rule.

Metal Components, Date to be determined (January), Washington, DC. The Subcommittee will: (1) Hear a status report of the Whipjet program (application of broad scope GDC–4 criteria) as applied to a lead plant, Beaver Valley Unit 2; and (2) review public comments on NUREG–0313, Revision 2 (long range fix for BWR–IGSCC problems).

Advanced Reactor Designs, Date to be determined (January), Washington, DC. The Subcommittee will review DOE advanced non-LWR designs regarding the use of proven technology and standardization.

Seabrook Unit 1, Date to be determined (winter), Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook 1.

ACRS Full Committee Meeting

November 6–8, 1986: Items are *tentatively* scheduled.

*A. *Selection of Nuclear Power Plant Personnel (Open)*—Discuss a proposed S report regarding use of aptitude testing in the selection of nuclear power plant personnel.

*B. *Proposed Revision of NRC Regulatory Guides (Open)*—Discuss proposed revisions to NRC Regulatory Guide 1.35, Revision 3, Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments and Regulatory Guide 1.35.1, Determining Prestressing Forces for Inspection of Prestressed Concrete Containments.

*C. *NRC Safety Research Program (Open)*—Briefing and discussion regarding NRC safety research activities including prioritization of NRC research initiatives and five protection research activities.

*D. *Meeting with NRC Commissioners (Open/Closed) (tentative)*—Discuss long-range planning of NRC activities, development of a 5-year plan, and appointment of a new S members.

*E. *Systems Interactions (Open)*—Briefing and discussion with representatives of NRC staff regarding resolution of S comments in its report of May 13, 1986 concerning proposed resolution of USI A–17, Systems Interactions in Nuclear Power Plants.

*F. *Safety Related Modifications in Foreign Pressurized Water Reactor (Open)*—Briefing by representatives of the NRC Staff regarding safety-related design modifications incorporated in the Paluel Nuclear Power Plant.

*G. *International Conference on Reactor Safety (Open/Closed)—Discuss information exchanged at international meeting regarding safety-related matters on October 20–22, 1986.*

*H. *Improved Light Water Reactors (Open)*—Discuss proposed ACRS report to the NRC on the characteristics of improved, light-water reactors.

*I. *Prioritization of Generic Issues (Open)*—Discuss proposed prioritization of the latest group of unresolved safety-related, generic issues.

*J. *Radioactive Waste Management (Open)*—Briefing regarding and discussion of the activities of the NRC Division of Waste Management.

*K. *Nuclear Power Plant Improvements (Open)*—Discuss proposed ACRS report to the NRC regarding the basis for nuclear power plant improvements.

*L. *Selection of ACRS Officers (Open/ Closed)*—Hear and discuss the report of the ACRS Nominating Panel regarding nomination of candidates for ACRS Officers for CY–1987.

*M. *Activities of ACRS Subcommittees (Open)*—Hear and discuss reports of cognizant ACRS subcommittees regarding the status of recent activities including activities of the NRC Office of Inspection and Enforcement, Phase I of the NRC Maintenance and Surveillance Program, and NRC Safety philosophy, technology and criteria regarding safety related items such as the status of NRC work on steam generator overfill, systems interactions in nuclear power plants, and implications of the Chernobyl Accident.

*N. *Future ACRS Activities (Open)*—Discuss anticipated subcommittee activities and proposed items for consideration by the full Committee.

*O. *Activities of ACRS Members (Closed)*—Discuss non-ACRS activities of ACRS members and their impact on ACRS activities as needed.

December 11–13, 1986—Agenda to be announced.

January 8–10, 1987—Agenda to be announced.

Dated: October 16, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–23892 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

Carolina Power and Light Co. and North Carolina Eastern Municipal Power Agency (Shearon Harris Nuclear Power Plant); Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision concerning a request by Messrs. Joseph Hughes and Steven Katz, on behalf of the Coalition for Alternatives to Shearon Harris (CASH), and Mr. Wells Eddleman, that the Director, Office of Nuclear Reactor Regulation institute a show cause proceeding pursuant to 10 CFR 2.202 to address certain issues raised by the petition and to withhold issuance of the operating license for the Shearon Harris Nuclear Power Plant until these issues are addressed in a hearing. Specifically, the petition requested that: (1) The applicant be required to redemonstrate the adequacy of its emergency planning capabilities in light of the decision by Chatham County to withdraw from participation in the emergency plan and alleged deficiencies in the applicant's emergency plan demonstrated by an emergency siren actuation incident on June 28, 1986; (2) the applicant be required to comply with 10 CFR 50.47(a)(2) concerning conducting a full scale exercise within one year before full power operation; (3) the Commission investigate allegations by Ms. Patty Miriello concerning falsification of records of employee radiation exposures, deficiencies in the radiation protection program and

improper inservice inspections of large reactor coolant line welds; and (4) the Commission prepare a supplemental Environmental Impact Statement and consider psychological distress to residents of the surrounding area in light of three new significant circumstances: (a) The Chernobyl accident; (b) the false siren incident, and (c) the Chatham County pull-out.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the request for a show cause proceeding. The reasons for this decision are explained in the "Director's Decision Under 10 CFR 2.206", DD–86–13, which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Local Public Document Room at the Wake County Library, 104 Fayetteville Street, Raleigh, North Carolina 27601.

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute the final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time period.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 15th day of October, 1986.

[FR Doc. 86–23983 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, CE 406–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 3.48 and is entitled "Standard Format and Content for the Safety Analysis Report for an Independent Spent Fuel Storage Installation or Monitored Retrievable Storage Installation (Dry Storage)." The guide is being revised to conform to a proposed revision to Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste" (51 FR 19106), which would include the licensing of monitored retrievable storage installations.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555. Comments will be most helpful if received by December 29, 1986.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C.) 552(a))

Dated at Rockville, Maryland, this 16th day of October 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Safety, Office of Nuclear Regulatory Research.

[FR Doc. 86–23972 Filed 10–22–86; 8:45am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide, Regulatory guide 3.58, "Criticality Safety for Handling, Storing, and Transporting LWR Fuel at Fuels and Materials Facilities," provides guidance on procedures acceptable to the NRC staff for preventing criticality accidents in operations involving light water reactor fuel outside reactors. The guide endorses ANSI/ANS–8.17–1984, "Criticality Safety Criteria for the Handling, Storage, and Transportation of LWR Fuel Outside Reactors."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 16th day of October 1986.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-23973 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guide is Regulatory Guide 3.57, "Administrative Practices for Nuclear Criticalty Safety at Fuels and Materials Facilities." It describes practices acceptable to the NRC staff for administration of a nuclear criticality safety program for operations with fissionable materials at fuels and materials facilities in which there exists a potential for criticality accidents. The guide endorses ANSI/ANS-8.19-1984, "Administrative Practices for Nuclear Criticality Safety."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 15th day of October 1986.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-23974 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-16055, License No. 34-19089-01, EA 86-155]

Advanced Medical Systems, Inc., Order Suspending License and Order to Show Cause (Effective Immediately)

I

Advanced Medical Systems, Inc.; One Factory Row, Geneva, Ohio, 44041 (the licensee), is the holder of Byproduct Material License No. 34-19089-01 issued by the Nuclear Regulatory Commission (the NRC) pursuant to 10 CFR Part 30. The license authorizes possession and use of 150,000 curies of cobalt-60 as solid metal, 150,000 curies of cobalt-60 in sealed sources, and 40,000 curies of cesium-137. The license further authorizes the installation, servicing, maintenance, and dismantling of radiography and teletherapy units. The license, originally issued on November 2, 1979, was renewed on June 25, 1986, with an expiration date of October 31, 1986. A timely renewal application has been submitted.

II

On February 21 and 22, 1985, a special safety inspection of licensed activities was performed by NRC Region III personnel in response to: (1) Telephone allegation received in NRC Region III regarding unqualified workers performing licensed activities and excessive radiation exposures to hot cell workers, and (2) a letter from the licensee dated January 24, 1985, reporting an apparent overexposure of a hot cell worker. Additional information was provided by the licensee and enforcement conferences were held regarding these matters on March 13 and April 12, 1985. Inspection Report No. 030-16055/85001(DRSS) was issued on June 28, 1985, documenting the results of those inspections and meetings. Four violations of regulatory requirements and license conditions were identified during that inspection and were documented in the Notice of Violation and Proposed Imposition of Civil Penalties isused June 28, 1985. Additionally, on June 28, 1985, an Immediately Effective Order Modifying License was issued requiring more extensive radiation protection measures prior to each hot cell entry. On July 31, 1985, the licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties denying all violations and asserting that information existed regarding each alleged violation demonstrating that no violation occurred. The NRC is currently evaluating the licensee's response.

III

The NRC recently has confirmed additional allegations that since the Spring of 1985 and as recently as September 1986, employees of the licensee were directed to perform certain service and maintenance on teletherapy equipment at medical facilities notwithstanding their lack of NRC authorization, their lack of required training to perform the directed maintenance, their lack of appropriate radiation detection and monitoring equipment or required service manuals, and their express objections to performing such maintenance without proper training. In addition, one hospital at which such service and maintenance was performed has indicated its belief that a licensee employee was unqualified to perform the maintenance of its teletherapy equipment.

IV

Based on the above, it appears that the licensee has demonstrated careless disregard for license requirements and, consequently, I lack the requisite reasonable assurance that the licensee will comply with Commission requirements in the future. Continued conduct of certain licensed activities could pose a threat to the health and safety of the public. Specifically, the performance of installation, service, maintenance or dismantling of radiography or teletherapy units by unauthorized and unqualified individuals could result in the overexposure of individuals receiving or administering teletherapy treatment or performing maintenance or service on radiography or teletherapy units. Therefore, I have determined that the public health, safety and interest require that License No. 34-19089-01 be suspended as described below.

I have further determined that, pursuant to 10 CFR 2.201(c), no prior notice is required and, pursuant to 10 CFR 2.202(f), that the suspension should be immediately effective pending further Order.

V

In view of the foregoing and pursuant to sections 81, 161b, 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, it is hereby ordered, effective immediately, that:

A. Pending further Order, activities authorized under License No. 34–19089–01 to install, service, maintain, or dismantle radiography or teletherapy units are suspended.

B. The licensee shall make the following records immediately available for NRC retention, inspection, or copying: (1) All training records for employees performing maintenance or service work on teletherapy units, (2) all leak test records of sealed cobalt-60 sources, and (3) all invoice and service reports of teletheraphy unit maintenance and service work. The licensee shall also make available for NRC retention, inspection, or copying any records subsequently identified by NRC representatives as being relevant to the conduct of licensed activities. The records shall be made available at the licensee's facilities located in either Cleveland or Geneva, Ohio. The licensee shall not tamper with, dispose of, or alter in any manner any record that may be relevant to the conduct of licensed activities.

C. The Regional Administrator, Region III, may relax or rescind any of the above provisions upon demonstration by the licensee of good cause.

VI

Pursuant to 10 CFR 2.202(b), the licensee may show cause why this Order should not have been issued by filing a written answer under oath or affirmation within twenty days after the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer this Order, as provided in 10 CFR 2.202(d), by consenting to the provisions specified in Section V above. Upon the licensee's consent to the provisions set forth in Seciton V of this Order, or upon failure of the licensee to file an answer within the specified time, the provisions specified in Section V above shall be final without further Order.

VII

Pursuant to 10 CFR 2.202(b), the licensee may, in its answer filed under Section V, request a hearing. Any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commisison, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer under section VI or a request for hearing under section VII of this order shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–23988 Filed 10–22–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–528 and 50–529; License Nos. NPF–41 and NPF–51, EA 86–65]

Arizona Public Service Co. Palo Verde Nuclear Generating Station Units 1 and 2; Order Imposing Civil Monetary Penalties

I

The Arizona Public Service Company (the licensee) is the holder of Operating License Nos. NPF–41 and NPF–51, issued by the Nuclear Regulatory Commission (the Commission). These licenses authorize the licensee to operate the Palo Verde Nuclear Generating Station, Units 1 and 2 in accordance with the conditions specified therein. Operating Licensee No. NPF–41, issued on June 1, 1985, superseded License No. NPF–34, issued on December 31, 1984. Operating License No. NPF–51, issued on April 23, 1986, superseded License No. NPF–46, issued on December 9, 1985.

II

A routine physical security inspection of the licensee's activities under the licenses was conducted by Region V during the period February 11 through March 13, 1986. As a result of this inspection, it appears that the licensee had not conducted its activities in full compliance with the conditions of its licenses. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated May 5, 1986. This Notice stated the nature of the violations, the requirements of the Commission that the licensee had violated, and the amount of civil penalties proposed for these violations. A reply dated June 4, 1986 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee on June 5, 1986.

Upon consideration of the licensee's response and the statement of facts, explanation, and arguments for mitigation contained therein, the Director, Office of Inspection and Enforcement has determined, as set forth in the Appendix to this Order, that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

III

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of One Hundred Thousand Dollars ($100,000) within 30 days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. NRC, Washington, DC 20555.

IV

The licensee may, within 30 days of the date of this Order, request a hearing. A request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Enforcement, Office of General Counsel, at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings, and if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above, and

(b) whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-23984 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-00188; License 13-00951-04; EA 86-158]

Ball Memorial Hospital; Order Modifying Licensee (Effective Immediately)

I

Ball Memorial Hospital, Department of Radiology, 2401 University Avenue, Muncie, Indiana (the licensee) is the holder of NRC byproduct material License No. 13-00951-04 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on September 30, 1989.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Systems, Inc. such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified indiviudals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately.

II

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, it is hereby ordered, effective immediately, that:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy unit prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.36 by a licensed organization other than Advanced Medical Systems, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Systems, Inc. subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The licensee shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have been satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechanical, or pneumatic malfunction of its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312-790-5500) to the NRC Regional Adminstrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-23975 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-05165, License No. 24-13998-01, EA 86-51]

C-E Glass, Inc.; Order Imposing Civil Monetary Penalties

I

C-E Glass, Incorporated, a Division of Combustion Engineering, Incorporated, St. Louis, MO 63147 (the licensee) is the holder of License No. 24-13998-01 issued by the Nuclear Regulatory Commission (the Commission) which authorizes the licensee to use byproduct material in a source holder (gauge) for level measurement.

II

An NRC special safety inspection of the licensee's activities under the license was conducted February 11 through March 6, 1986. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated June 30, 1986. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil penalties. The base civil penalty was increased from $500 to $15,000 because of the licensee's failure to maintain effective management control over

licensed activities. As a result, members of the general public were unnecessarily exposed to radiation. A response dated July 22, 1986, to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

After consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement has determined that the violations occurred as stated and that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96–295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of Fifteen Thousand Dollars ($15,000) within thirty days of the date of this Order, by check, draft or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee request a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether, on the basis of such violations, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 10th day of October 1986.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix.—Evaluations and Conclusions

In a letter dated July 22, 1986 the licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties dated June 30, 1986. In its response, the licensee denies one violation. The licensee admits that the other violation occurred as described in the Notice, but requests reduction of the civil penalties for this violation and provides reasons why it believes that mitigation of the penalties is appropriate. Provided below are (1) a restatement of each violation, (2) a summary of the licensee's response regarding each violation, (3) NRC's evaluation of the licensee's response, and (4) NRC's conclusion.

Restatement of Violation A

10 CFR 30.41(a) provides that no licensee may transfer byproduct material to any person or entity except as specifically authorized in section 30.41(b).

Contrary to the above, on October 2, 1981, C–E Glass, Incorporated, the licensee, transferred a Robertshaw Model No. 770–A5 source holder (gauge) containing a nominal 1.2 curies cobalt-60 sealed source to Hordis Brothers, Incorporated, an entity not authorized to receive this byproduct material under terms of 10 CFR 30.41(b).

Licensee's Response

The licensee admits that the violation occurred. However, the licensee requests that the civil penalties proposed for this violation be reduced to $500 in view of extenuating circumstances and certain mitigating factors. The licensee explains that although on October 2, 1981 it sold its St. Louis facility and assets including the gauge containing the sealed source to Hordis Brothers, all of the St. Louis employees were transferred and became Hordis employees, and the transfer was effected without interruption of activities. The licensee states that although by oversight it failed to assure that Hordis was properly licensed to receive the gauge, given the circumstances of the transfer and continuity of plant management and activities, it had every reason to believe that Hordis would remain in responsible possession and control of the gauge. The licensee claims that the amount of the penalty proposed by the NRC for this violation should not only reflect the subsequent actions of Hordis in disposing of the source, but the extent to which the licensee could reasonably have foreseen such an event. The licensee also claims that mitigation of the proposed civil penalty for this violation is appropriate based upon its prompt remedial actions which included immediate removal of the source from the St. Louis site when it learned that the source had been abandoned and its full cooperation with the NRC's investigation; the fact that it had never been previously cited for similar violations; and its corrective actions, which included developing an administrative mechanism to assure that the Company's management is alerted whenever a proposed sale or transfer of licensed material will occur.

NRC Evaluation

The licensee admits that the violation occurred as stated in that licensed byproduct material was transferred to Hordis Brothers, Incorporated, an entity that was not authorized to receive and use the material. The licensee has attempted to minimize the significance of this event by noting that when Hordis Brothers, Incorporated purchased the C–E Glass facilities, the same individuals who were employed by C–E Glass continued to use the gauge and, therefore, the licensee assumed they would continue to do so in a responsible manner.

The NRC regulates the possession and use of byproduct material to ensure that unauthorized individuals do not possess, use, or make decisions regarding the use of byproduct material. Even though the individuals at Hordis Brothers, Incorporated who used the gauge apparently understood how the device functioned, they did not demonstrate a knowledge of NRC regulatory requirements through applying for and being granted a license. The licensing process helps the NRC to ensure that byproduct material such as that contained in the gauge will be used in a safe manner. The NRC staff does not agree that a transferee of byproduct material can be expected to maintain responsible possession and control of such materials if that transferee has not demonstrated an understanding of the applicable regulatory requirements.

The licensee's unauthorized transfer of the gauge to an unlicensed user resulted in a member of the public being exposed to radiation. The size of the

civil penalty demonstrates the NI concern regarding this occurrence. With regard to the licensee's corrective actions, the NRC finds no basis for mitigation. Although the licensee removed the abandoned byproduct material from the St. Louis site and otherwise cooperated with the NRC, the staff concludes that these actions were no more than would be expected under the circumstances. Further, because the NRC expects licensees to maintain control over their licensed materials, the administrative mechanisms put into place to monitor licensed activities are also no more than those corrective actions which would be expected by the NRC. Therefore, no mitigation is warranted.

Restatement of Violation B

10 CFR 30.34(f) (1981) [now codified as 10 CFR 30.36(b)] requires that each licensee notify the Commission in writing when the licensee decides to terminate all activities involving materials authorized under the license. Contrary to the above, on October 2, 1981, the licensee, C–E Glass, Incorporated terminated all activities involving materials authorized under the license when it sold its facilities located at 81 Angelica Street, St. Louis, Missouri, the only place where the licensee was authorized to use such materials under its license, and did not notify the Commission.

Licensee's Response

The licensee denies and claims error in Violation B, in that it claims that the language of §30.36(b) makes it clear that the licensee's duty to notify the Commission springs from a decision to terminate the activities in which the licensed materials are used. The licensee states that in the instant case, those activities were transferred intact to Hordis Brothers, Incorporated as a going enterprise. The licensee claims that the decision contemplated in § 30.36(b) requires some conscious act or process of deciding on the part of the licensee and that since ownership, possession, and control of all activities involving the lecensed materials passed to Hordis upon the sale of the licensee's facility on October 2, 1981, any decision to terminate those activities after that date rested exclusively with Hordis and could only have been made by Hordis and not the licensee.

NRC Evaluation

In its response to Violation A, the licensee admitted it transferred licensed byproduct material to Hordis Brothers, Incorporated although Hordis was not licensed by the NRC to possess or use this material. C–E Glass now seeks to deny responsibility for its failure to notify the NRC by noting that the use of the gauge had not been terminated, only transferred. The NRC staff has concluded that such a rationale is without merit for the following reasons: (1) The license authorizing use of the Robertshaw Model No. 770–A5 gauge containing a nominal 1.2 curie cobalt-60 sealed source was issued to C–E Glass not Hordis Brothers; (2) on October 2, 1981, C–E Glass permanently and totally terminated control over all activities authorized by the license when it sold its facility at 81 Angelica Street, St. Louis, Missouri (the only authorized place of use) and it was required to report this termination of activities to the NRC; and (3) C–E Glass, in effect, abandoned the gauge when it sold the facility and transferred possession in an unauthorized manner. Therefore, the NRC staff concludes that the violation occurred as stated.

NRC Conclusion

The NRC staff has concluded that all of the violations did occur as originally stated in the June 30, 1986 Notice of Violation and Proposed Imposition of Civil Penalties. These violations collectively demonstrated licensee management's inadequate control and oversight of the licensed program at the St. Louis, Missouri site. This failure resulted in a member of the public being unnecessarily exposed to radiation. The licensee's response does not provide a sufficient basis for withdrawal of any violation or for mitigation of the proposed civil penalty. Therefore, the NRC staff has concluded that a $15,000 civil penalty should be imposed.

[FR Doc. 86–23986 Filed 10–22–86; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–456–OL, 50–457–OL; ASLBP No. 79–410–03–OL]

Commonwealth Edison Co., Braidwood Station, Unit Nos. 1 and 2; Notice of Hearing—Change

Before Administrative Judges: Herbert Grossman, Chairman, Richard F. Cole, and A. Dixon Callihan.

October 16, 1986.

Please take notice that the evidentiary hearing in the matter of the Braidwood Station has reconvened in Courtroom #1743, at the Federal Building, 219 South Dearborn Street, Chicago, IL 60604, and will continue from day to day during the week, unless otherwise stated.

The public is invited to attend all hearing sessions.

For the Atomic Safety and Licensing Board.

B. Paul Cotter,

Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 86–23891 Filed 10–22–86; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 030–29268; License 34–24720–01 EA 86–156]

Eastside Radiology Imaging and Therapy Center; Order Modifying License (Effective Immediately)

I

Eastside Radiology Imaging and Therapy Center, 2785 SOM Center Road, Willoughby Hills Ohio (the licensee) is the holder of NRC byproduct material License No. 34–24720–01 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on July 31, 1991.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Systems, Inc. such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified individuals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately,

II

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, It is hereby ordered, effective immediately, that:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy units prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed

subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.26 by a licensed organization other than Advanced Medical Systems, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Systems, Inc. subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The licensee shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechanical, or pneumatic malfunction of its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312–790–5500) to the NRC Regional Administrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regualtory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–23979 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–250 and 50–251, License Nos. DPR–31 and DPR–41, EA 86–38

Florida Power and Light Co., Turkey Point, Units 3 and 4; Order Imposing Civil Monetary Penalty

I

Florida Power and Light Company (the licensee) is the holder of Operating License Nos. DPR–31 and DPR–41 (the licenses) issued by the Nuclear Regulatory Commission (the Commission/NRC) on July 19, 1972 and April 10, 1973, respectively. The licenses authorize the licensee to operate the Turkey Point Units 3 and 4 in accordance with conditions specified therein.

II

A safety inspection of the licensee's activities under the licenses was conducted by the NRC from January 15–16, 1986. As a result of this inspection, it appeared that the licensee had not conducted its activities in full compliance with NRC requirements. A Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was served upon the licensee by letter dated April 28, 1986. The NOV stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the NOV on May 28, 1986.

III

After consideration of the licensee's response and the statements of facts, explanations, and arguments for mitigation or remission of the proposed civil penalty contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement, has determined that the violations identified in the Notice of Violation and Proposed Imposition of Civil Penalty were properly classified at Severity Level III but that the $50,000 civil penalty should be mitigated by 50 percent based on the licensee's extensive corrective actions.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96–295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Twenty-Five Thousand Dollars ($25,000) within thirty days of the date of this Order by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of the Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement at the above address. A copy of the hearing request shall also be sent to the Assistant General Counsel for Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty; and

(b) Whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland this 14th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix.—Staff Assessment of Licensee Response

On April 28, 1986, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued for several violations of NRC requirements.

Florida Power and Light Company's response to the NOV was provided in a letter dated May 28, 1986. In its response, the licensee denies the violations. In addition, the licensee provides reasons as to why, if the Commission determines that the violations did occur, the penalty should be mitigated. Provided below are: (1) a restatement of each violation, (2) a summary of the licensee's comments on each violation, (3) the NRC's response to each of the licensee's comments, and (4) the NRC's conclusion.

A. Violation A

10 CFR 19.12 requires that all individuals working in or frequenting any portion of a restricted area shall be instructed in precautions or procedures to minimize their exposure and in the purposes and functions of protective devices employed.

Contrary to the above, instructions given to a worker who entered the Traversing Incore Probe (TIP) drive area of Unit 3 containment on January 8, 1986 with a radiation survey instrument with which he was to assess the radiation hazards that may be present did not include methods of detecting instrument failures and actions to be taken if the instrument was suspected of failure. The individual remained in the TIP drive area for 5 minutes and was unaware that the instrument was not responding properly because of the high radiation levels in the area.

Licensee Comments Regarding Violation A

The second paragraph of Violation A of EA 86–38 states that the instructions given to the I&C technician who entered the TIP drive area of Unit 3 containment did not include methods of detecting instrument failure and actions to be taken if the instrument was suspected of failure. It notes that he remained in the TIP drive area for five minutes unaware that the instrument was not responding properly. The implication of this statement is that the instructions he received about precautions or procedures to minimize exposure and for the purposes and functions of protective devices were inadequate to meet the requirements of 10 CFR 19.12. FPL does not contend that the I&C technician's instructions expressly included detailed methods of detecting failures of the specific radiation survey meter he was using. Rather, the licensee contends that he had received other and wholly adequate training and instructions to minimize his exposure and training in the purpose and function of the protective device employed. This included training and testing in the following areas:

(a) Technical Specification requirements for survey meters in high radiation areas.

(b) Pre-use inspection and operation of survey meter.

(c) Calculation of staytime.

(d) Correct sequence for selecting survey instrument ranges when entering an unknown radiation field.

(e) Interpretation of survey meter readings for all ranges selected.

(f) Requirement to exit the area when unusual conditions are observed (including the requirement to leave the area and notify HP if significant increases in radiation levels exist from previous entry).

(g) Individual responsibilities as stated in FPL's Plant Safety Rules.

(h) Compliance with procedures, RWP requirements, HP verbal instructions, barricades and postings.

The licensee claims that the I&C technician was well qualified in radiological awareness in that he had been adequately trained concerning his responsibilities to comply with RWP requirements, postings, and health physics instructions. The I&C technician had attended three qualification classes in radiological training since March 1984. He successfully completed the courses (last course September 20, 1985) with grades well above average. The radiological training course is based on INPO/Industry Standards. Also, the technician has performed this work before and was aware of the radiation levels associated with in-core detectors.

The licensee also contends that the radiation survey meter was issued to the I&C technician to comply with Technical Specification (TS) requirements for entering containment which was posted as a high radiation area. The meter was not issued for him to assess the radiation hazards associated with the withdrawal of incore detectors. In addition to the normal roving HP technician in the area, another HP technician was specifically assigned to cover the work and assess the radiation hazard, using a high range survey instrument. After the first entry, the Health Physics shift supervisor (HPSS) briefed the I&C technician on the job requirements if additional work was needed. The HPSS introduced the I&C technician to the HP technician assigned to provide job coverage. A pre-job briefing took place between the I&C technician, the HPSS, and the assigned HP technician. This included the radiation levels associated with the in-core detectors. Accordingly, it is clear that the instructions received by the I&C technician more than adequately covered the precautions and procedures required to minimize exposure as well as the purpose and functions of the protective devices he was using.

NRC Response

Workers entering a high radiation area should have a general knowledge of the radiation levels expected in the area and specific actions to take if significant changes in radiological conditions occur. When interviewed by the inspector, the I&C technician stated that he was not aware of the higher radiation levels associated with the TIP drive work. Radiation survey instruments are principally issued for workers to detect changes in work area radiation levels. It is the NRC's position that training on the use of the instrument provided in accordance with TS requirements also must include methods of detecting instrument failure. As indicated in the licensee's response, specific training on detecting instrument failure was not included in the technician's training. The licensee's training also did not address the actions individuals are to take if an instrument is suspected of not functioning properly. As a result, the I&C technician failed to recognize that the instrument malfunctioned when the radiation levels exceeded the upper limits of the instrument. Additionally, during an interview with the subject I&C technician, the technician stated that although he had performed this task several times in the past, he was not aware that the radiation levels would be so high. The I&C technician also stated that he was introduced to the Health Physics technician who was to provide job coverage, but that a pre-job briefing did not take place.

B. Violation B

Technical Specification 6.8.1 requires that procedures be established, implemented, and maintained consistent with Appendix A of Regulatory Guide 1.33, Revision 2, February 1978.

Regulatory Guide 1.33, Appendix A, Revision 2, February 1978, requires procedures for radiation protection, maintenance, and operation of nuclear instrument systems.

1. Procedure 190.19, Control of Maintenance on Nuclear Safety Related and Fire Protection Systems, Paragraph 8.3, requires thorough documentation of disassembly/troubleshooting on plant work orders (PWOs). When all discrepancies and problems have been identified, work is to be stopped and the foreman/supervisor is required to clearly define the problem and

corrective actions on the PWO in a step-by-step format.

Contrary to the above, on January 8, 1986:

a. An Instrument and Control (I&C) technician failed to thoroughly document the disassembly and troubleshooting of the Unit 3 TIP drive on the PWO.

b. An I&C technician failed to stop work when the discrepancies and problems outlined on the PWO had been identified and performed work outside the scope of the instructions of the PWO.

c. The I&C Foreman failed to clearly define the problem and corrective action on the PWO in a step-by-step format.

2. Procedure 12407.2, Incore Flux Detector Drive Mechanism and Detector Replacement, requires that health physics perform a thorough survey after the detector has been fully withdrawn, that two persons be present at all times while performing maintenance inside containment, and that workers not exceed the exposure limits established by health physics on the radiation work permit.

Contrary to the above, on January 8, 1986:

a. A survey of the Unit 3 TIP drive area was not performed by health physics after the TIP was withdrawn from the reactor core.

b. Two persons were not present during the I&C technician's second containment entry to perform maintenance on the "A" TIP drive.

c. The I&C technician failed to keep his exposure within limits established by the radiation work permit.

3. Procedure 12404.1, Normal Operation of Incore Moveable Detector System, requires that Nuclear Plant Operations and Health Physics Operations be notified before the operation of the incore detector.

Contrary to the above, on January 8, 1986, Health Physics Operations was not notified before the operation of the incore detector.

Licensee General Comments Regarding Violation B

Violation B states that "Technical Specification 6.8.1 requires that procedures be established, implemented, and maintained consistent with Appendix A to Regulatory Guide 1.33, Revision 2, February 1978." It then refers to three procedures specified in that Regulatory Guide and enumerates one or more instances of failure to comply with each of those procedures. FPL submits that each instance of such failure occurred (in one instance the I&C technician did comply with the procedure), not as a result of a breakdown in the health physics or maintenance programs but as a result of the deliberate failure of the I&C technician to comply with the requirements.

NRC Response

As acknowledged in the licensee's response, licensees are held responsible for the acts of its employees. They also are responsible for the safety of employees. Although Florida Power and Light stated that the violations were the result of deliberate acts of the I&C technician, the NRC believes that at least two other individuals had the opportunity to take action which could have led to the exercise of adequate radiological controls. Specifically, a second I&C technician was in the control room and participated in the movement of the TIPs. This technician failed to ensure that HP Operations was notified prior to the operation of the TIPs as required by Procedure 12404.1. In addition, the Senior Nuclear Watch Engineer was aware that the TIPs were being moved and took no action to determine if proper notifications had been made.

Licensee Comments Regarding Violation B.1.a

Violation B.1.a states that the I&C technician "failed to thoroughly document the disassembly and troubleshooting of the Unit 3 TIP drive on the PWO." Actually, however, and in contrast to his violation of the other significant procedural requirements, the I&C technician completely documented his action on Attachment 1 of 0–GMI–102.1 for PWO #8404. In fact, that documentation provided important information disclosing his violation of those other requirements which lead to the disciplinary action taken against him.

NRC Response

The I&C technician failed to complete Attachment 2 of procedure 0–GM–102.1 outlining the statement of repairs he had made on the TIP drive.

Licensee Comments Regarding Violation B.2

Violation B.2.a. and b. state that a survey of the Unit #3 TIP drive area was not performed by health physics and that two persons were not present during the I&C technician's second containment entry. Again, however, steps 4.3 and 9.1.2 make it clear that each of these precautions are required, but again, the unilateral decision by the I&C technician to proceed with what he apparently considered to be a quick repair after he was unable to locate a Health Physics technician within containment, made these violations inevitable. The failure of the I&C technician to keep his exposure within the limits of the RWP, referred to in Finding B.2.c., was also an obvious consequence of that decision.

NRC Response

Although Florida Power and Light stated that these violations were the result of the deliberate acts of the I&C technician, the NRC believes that at least two other individuals had the opportunity to take action which could have led to the exercise of adequate radiological controls. Specifically, a second I&C technician was in the control room and participated in the movement of the TIPs. His responsibility was to withdraw the TIP so that it could be re-zeroed by the I&C technician present in containment. This technician failed to ensure that HP Operations was notified prior to the operation of the TIPs as required by Procedure 12404.1. In addition, the Senior Nuclear Watch Engineer was aware that the TIPs were being moved and took no action to determine if proper notifications had been made. Moreover, the I&C supervisor who assigned the two technicians, one of whom was to withdraw the TIP, should have taken overt action to ensure that proper identifications were made prior to beginning work. It should also be noted that the second I&C technician failed to notify HP that the TIP drive would be operated.

Licensee Comments Regarding Violation B.3

The failure to notify Health Physics Operations before operating the incore detector, referred to in Violation B.3., was, similarly, the inevitable consequence of the I&C technician's decision to go ahead and make the repair despite the explicit instructions to the contrary in PWO #8404 (Procedure 0–GMI–102.1).

NRC Response

At the time of the inspection, the inspector learned that a second I&C technician was present in the control room. His responsibility was to withdraw the TIP so that it could be re-zeroed by the I&C technician present in containment. The I&C supervisor who assigned the two technicians, one of whom was to withdraw the TIP, should have taken overt action to ensure that proper identifications were made prior to beginning to work. It should also be noted that the second I&C technician

failed to notify HP that the TIP drive would be operated.

C. Licensee Additional Arguments for Mitigation

Licensee Comments

The licensee contends that the five mitigating factors addressed in 10 CFR Part 2, Appendix C call for mitigation of the civil penalty. The licensee states (1) the event was reported upon its discovery even though it was not required to be reported, (2) the event was dissimilar to the October 14, 1983 event and corrective actions for that problem were effective, (3) prompt corrective action was taken, and (4) the licensee had no prior notice of the employee's willful action.

NRC Response

Regarding mitigation or remission of the civil penalty, the mitigation and escalation factors addressed in the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1985) were considered in the staff's determination of the proposed civil penalty. The NRC considered increasing the base civil penalty amount because of the similarity of this most recent event to the 1983 incident and to incidents against which the NRC previously has cautioned all licensees to take preventive measures (e.g., Information notice 82–51 "Overexposure in Reactor Cavities," December 1982). However, because FP&L reported the event upon its discovery, even though it was not required to be reported, and has apparently taken extensive corrective actions, the NRC decided not to escalate the base civil penalty. Further, the NRC does not consider the fact that the licensee had no prior notice of the employee's willful action to be an appropriate basis for mitigating the civil penalty.

This incident and the October 14, 1983 incident are similar because both involved failure to adhere to procedures in high radiation areas. Adherence to procedures forms a basic framework for providing effective, consistent radiological controls for work in high radiation areas. Short of providing direct, continuous health physics coverage for each and every task, these procedures serve as the formal mechanism for initiating necessary communications between various plant workers and the health physics support group. This communication results in appropriate radiological support for maintenance and surveillance activities. Bypassing these procedures and thus failing to comply with the radiological precautions in them seriously weakens the health physics control program established to protect the workers. It is the licensee's responsibility to ensure that these procedures are adhered to. However, in view of the licensee's extensive corrective actions which included re-instructing the entire plant staff of the need to follow radiation control procedures; taking disciplinary action against the involved individual and his supervisor; tagging out the flux mapper system power supply to the Health Physics Supervisor; and prohibiting individuals working under a radiation work permit requiring health physics coverage to enter containment without notifying the health physics shift supervisor and obtaining his authorization, we have determined that 50 percent mitigation of the penalty is appropriate.

NRC Conclusion

The NRC has determined that the violations occurred as stated in the Notice of Violation and Proposed Imposition of Civil Penalty, that the violations were correctly categorized as a Severity Level III problem, and that the licensee has provided a sufficient basis for a 50 percent reduction in the proposed $50,000 civil penalty based on the licensee's extensive corrective action. Accordingly, a civil penalty in the amount of Twenty-Five Thousand Dollars ($25,000) is imposed.

[FR Doc. 86–23987 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322–OL–5; ASLBP No. 86–534–01–OL]

Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1, EP Exercise; Reconstitution of Board: Clarification

By notice dated October 7, 1986, the Atomic Safety and Licensing Board presiding in *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), Docket No. 50–322–OL–5 was reconstituted. Because of the multiple issues pending in this proceeding, there has been some confusion as to the intended scope of the reconstitution.

This is to clarify that the reconstituted Board comprised of John H. Frye, III, Chairman; Oscar H. Paris; and Frederick J. Shon will preside only in the proceedings related to the emergency planning exercise, which are being heard under Docket No. 50–322–OL–5 (Emergency Planning Exercise). These proceedings were initiated pursuant to Commission order, CLI–86–11, 23 NRC 577 (1986).

The Board comprised of Morton B. Margulies, Chairman; Jerry R. Kline; and Frederick J. Shon will continue to preside in all other proceedings pertaining to emergency planning for the Shoreham Nuclear Power Station, which are being heard under Docket No. 50–322–OL–3 (Emergency Planning). These include issues remanded by the Commission in CLI–86–13, 23 NRC —— (July 24, 1986) and by the Atomic Safety and Licensing Appeal Board in ALAB–832, 23 NRC 135 (1986) and ALAB–847, 23 NRC —— (September 19, 1986).

Issued at Bethesda, Maryland, this 17th day of October, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86–23981 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–02074 License 21–08317–02 EA 86–161]

Munson Medical Center; Order Modifying License (Effective Immediately)

I

Munson Medical Center, Sixth and Madison Street, Traverse City, Michigan (the licensee) is the holder of NRC byproduct material License No. 21–08317–02 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on December 31, 1988.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Ssytems, Inc. such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified individuals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately.

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the

Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, It is hereby ordered, effective immediately, That:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy units prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.26 by a licensed organization other than Advanced Medical Systems, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Ssytems, Inc. subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The licensee shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have been satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechanical, or pneumatic malfunction of its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312–790–5500) to the NRC Regional Administrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularly the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A Request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated At Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–23976 Filed 10–23–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–298; License No. DPR–46; EA 86–44]

Nebraska Public Power District; Order Imposing Civil Monetary Penalty

I

Nebraska Public Power District (licensee) P.O. Box 499 Columbus, Nebraska 68601–0499 is the holder of License No. DPR–46 issued by the Nuclear Regulatory Commission (NRC). License No. DPR–46 authorizes the generation of power using nuclear material and is due to expire on June 4, 2008.

II

An inspection of the licensee's activities under its license was conducted on July 29–August 2 and August 12–16, 1985. As a result of the inspection, it appeared that the licensee had not conducted its activities in full compliance with NRC requirements. The results of the inspection were discussed with licensee representatives during an enforcement conference held in the Region IV office in Arlington, Texas on December 17, 1985. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated April 28, 1986. This Notice stated the nature of the violations, requirements of the NRC that the licensee had violated, and the amount of civil penalties proposed. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated May 28, 1986.

Upon consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement has determined that Violation I.B and the associated $25,000 proposed penalty should be withdrawn. However, the NRC concludes that Violation I.A occurred as stated and the licensee's request for mitigation of the associated civil penalty is not warranted. Accordingly, a civil penalty in the amount of Twenty-five Thousand Dollars ($25,000) should be imposed.

III

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295) and 10 CFR 2.205, It is hereby ordered that:

The licensee pay a civil penalty in the amount of Twenty-Five Thousand Dollars ($25,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States, and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, DC 20555.

IV

The licensee may, within thirty days of the date of this Order, request a hearing. A request for hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of any request for hearing shall also be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings, and if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of

Civil Penalty, referenced in Section II above, and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, the 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-23985 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-29043-ML; ASLBP No. 87-541-01-ML]

Perf-Master, Inc., Appointment of Presiding Officer To Conduct Informal Proceeding

Pursuant to the Commission's Order dated October 9, 1986, a presiding officer is hereby appointed to conduct an informal proceeding to consider and decide, in accordance with the Commission's Order, all issues related to the denial by the NRC staff of an application for a license to utilize radioactive materials for well-logging and tracer studies in oil and gas wells filed on January 21, 1986 by:

Perf-Master, Inc., (Well Logging Source)

The name and address of the Presiding Officer is:

Peter B. Bloch, Administrative Judge, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, DC. 20555

Issued at Bethesda, Maryland, this 16th day of October, 1986.

B. Paul Cotter, Jr,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR. Doc. 86-23890 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-443]

Public Service Company of New Hampshire (Seabrook Station, Unit No. 1); Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF-56 to Public Service Company of New Hampshire (PSNH) and the owners listed below [1] (the utilities listed below including PSNH collectively referred to as the licensees) which authorizes fuel loading and precriticality testing of the Seabrook Station, Unit No. 1 (the facility). Pending Commission approval this license is restricted to fuel loading and precriticality testing.

The Seabrook Station, Unit No. 1 (Seabrook Unit 1) is a pressurized water reactor located on the southeast coast of New Hampshire in Seabrook Township, Rockingham County, New Hampshire. The license is effecitve as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on October 19, 1981 (46 FR 51330).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-56, with Technical Specifications (NUREG-1207) and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated April 19, 1983; (3) the Commission's Safety Evaluation Report, dated March 1983 (NUREG-0896), and Supplements 1 through 6; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; and (6) the Final Environmental Statement dated December 1982 (NUREG-0895); and (7) assessment of the Effect of License Duration on Matters Discussed in the Final Environmental Statement for the Seabrook Station, Unit No. 1.

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20555 and in the Exeter Public Library, Front Street, Exeter, New Hampshire 03833. A copy of Facility Operating License NPF-56 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Project Directorate No. 5, PWR Licensing-A. Copies of the Safety Evaluation Report and Supplements 1 through 6 (NUREG-0896) and the Final Environmental Statement (NUREG-0895) may be purchased at current rates from the Superintendent of Documents, U. S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7982 or by calling (202) 275-2060 or (202) 275-2171.

Dated at Bethesda, Maryland, this 17th day of October 1986.

For the Nuclear Regulatory Commission.

Vincent S. Noonan,

Director, PWR Project Directorate No. 5, Division of PWR Licensing-A.

[FR Doc. 86-23982 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-12688-MLA ASLBP No. 87-542-01-MLA]

Radiology Ultrasound Nuclear Consultants, P.A., Appointment of Presiding Officer To Conduct Informal Proceeding

Pursuant to the Commission's Order dated October 9, 1986, a presiding officer is hereby appointed to conduct an informal proceeding to consider and decide, in accordance with the Commission's Order, all issues related to the denial by the NRC Staff of the licensee's application to amend its byproduct materials license to authorize the use of strontium 90 plaque applicators for the treatment of malignant skin lesions, filed on March 6, 1984 by:

Radiology Ultrasound Nuclear Consultants, P.A., (Strontium 90 Applicator)

The name and address of the Presiding Officer is:

Charles Bechhoefer, Administrative Judge, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 16th day of October, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-23889 Filed 10-22-86; 8:45am]

BILLING CODE 7590-01-M

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[1] Public Service Company of New Hampshire is authorized to act as agent for the: Canal Electric Company, Connecticut Light and Power Company, EUA Power Corporation, Hudson Light and Power Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, New Hampshire Electric Cooperative, Inc., Taunton Municipal Lighting Plant, the United Illuminating Company, and Vermont Electric Generation and Transmission Cooperative, Inc., and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

[Docket No. 030-00354; License No. 29-04481-02; EA 86-159]

V.A. Hospital; Order Modifying License (Effective Immediately)

I

V.A. Hospital, East Orange, New Jersey (the licensee) is the holder of NRC byproduct material License No. 29-04481-02 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on March 31, 1988.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Systems, Inc., such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified individuals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately.

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, It is hereby ordered, effective immediately, that:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy units prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.26 by a licensed organization other than Advanced Medical Systems, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Systems, Inc. subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The licensee shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have been satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechanical, or pneumatic malfunction of its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312-790-5500) to the NRC Regional Administrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-23977 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-17020; License No. 31-00636-02; EA 86-160]

V.A. Bronx; Order Modifying License (Effective Immediately)

I

V.A. Bronx, 130 West Kingsbridge Road, Bronx, New York (the licensee) is the holder of NRC byproduct material License No. 31-00636-02 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on March 31, 1988.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Systems, Inc., such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified individuals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately.

II

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, It is hereby ordered, effective immediately, that:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy units prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its

teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.26 by a licensed organization other than Advanced Medical System, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Systems, Inc., subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The licensee shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have been satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechanical, or pneumatic malfunction of its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312–790–5500) to the NRC Regional Administrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A Request for Hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–23978 Filed 10–22–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–00275 License 21–04234–04 EA 86–157]

V.A. Medical Center; Order Modifying License (Effective Immediately)

V.A. Medical Center, Radiation Therapy Center, Southside and Outer Drive, Allen Park, Michigan (the licensee) is the holder of NRC byproduct material License No. 21–04234–04 (the license) issued by the Nuclear Regulatory Commission (the Commission or the NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of cobalt-60 in teletherapy units for the treatment of humans and is due to expire on April 30, 1991.

Recently the NRC has become aware that Advanced Medical Systems, Inc., also known as ATC Medical Group, has performed maintenance and service activities on teletherapy devices at your facility. As described in the attached Order to Advanced Medical Systems, Inc. such activities have been conducted at your facility by unauthorized and unqualified individuals. Accordingly, I have determined that the referenced activities conducted by the unauthorized and unqualified individuals may pose a threat to persons receiving or administering teletherapy treatments. In view of the potential for serious adverse effects to the health and safety of the public, I have determined, pursuant to 10 CFR 2.204, that the public health and safety requires that the actions described below be taken immediately.

In view of the foregoing and pursuant to sections 81, 161b, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Parts 30 and 35, it is hereby ordered, effective immediately, that:

A. The licensee shall perform the full calibration measurements required by 10 CFR 35.21 on its teletherapy units prior to the treatment of humans, unless those calibration requirements have been satisfactorily completed subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

B. Within ninety days of the date of this Order, the licensee shall cause its teletherapy units used to treat humans to be fully inspected and serviced pursuant to 10 CFR 35.26 by a licensed organization other than Advanced Medical Systems, Inc., unless those inspection and service requirements have been satisfactorily completed by a licensed organization other than Advanced Medical Systems, Inc. subsequent to maintenance or service of those units by representatives of Advanced Medical Systems, Inc.

C. The license shall perform the periodic spot-checks of its teletherapy units as required by 10 CFR 35.22 every seven days until the requirements of Item B. above have been satisfied.

D. The licensee shall telephonically notify the NRC Regional Administrator, Region III, or his designee, within 24 hours of the completion of the activities required by Items A and B above.

E. Until the requirements of Item B above have been satisfied, the licensee shall, within 24 hours of discovery, telephonically report to the NRC Regional Administrator, Region III, or his designee, any electrical, mechnical, or pneumatic malfunction if its teletherapy units which may cause exposure of the source.

F. The Regional Administrator, Region III, or his designee may relax or rescind any of the above provisions upon demonstration by the licensee of good cause. In particular, if medically necessary to ensure continued patient care, the above schedules may be relaxed upon telephonic request (312–790–5500) to the NRC Regional Administrator, Region III, or his designee.

III

The licensee or any other person adversely affected by this Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A

request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-23980 Filed 10-22-86; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Visits to Facilities

October 17, 1986.

Notice is hereby given that Commissioner Patti Birge Tyson and staff will visit the Springfield, MA Bulk Mail Center the afternoon of Monday, October 27, 1986, and will visit the headquarters of ADVO System in Hartford, CT the morning of October 28, 1986. For further information contact Jerry Cerasale on 202/789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 86-23952 Filed 10-22-86; 8:45 am]

BILLING CODE 7715-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) Collection title: Financial Disclosure Statement
(2) Form(s) submitted: G-423
(3) Type of request: Revision of a currently approved collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 1,550
(7) Annual reporting hours: 1,938
(8) Collection description: Under the Railroad Retirement and Railroad Unemployment and Insurance Acts, the Board has authority to secure from an overpaid beneficiary a statement of the individual's assets and liabilities if waiver of the overpayment is requested.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86-23921 Filed 10-22-86; 8:45 am]

BILLING CODE 7905-01-M

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1987 shall be at the rate of 24 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1987, 29.0 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 71.0 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: October 16, 1986.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86-23922 Filed 10-22-86; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23709; File No. SR-NYSE-86-26]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of New York Stock Exchange, Inc. Relating to Guidelines for Floor Conduct and Safety

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 11, 1986, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of revisions to the Exchange's Guidelines for Floor Conduct and Safety.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the Exchange's Guidelines for Floor Conduct and Safety, which were adopted in 1977, is to ensure that the behavior and practices of individuals on the Floor of the Exchange contributes to the efficient, undisrupted conduct of business, and does not jeopardize the safety or welfare of others. The Board has delegated authority to Floor Officials (as defined in Exchange Rule 46) to impose on-the-spot penalities against any

member or Floor clerical employee of a member or member organization found in violation of the Guidelines in accordance with the schedule of specified penalties. This procedure streamlines the administration of disciplinary sanctions for "Floor decorum" and other offenses, thus enabling the Exchange to maintain better control of conduct and practices on the trading Floor. Any action taken by a Floor Official may be appealed to a Committee of three Floor Governors of the Exchange. Such appeal is in addition to the right of appeal to the Exchange Board of Directors granted under Article IV, section 14 of the Exchange Constitution.

To further enhance the safe and efficient conduct of business on the trading Floor, the Exchange has modified an existing provision and has added two new provisions to the Guidelines for Floor Conduct and Safety The prohibition of smoking except in designated smoking areas has been modified so that the no smoking area has been extended to include the entire 11 Wall Street lobby. However, the penalties associated with this provision remain the same. This change should help relieve the congestion in the lobby, so that the Exchange can increase its control of persons entering the lobby and the trading Floor. In addition, this modification should also enhance the Exchange's safety efforts by relieving the congestion caused by smokers who obstruct the fire command center located in the 11 Wall Street lobby.

A new provision in regard to the orderly evacuation of the trading Floor, which should also contribute to the Exchange's safe and efficient operation, has been added to the Guidelines for Floor Conduct and Safety. It prohibits any act which jeopardizes the safety or welfare of others during a trading Floor evacuation, including the refusal to immediately depart the trading Floor, to use the assigned emergency exit, to immediately depart the building, or to go to the assigned staging area. The penalties for a first and second offense are $250 and $500, respectively, for a member and a three day and 5 day ticket suspension, respectively, for a clerk.

A second new provision in regard to the display of proper identification while entering and when on the trading Floor has also been added to the Guidelines for Floor Conduct and Safety. It requires that all members and Floor clerical employees of members or member organizations display either their member's badge or Exchange-issued identification card when entering the trading Floor and must wear either their member's badge or Exchange-issued identification card at all times while on the trading Floor. The penalties for a first and second offense are $250 and $500, respectively, for a member and a three day and five day suspension, respectively, for a clerk. This provision should enhance the Exchange's efforts to ensure that unauthorized personnel do not disrupt trading or otherwise interfere with the normal course of business on the trading Floor.

The Exchange also has made two "housekeeping" changes to conform the language of the Guidelines to the new 9:30 a.m. starting time of trading, as filed in SR–NYSE–85–27, and to provide flexibility in the language of the Guidelines for any future changes in trading hours. Therefore, the provision for entering or crossing the trading Floor has been changed as that clerical personnel are prohibited from entering trading crowds at any time between ten minutes prior to the opening of trading and five minutes after the close of trading, instead of between 9:50 a.m. and 4:05 p.m. Similarly, the provision for representation on the Floor has been changed so that a designated individual will represent each member or member organization for at least one hour prior to the opening of trading until one hour after the close of trading, instead of between 8:30 a.m. and 5:00 p.m.; this provision will result in representation on the Floor for an hour prior to the opening of trading rather than an hour and a half as required under the former Exchange rule designating 10:00 a.m. as the starting time of trading.

Additional "housekeeping" changes have been made to the language of the Guidelines in order to reflect a change in terminology from "Floor Ticket" to "Exchange-issued identification card".[1] This change emphasizes the unique, non-transferable nature of each identification card.

Finally, a provision has been added which permits a floor clerical employee to avoid a $500 penalty by immediately notifying the Exchange of the inability to surrender his/her identification card within the required time period upon termination of employment with a member or member organization or cancellation of their card.

The revisions to the Guidelines for floor Conduct and Safety do not affect the rights of members and Floor clerical employees of members and member organizations to appeal, pursuant to existing Exchange Rules and Procedures, any penalties that are imposed.

(2) Statutory Basis

The revisions to the Guidelines for Floor Conduct and Safety are intended to promote the efficient, undisrupted conduct of business on the trading Floor. This, in turn, will facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest, as called for by section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Since the revisions to the Guidelines for Floor Conduct and Safety are concerned solely with regulating behavior on the trading Floor, they will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

The Exchange has not solicited written comments on the proposed rule change. However, at the time the extension of the smoking ban to the 11 Wall Street lobby was discussed last year, the Exchange received a petition from the membership requesting reconsideration of this issue. The Exchange carefully reviewed this petition, but has determined that in order to maximize the safe and efficient conduct of business and to minimize any potential disruptions, it is necessary to prohibit smoking in the 11 Wall Street lobby.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions

[1] Exchange Rule 35 currently uses the old "Floor ticket" terminology. The Exchange anticipates that a rule change proposal will be forthcoming that will, in addition to various changes, bring the rule into conformity with current usage.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 14, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23989 Filed 10-22-86; 8:45am]

BILLING CODE 8010-01-M

[Release No. 34-23707; File No. SR-PCC-86-06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of Pacific Clearing Corporation

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on September 16, 1986, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that establishes uniform procedures in PCC's Securities Collection Division ("SCD") for reclaimed draft securities ("reclaims"). The Commission is publishing this notice to solicit comment on the rule change.

PCC's proposed rule change establishes uniform policy and procedures regarding reclaims for its various offices around the country. Currently, SCD does not have uniform guidelines with respect to reclaims. For example, some offices hold reclaims for only 48 hours, while others will hold reclaims for up to 72 hours, before returning it to the sender.

Under the proposal, PCC will advise a delivering member of a reclaim within 24 hours after the reclaim is returned to PCC. That member must respond with instructions within 24 hours of PCC's notification of the reclaim. If the delivering member does not resolve the problem for 72 hours, the reclaimed item will be returned to that member. If upon receipt of an item, SCD determines that the problem cannot be resolved within 72 hours (*e.g.* legals, third party endorsements, etc.), the items will be sent back immediately to the delivering member.

If a receiving member rejects a physically delivered item because it is DTC-eligible,[1] PCC will request permission from the delivering member to deposit the certificates at Pacific Securities Depository Trust Company ("PSDTC"). If the issue is not PSDTC-eligible, PCC will attempt to make the issue eligible. If this is not possible, PCC will physically redeliver the item to the receiving member.

PCC will impose its reclaim and re-delivery charges for all reclaim items. In addition, members will be billed an additional delivery charge for re-deliveries in New York.

PCC believes that the proposed rule change will achieve consistent, cost-effective and efficient processing of reclaimed securities. Thus, PCC believes the proposed rule change is consistent with section 17A of the Act because it will promote the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comments within 21 days after this Notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available for inspection at the Commission's Public Reference Room and at the principal offices of PCC. All submissions should refer to File No. SR-PCC-86-06 and should be submitted by November 13, 1986.

Dated: October 14, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23990 Filed 10-22-86 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission understands that it is customary for broker-dealers to reject physical deliveries of DTC-eligible securities. Instead, receiving broker-dealers insist that the delivering party deposits those securities at DTC and redelivers those securities to the receiving broker-dealer by electronic book-entry.

[Rel. No. 34-23676; File No. SR-PSE-86-19]

Self-Regulatory Organizations Inc.; Order Granting Accelerated Approval of Proposed Rule Change of Pacific Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 5 U.S.C. 78s(b)(1), notice is hereby given that on September 2, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III, below, which Items have been prepared by the self-regualtory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") or the "Exchange" proposes to amend its Options Floor Procedure Advices B-6 and D-9 to more clearly define the responsibility of Floor Brokers in effecting agency orders. Specifically, the proposed changes will set out the obligations of Floor Brokers to vocalize the name of the Member Firm or Market Maker for whom they are transacting orders.

Currently OFPA B-6 requires that a Floor Broker, after effecting a transaction for the account of a Market Maker, shall supply the name of the Market Maker upon request. However, it is unclear as to which party or parties may make such a request and to whom the name shall be supplied. The Exchange proposes to amend OFPA B-6 to remove the ambiguity in the provision.

OFPA D-9 requires that a Floor Broker executing an order for a Member Firm shall indicate by public outcry the name of such member firm immediately upon effecting the transaction. This requirement is seen as overly burdensome, particularly in active trading Crowds. The Exchange propose to amend OFPA D-9 to require this give-up only upon request.

Set forth below are the proposed rule changes. (Brackets indicate language to

be deleted; italic indicates new language.)

PSE Options Floor Procedure Advice

Subject: Market Maker's Use of Floor Brokers to Effect Transactions for the Market Maker's Account.

Section 73 of Rule VI states, in part, that "A Market Maker is an individual who is registered with the Exchange for the purpose of making transactions as dealer-specialist on the Floor," and section 79 requires, in part, that "Transactions of a Market Maker should constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. . . ." Accordingly, the Exchange believes that the special obligations and role of the Market Maker warrant that the crowd be fully aware of the Market Maker's [warrant] *trading* activity. Pursuant to section 73 and 79, the following special procedures will be applicable when a Market Maker has occasion to utilize the services of a Floor Broker to effect transactions for the Market Maker's account:

Sections 1 and 2 are not amended.

(3) A Floor Broker holding an order for the account of a Market Maker shall verbally identify the order as such prior to consummating a transaction, and shall after effecting the trade, supply the name of the Market Maker concerned, *by public outcry,* upon request[.] *of any member or members in the trading crowd.*

Sections 4 and 5 are not amended.

PSE Options Floor Procedure Advice

Subject: Giving Up the Name of a Member Organization At a Time of Requesting the Size of the Market and/or Executing an Order.

First Paragraph—No Change.

Paragraph (1)—No Change.

(2) Whether or not he shall have previously indicated the name of the member organization for whom he is acting in requesting a quotation, a Floor Broker executing an order shall *upon request by any Member or Members in the trading crowd* indicate by public outcry the name of such member organization immediately upon effecting any transaction on the Options Trading Floor.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included the following statements concerning the purpose of and basis for the proposed rule change.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The PSE is proposing to change its Options Floor Procedure Advices ("OFPA' or Advices") with respect to the obligations of Floor Brokers to vocalize for whom they are executing transactions. OFPA B–6 indicates that a Floor Broker after executing a transaction for a market maker should supply the name of the market maker upon request. However, the Advice does not specify to whom the name should be supplied or upon whose request. The proposed rule change is designed to remedy this deficiency and make clear that any member in the trading crowd may request this information and that the floor broker must announce the information, generally, to the trading crowd.

With respect to OFPA D–9, a Floor Broker is required to give up the name of the member organization for whom he is executing a transaction immediately upon effecting such transaction. The PSE notes that such a requirement is needed on certain exchanges in order to facilitate comparison and clearing of trades. This is not the case at the PSE however, owing to its unique-trade match. Morever, the requirement to vocalize the name of the member organization after each trade is deemed burdensome, particularily in active or fast markets. Consequently, the PSE proposes to change the OFPA to require Floor Brokers to announce the name of the member organization only upon request. This will preserve the right of crowd members to gain this knowledge when so desired, and will also be consistent with the proposed change to OFPA B–6.

(B) Selt-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Selt-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because it believes the rule change will facilitate transactions in securities, remove impediments to, and help protect the mechanism of a free and open market.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the rule change was previously noticed pursuant to section 19(b)(3)(B) of the act and should promote the maintenance of a fair and orderly market on the PSE.[1] No comments were received with respect to the proposal.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission, and any person, other than those that may be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-montioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, purusant to delegated authority.

Dated: October 2, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–23991 Filed 9–22–86; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 22801 (January 15, 1986), 51 FR 3291 (January 24, 1986).

[Rel. No. 34-23710; File Nos. SR-Phlx-86-24, SR-CBOE-86-30]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Granting Accelerated Approval to Proposed Rule Change of Philadelphia Stock Exchange, Inc. and Chicago Board Options Exchange, Inc.

On July 31 and August 29, 1986, respectively, the Philadelphia Stock Exchange Inc. ("Phlx") and the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, proposed rule changes to increase position and exercise limits in foreign currency options ("FCOs") to 100,000 contracts on the Phlx and 50,000 contracts on the CBOE.[1]

The Phlx's proposed rule change was noticed in Securities Exchange Act Release No. 23518 (August 7, 1986), 51 FR 29179 (August 14, 1986). No comments were received on the proposed rule change.

The purpose of both the Phlx and CBOE rule changes is to increase and make uniform position and exercise limits in FCOs traded on the two exchanges. Both the Phlx and CBOE state that the underlying currency markets are of sufficient size and liquidity as to justify expanded limits and make the likelihood of manipulation through FCOs unlikely.

In is filing with the Commission, the Phlx traced the development of the market in FCOs and discussed the need for expanded position and exercise limits. When the Phlx first began trading options on foreign currencies, it was intended that as interest in these options grew, higher position and exercise limits would be put in place. It was then believed, as now, that the overwhelming size of the underlying currencies markets made the likelihood of manipulation through FCOs remote. This would appear to be true even at trading levels significantly in excess of the trading volumes presently experienced in Phlx and CBOE FCO contracts.

At the initiation of FCO trading in December, 1982 until January 1985 the position and exercise limits for FCOs on the Phlx were set at 10,000 contracts. Late in 1984, significant growth in the daily average FCO volume prompted the Commission to approve an increase to a level of 25,000 contracts. In July 1985 the Phlx sought and received an increase in position and exercise limits to 50,000 contracts. At that time FCO open interest had just exceeded 400,000 contracts while daily average volume was 14,000 contracts. The record FCO trading volume then was 30,527 contracts on July 17, 1985.

As the market for FCOs has become mature, the ability of specialists and market makers to make deeper markets has increased proportionately. Over the last several months, the Phlx has serviced three requests from members wishing to be temporarily exempted from FCO position limits. In each case, a need for liquidity was perceived and steps were taken to allow for exemptions.

The motivation for the Phlx in granting exemptions relates not only to the size of the underlying markets and, hence the improbability of manipulation, but also to the needs of the marketplace. Contrary to established patterns of trading in the equity options market, the FCO market tends to attract a significant portion of its interest and market participation in block form. Many of these orders of block size are for the accounts of multinational corporations with hedging needs. The importance of this point in addressing the question of increasing position and exercise limits is twofold. First, higher limits would serve an economic purpose to the business community by facilitating the needs of the well capitalized hedge. Second, the better the investing public is serviced, the more liquidity is drawn to the market.

In May of this year the Phlx FCO daily volume averaged 30,705 contracts. Open interest achieved a record of 651,549 contracts on June 12, 1985 and a daily total FCO record of 74,121 contracts was achieved on May 23, 1986. On that same day, 53,423 Japanese Yen contracts alone were traded. Phlx FCO daily trading volume in the first six months of 1986 averaged 25,892 contracts, with open interest regularly maintained at over 500,000 contracts and presently exceeding 600,000 contracts outstanding.

Both Phlx and CBOE perceive a need for higher limits and believe that the proposed limits meet this need, without raising additional regulatory concerns. In this regard, we note that at the proposed 100,000 Phlx contract level, if exercised, deliverable would represent less than 10 percent of conservative estimates of currency float in any of the respective foreign currencies traded on the Phlx. Moreover, given the supplemental amount of currency trading in the interbank market in the United States as well as in the international market, a 100,000 contract position and exercise limit would not pose a dislocation to any of the respective currency markets.

In an analogous circumstance regarding Treasury options on the CBOE, Phlx notes that Commission utilized a 10 percent of outstanding issue standard regarding an increase in position and exercise limits. The financial/interest rate options are not unlike Phlx FCOs in that a majority of market participants tend to be professional/commercial hedgers, trading in markets of institutional/block size.

Furthermore, Phlx believes that unless position and exercise limits in Phlx foreign currency options are allowed to increase to the 100,000 contract level, the liquidity of the Phlx marketplace will suffer. Deterred by position limits, market participants would turn to over-the-counter ("OTC") markets where pricing is not as efficient and costs to the investment public reflect increased risks regarding execution, credit and liquidity.

The proposed Phlx and CBOE rule changes are based on section 6(b)(5) of the Securities Exchange Act in that they will facilitate transactions in securities and protect investors and the public interest.

For these reasons, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving SR-CBOE-86-30 prior to the thirtieth day after the date of publication of notice of filing thereof because the proposal is substantively the same as the Phlx's proposal to increase FCO position and exercise limits that was published for notice in Securities Exchange Act Release No. 23518 (August 7, 1986), and is being approved herein. No comments have yet been received on the CBOE's proposed rule change.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 15, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23992 Filed 10-22-86; 8:45 am]

BILLING CODE 8010-01-M

[1] FCO contacts on the Phlx are ½ the size of those on the CBOE. Therefore, FCO position and exercise limits on the Phlx are effectively twice the size of those on the CBOE.

[Release No. IC-15359; File No. 812-6424]

Application and Opportunity for Hearing; John Hancock Mutual Life Insurance Co. et al.

October 15, 1986.

Notice is hereby given that John Hancock Mutual Life Insurance Company ("John Hancock"), John Hancock Variable Life Insurance Company ("JHVLICO"), John Hancock Variable Accounts A and C (the 'Stock-Accounts"), John Hancock Variable Accounts A–1 and C–1 (the "Bond Accounts") and John Hancock Variable Accounts A–2 and C–2 (the "Money Market Accounts") (collectively, the "VA Accounts"), John Hancock Variable Life Account U (the "VL Account"), John Hancock Variable Series Fund I, Inc. (the "Fund") and certain life insurance companies affiliated with John Hancock and separate accounts of any of the foregoing insurance companies that may invest in the Fund (collectively, "Applicants"), at John Hancock Place, Boston, Massachusetts 02117, filed an application on July 1, 1986, and an amendment thereto on September 11, 1986, for an order of the Commission pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") and Rule 17d–1 thereunder (1) exempting John Hancock, the VA Accounts and the Fund from the provisions of sections 17(a) and 17(d) of the Act and Rule 17d–1 thereunder, to the extent necessary to permit the net assets of the VA Accounts to be combined and transferred to newly-created subaccounts of John Hancock Variable Account A (the "Continuing VA Account") and to permit the simultaneous exchange of the net assets held by the newly-created subaccounts of the Continuing VA Account to corresponding portfolios of the Fund, in exchange for Fund shares; (2) exempting Applicants from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e–2(b)(15) thereunder, to the extent necessary to permit shares of the Fund to be sold to the Continuing VA Account, the VL Account and separate accounts of life insurance companies affiliated with John Hancock that may invest in the Fund and issue variable annuity contracts or variable life insurance contracts; and (3) exempting John Hancock and the Continuing VA Account from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit John Hancock to deduct mortality and expense risk charges from the Continuing VA Account. The Continuing VA Account will be re-named John Hancock Variable Annuity Account U and will be registered under the Act as a unit investment trust. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

According to the application, John Hancock and JHVLICO, its wholly-owned subsidiary, are life insurance companies, authorized to engage in the life insurance business in Massachusetts and all other states, and John Hancock is the investment adviser and principal underwriter for the Fund and for the VA Accounts, and also is the principal underwriter for the LV Account. The application states that John Hancock is a registered broker-dealer under the Securities Exchange Act of 1934 and a registered investment adviser under the Investment Advisers Act of 1940.

The application states that each of the VA Accounts was established by John Hancock as a separate investment account to which assets are allocated to support benefits payable under John Hancock's individual variable annuity contracts ("existing VA contract") and is an open-end diversified management investment company registered under the Act. The application further states that the VL Account is a separate investment account of JHVLICO, which assets have been allocated from time to time to support benefits payable under JHVLICO's annual-premium and single-premium variable life insurance contracts ("existing VLI contracts").

According to the application, the Fund is a management investment company of the series type, organized under Maryland law on September 23, 1985. Applicants state that the Fund currently consists of a Stock Portfolio, Bond Portfolio, Money Market Portfolio, Aggressive Stock Portfolio, and Total Return Portfolio. Applicants state that the investment objectives, policies, and restrictions of the Stock Portfolio, the Bond Portfolio and the Money Market Portfolio are substantially identical, respectively, to Accounts A and C, Accounts A–1 and C–1 and Accounts A–2 and C–2. According to the application, subaccounts may be added to or deleted from the Continuing VA Account and the VL Account from time to time, and, under the Fund's Articles of Incorporation, the board of directors of the Fund is authorized to create additional portfolios or delete portfolios.

Applicants state that the VA Accounts will, subject to contractowner approval, be converted into a unit investment trust ("U.I.T") each subaccount of which will invest exclusively in shares of the corresponding portfolio of the Fund. Applicants state that, pursuant to the reorganization the Stock Accounts will be combined to form the new stock subaccount of the Continuing VA Account, the Bond Accounts will be combined to form the new bond subaccount of the Continuing VA Account, and the Money Market Accounts will be combined to form the new money market subaccount of the Continuing VA Account. Applicants represent that, after the reorganization, contractowners will be permitted to transfer values among these and the two new subaccounts (*i.e.*, the Aggressive Stock and Total Return Subaccounts).

Applicants state that the Continuing VA Account will be a separate investment account of John Hancock, operated as a U.I.T., which will support benefits payable under John Hancock's existing VA contracts. Applicants further state that the Fund, which will succeed to the portfolio assets and related liabilities of the VA Accounts, will be the continuing funding vehicle for the existing VA contracts, as well as the existing VLI contracts, and future variable annuity contracts and scheduled, single or flexible premium variable life insurance contracts which may be issued by John Hancock, JHVLICO or any affiliate of theirs. Applicants state that John Hancock will assume all costs to be incurred in effecting the reorganization and that the reorganization will not have any adverse economic impact on the contractowners' interest under the existing VA contracts. Applicants state that the overall level of fees and charges borne, directly or indirectly, by contractowners will be no greater immediately after the reorganization than before it.

The application, through incorporation by reference of the registration statement for the existing VA contract, states that the mortality table used as a basis for the annuity purchase rates is the 1971 Individual Annuity Mortality Table, with a five-year setback for females and with certain age adjustments based on the calendar year of birth. The application states that the mortality table used in a contract purhased in connection with an employer-related plan and used in all contracts issued in Montana will use the same set-back for males and females. The application states that the impact of this change will be lower benefits (5% to 15%) from a male's viewpoint than would otherwise be the case.

The application states that as partial compensation for administrative services provided under the contracts by John Hancock, deductions from purchase payments are made in the amount of, for a periodic payment deferred contract, 1.5 percent of the first $25,000 and 1 percent of amounts over $25,000. The application states that single payment, immediate or deferred, contracts provide for the deduction of .5 percent of the first $25,000. The application states that additional amounts, derived through a daily charge to each of the VA Accounts of .25 percent, on an annual basis, of its current net assets are also applied to compensate and reimburse John Hancock for administrative services. The application states that with respect to periodic payment contracts, an annual maintenance charge equal to the lesser of $10 or 2 percent of a contract's accumulation value will also be deducted on the contract anniversary.

The application states that John Hancock makes no allocation of administrative costs between the two sources of payment. The application states that the aggregate received for administrative expenses is expected by John Hancock to not exceed the average expected cost of administrative services for the life of the existing VA contracts.

According to the application, owners of existing VA contracts currently have voting interests in certain matters related to each of the VA Accounts determined in proportion to their respective interests in each of the VA Accounts at the record date for the vote. Following the reorganization, the application represents that John Hancock will offer each owner of an existing VA contract the opportunity to instruct John Hancock's vote of Fund shares attributable to that contract, on matters for which owners currently have a voting right. Applicants represent John Hancock will vote the shares of each Portfolio of the Fund held by the Continuing VA Account which are deemed attributable to contracts in accordance with instructions received from contractowners. Applicants further represent that shares of the Fund held by the Continuing VA Account which are not deemed attributable to contractowners will be voted in proportion to the votes received from contractowners.

The application states that John Hancock serves as investment adviser to the Fund and that Independent Investment Associates ("IIA"), a registered investment adviser and indirectly-owned subsidiary of John Hancock, serves as sub-investment adviser, providing day-to-day services for the Stock Portfolio. Applicants state that the charges and expenses currently deducted from premium payments or otherwise under existing VA contracts will not change, except that the advisory fee, brokerage commissions, and similar securities transaction charges will be deducted from Fund assets after the reorganization rather than from the VA Account assets as they are currently. Applicants assert that, pursuant to the Fund's Investment Management Agreement, John Hancock has agreed to bear most of the Fund's other operating expenses which are of a type or amount which would not have been borne by contractowners had the reorganization not occurred. Applicants note that John Hancock will not, however, assume extraordinary or non-recurring expenses of the Fund such as legal claims and liabilities and litigation costs and indemnification payments in connection with litigation. Applicants state that, subject to shareholder approval as required by law, the Agreement could be amended to require the Fund and thus, indirectly, the contractowners to bear certain other operating expenses which the VA Accounts do not currently bear. Applicants state that John Hancock has no plans to seek such an amendment.

Sections 17(a) and (d) and Rule 17d–1

Applicants note that each applicant may be deemed an affiliated person or an affiliated person of an affiliated person under section 2(a)(3) of the Act, and the transactions may be deemed to entail one or more purchases or sales of securities or other property between and among certain Applicants. Therefore, Applicants state, the Plan of Reorganization and the transactions may require an exemption from section 17(a) of the Act, pursuant to sections 17(b) and 6(c) of the Act. In this regard, Applicants argue that the terms of the proposed transactions are for the reasons summarized below: reasonable and fair and do not involve overreaching; consistent with the investment policies of each VL Account; and consistent with the general purposes of the Act, the public interest and the protection of investors.

The reorganization is intended, the application states, to enable the Fund to act as the underlying investment medium for separate accounts issuing insurance products in addition to the existing VLI contracts. Applicants expect that the reorganization will benefit John Hancock and JHVLICO, by providing economies of scale and simplifying business recordkeeping. They also expect that, as a result of the reorganization, common management of a larger asset base will tend to facilitate maximum investment flexibility and return and increase the possibility that additional investment options may be added in the future (in addition to the two new subaccounts that will be available to VA contractowners after the reorganization), all for the benefit of current and future holders of contracts. Applicants further state that the transactions effecting transfer of the portfolio assets of the VA Accounts in return for share of the Fund will comply with section 22(c) of the Act and Rule 22c-1 thereunder.

Applicants represent that the reorganization is consistent with the investment objectives and policies of the VA Accounts, the Fund and the Continuing VA Account. The application states that the investment objectives, policies, and restrictions of the Stock Portfolio, the Bond Portfolio and the Money Market Portfolio are substantially identical, respectively, to those of the Stock Accounts, Bond Accounts and Money Market Accounts. Applicants state that the reorganization, therefore, will not require liquidation of any assets of either the VA Accounts or the Fund. Thus, Applicants note, neither the VA Accounts nor the Fund will incur any extraordinary costs, such as brokerage commissions, in effecting the transfer of assets. John Hancock states its belief, based on its review of existing federal income tax laws and regulations, that the transfer of assets and the reorganization of the VA Accounts will be tax-free events. Therefore, Applicants note, no gain or loss will be realized on the transfer or combination by the VA Accounts, the Continuing VA Account, or the Fund. The application states that the Fund will succeed to the same adjusted basis, upon any subsequent disposition of such assets, as such assets had prior to the transfer.

Applicants state that contractowners will be fully informed of the terms of the reorganization through proxy materials pursuant to which they will have an opportunity to approve or disapprove the reorganization at a special meeting of contractowners called for that purpose, and that operation of the VA Accounts in u.i.t. form is authorized by language in the existing VA contracts and current prospectuses relating thereto. Applicants state that preliminary proxy materials will be filed with the Commission on Form N–14. Both the Fund and John Hancock Variable Annuity Account U will register their respective securities to be issued in the reorganization on Form N–14.

Finally, Applicants note that current VA Accounts A, A–1 and A–2 are substantially identical to current VA Accounts C, C–1 and C–2, respectively, except that the "A" accounts are used exclusively for contracts issued in connection with certain tax-benefited employee benefit plans. Applicants state that recent tax law changes have eliminated the reason for maintaining separate VA Accounts for this purpose.

Applicants state that the reorganization may also involve a transaction subject to section 17(d) and Rule 17d-1 thereunder and, accordingly, they request relief from those provisions pursuant to section 6(c) of the Act and Rule 17d-1. Applicants state the Plan of Reorganization anticipates simultaneous purchase and sale transactions involving a number of registered companies, and each such purchase and sale transaction is dependent on the others. Applicants state each purchase and sale transactions is, thus, an essential aspect of a more comprehensive plan. Applicants state that, in this sense, each transaction may be deemed to be in connection with a joint participation within the contemplation of section 17(d) and Rule 17d-1. For reasons set forth above, applicants submit that the terms of the reorganization are fair and reasonable and consistent with the provisions, policies and purposes of the Act. Also, applicants expect that the proposed transactions will result in overall benefits to John Hancock, the VA Accounts and the Fund, and Applicants represent that no benefits will inure to any one party to the detriment of any other, and that neither the Fund nor any of the VA Accounts will participate in the transactions on a basis different from or less advantageous than that of any other party to the transactions.

Sections 9(a), 13(a), 15(a) and 15(b) and Rule 6e-2(b)(15)

JHVLICO and the L Account generally rely on the exemptive relief provided by Rule 6e-2 under the Act in offering the existing VLI contracts. As relevant, Rule 6e-2(b)(15) provides a separate account, organized as a unit investment trust, partial exemptions from the eligibility restrictions of section 9(a) and from sections 13(a), 15(a) and 15(b) of the Act to the extent those latter provisions require "pass-through" voting with respect to an underlying fund's shares. The exemptions are available only where all of the assets of the unit investment trust are shares of management investment companies "which offer their shares exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company". Applicants, therefore, request an exemption from sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e-2(b)(15) thereunder, to the extent necessary to permit Applicants to rely on the relief provided under Rule 6e-2(b)(15) even though shares of the Fund will, following the reorganization, be offered to the Continuing VA Account, as well as the VL Account and possibly other separate accounts sponsored by John Hancock or its affiliates offering variable annuity contracts or variable life insurance contracts. Applicants submit that the exemptive relief requested with respect to this proposed "mixed funding" is appropriate in the public interest and consistent with protection of investors and the purposes farily intended by the policy and provisions of the Act.

Applicants argue that the use of a common underlying fund avoids additional start-up and ongoing expenses for the operation and administration of separate management investment companies, that mixed funding will not compromise the regulatory purposes of the above-cited provisions, and that mixed funding should result in an increased amount of assets available for investment by the Fund, which in turn may benefit owners of interest in the Fund by making the addition of new investment portfolios more feasible and by more flexible portfolio management. Applicants represent that the investments of the portfolios of the Fund will be managed with the intention of satisfying the overall interests of all participating insurance companies and the combination of products representing interests in the Fund.

Applicants agree that the exemptive relief requested in connection with mixed funding shall be subject to the following conditions:

(1) A majority of the Board of Directors of the Fund will consist of persons who are not "interested persons" of the Fund, as defined by section 2(a)(19) of the Act and Rules thereunder, and as modified by any applicable order of the Commission.

(2) The Board of Directors of the Fund will monitor the Fund for the existence of any material irreconcilable conflict between the interests of owners of variable life insurance contracts or variable annuity contracts issued by separate accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any portfolio are being managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (f) a decision by an insurer to disregard the voting instruction of its contractowners.

(3) John Hancock, JHVLICO, IIA and any affiliated insurance company whose separate account invests in the Fund will report any potential or existing conflicts to the Board. Such insurance companies will be responsible for assisting the Board in carrying out its responsibilites under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each such insurance company to inform the Board whenever voting instructions of policyowners or contractowners are disregarded.

(4) If it is determined by a majority of the Board of the Fund, or a majority of its disinterested directors, that a material irreconcilable conflict exists, each insurance company designated by the Board will, at its expense, take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, which steps could include: (a) withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series and reinvesting such assets in a different investment medium, including another series of the Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any particular group (*i.e.*, annuity contractowners, life insurance contractowners or owners of contracts of one or more insurer) that votes in favor of such segregation or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or mangement separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required at the Fund's election to withdraw its separate account's investment in the Fund. No

charge or penalty will be imposed against any separate account as a result of a withdrawal due to any material irreconcilable conflict. For purposes of this condition (4) a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Fund or any other applicant be required to establish a new funding medium for any variable annuity contract or variable life insurance contract if any offer to do so has been declined by vote of a majority of affected contractowners.

(5) Applicants represent that if and to the extent that Rule 6e-2 is amended to provide exemptive relief from any provision of the Act, or the rules promulgated thereunder, with respect to mixed funding on terms that materially differ from any exemptive order issued by the Commission in connection with this application, then the appropriate Applicants shall take all steps as may be necessary to comply with the amended rule.

(6) Participating insurance companies and their separate accounts participating in the Fund shall provide pass-through voting privileges to all contractowners so long as and to the extent that the Commission continues to interpret the Act to require pass-through voting privileges for such persons. Shares of the Fund which are not deemed attributable to contractowners will be voted in proportion to the votes received.

(7) All reports received by the Board of potential or existing conflicts, determining the existence of a conflict, notifying participating insurance companies of a conflict and determining whether any proposed action adequately remedies a conflict will be properly recorded in the minutes of the Board or other appropriate records and such minutes or other records shall be made available to the Commission upon request.

Sections 26(a)(2)(C) and 27(c)(2)

Applicants also request an exemptive order pursuant to section 6(c) of the Act from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction of a mortality and expense risk charge pursuant to the VA contracts to be funded through the Continuing VA Account. Applicants state that the payment of sums and charges out of the Continuing VA Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order; provided that Applicants' consent to the condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Applicants state that the Continuing VA Account will be assessed daily charges equal to an annual rate of .5 percent and .25 percent of its net assets for John Hancock's assumption, respectively, of certain mortality risks and expense risks. Applicants state that these charges compensate John Hancock for guaranteeing that the amount of variable annuity payments will not be decreased because adverse mortality experience of annuitants as a class or because of an increase in actual expenses of John Hancock over the expense charges provided for the contracts. Applicants note that the charges also allow John Hancock to realize a profit if actual experience under the contracts is favorable.

John Hancock and the Continuing VA Account assert that the mortality and expense risk charges under the contracts are consistent with the protection of investors because the charges are reasonable and proper insurance charges. Applicants represent that the total .75 percent annual deduction for both charges is within the range of industry practice for comparable variable annuity contracts. According to the application, this representation is based on John Hancock's analysis of comparable industry products, taking into account such factors as current charge levels, existence of charge level guarantees, guaranteed annuity rates and the markets in which the contracts are offered. John Hancock has undertaken to maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

John Hancock and the Continuing VA Account represent that there may be a possibility that proceeds from the explicit sales charges deducted from purchase payments may be insufficient to cover expected distribution costs. To the extent that distribution costs are not recovered by the sales charges, John Hancock will recover them from its general account assets, which may include gains from operations with respect to the contracts, or charges such as the mortality and expense risk charges, or otherwise, that are contributed to John Hancock's surplus.

The application states that as compensation for expenses incurred in connection with the sale of the contracts, the contracts provide for the deduction from purchase payments, for a periodic payment deferred contract, of 4.5 percent of the first $5,000, 3.5 percent of the next $5,000, 2.5 percent of the next $15,000 and 2 percent of amounts over $25,000. The application states that single payment, immediate or deferred, contracts provide for the deduction of 3.5 percent of the first $10,000, 2.5 percent of the next $15,000, 2 percent of the next $75,000 and 1 percent of amounts over $100,000.

In this connection, John Hancock represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Continuing VA Account and owners of contracts and undertakes to maintain and make available to the Commission upon request a memorandum setting forth the basis for this conclusion. The Continuing VA Account represents that it will invest only in a management investment company which undertakes, in the event it should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 under the Act, to have such a plan formulated and approved by a board of directors, a majority of whom are not interested persons of the management company within the meaning of section 2(a)(19) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 10, 1986, do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of the fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–23993 Filed 10–22–86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2251, Amdt. No. 3]

Michigan; Declaration of Disaster Area

The above-numbered Declaration (51 FR 34517), as amended (51 FR 36331), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated October 14, 1986, to include Macomb County and the adjacent County of Arenac in the State of Michigan because of damage from severe storms and flooding beginning on or about September 10, 1986. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on November 17, 1986, and for economic injury until the close of business on June 18, 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 16, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-23944 Filed 10-22-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0123]

Consumer Growth Capital Inc.; Surrender of License

Notice is hereby given that Consumer Growth Capital Incorporated, 8200 Humboldt Avenue South, Bloomington, Minnesota 55431 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Consumer Growth Capital Incorporated was licensed by the Small Business Administration on February 13, 1978.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on October 3, 1986 and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 15, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-23942 Filed 10-22-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0278]

Devonshire Capital Co.; Surrender of License

Notice is hereby given that Devonshire Capital Company, 45 Milk Street, Boston, Massachusetts 02109 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Devonshire Capital Company was licensed by the Small Business Administration on October 31, 1975.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on October 3, 1986, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 15, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-23943 Filed 10-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement, Baltimore County, MD; Intent (Warren Road Extended)

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for the proposed extension of Warren Road on new location to a new interchange with I-83 in Baltimore County.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineer, Federal Highway Administration, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, telephone 301/962-4010 and/or John Trenner, Chief, Highway Design and Approval Section, Baltimore County Department of Public Works, 111 W. Chesapeake Avenue, Towson, Maryland 21204. telephone 301/494-3739.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, is preparing an environmental impact statement to develop an acceptable alternate to extend Warren Road on new location from its existing intersection with Maryland 45 (York Road) to a new interchange with Interstate 83, a distance of approximately 3 miles.

In addition to the No-Build, three build alternates are under consideration. All alternates involve the construction of a four-lane undivided highway. All alternates include a crossing of Goodwin Run and impact associated wetlands and floodplain. One alternate would require the removal of the Connemara building, a National Register Historic Site.

An alternates public meeting has previously been held. A public hearing will be held after circulation of the DEIS. A public notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The Draft EIS will be available for public and agency review and comment prior to the public hearing. To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: October 16, 1986.

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 86-23923 Filed 10-2-86; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket No. S-793]

Lykes Bros. Steamship Co., Inc.; Application for Permission Under Section 805(a) of the Merchant Marine Act, 1936, as Amended to Charter and/or Operate Seabee Barges

Notice is hereby given that Lykes Bros. Steamship, Co., Inc. (Lykes) by application dated October 14, 1986, has applied for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (Act), to (1) operate any or all of its Seabee standard hopper barges, reefer barges and flat deck barges (the Barges) on the inland waterways and in the coastwise trade, (2) charter the Barges for operation in those trades, and (3) engage in both operation and chartering of the Barges.

Lykes owns 163 of the Barges which are available for operation or charter

from time-to-time. The inability to do either would require Lykes to lay-up the Barges which consist of 148 standard hopper barges, 8 odd-hopper barges, 4 reefer/chill barges and 3 heavy lift/flat deck barges. Included in the total are at least 20 standard hopper barges which Lykes has requested permission to charter for four months to St. James Transportation Company under section 805(a). Notice of the application was published in the **Federal Register**, Docket No. S–790.

This application is being submitted because Lykes is a subsidized operator pursuant to ODS Contract MA/MSB–451. Besides the possibility that the proposed operation of the Barges may involve the coastwise trade, the proposed operation of the Barges on the inland waterways might be considered to be operation in the "coastwise trade," according to Lykes.

Because Lykes is not involved in the inland waterways or coastwise trades, Lykes indicates that it is not aware of any competing companies.

Lykes advises that there is at present a significant shortage of barges due not only to the well-publicized demands for grain storage but also to the current flooding and other severe weather conditions in the upper Mississippi and Arkansas River basin. Because of these circumstances, Lykes has been approached by operators who have experienced difficulty in obtaining the barges needed for their services. Consequently, there is an urgent need for the barges in order to maintain the flow of commerce.

Any person, firm, or corporation having any interest in the application for section 805(a) permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by 5:00 P.M. on November 14, 1986. If such comments deal with section 805(a) issues, they should be accompanied by a petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program Nos. 20.804 Operating-Differential Subsidies (ODS)

By Order of the Maritime Administrator

Dated: October 20, 1986.

James E. Saari,

Secretary.

[FR Doc. 86–23955 Filed 10–22–86; 8:45 am]

BILLING CODE 4910–81–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 205
Thursday, October 23, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 5 FR 37252, October 20, 1986.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF MEETING: 2:00 p.m. (eastern time), Monday, October 27, 1986.

CHANGE IN THE MEETING: The following matter has been added to the open portion of the meeting: "Briefing on the General Motors-EEOC Conciliation Agreement."

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

Dated and Issued: October 17, 1986.

Cynthia C. Matthews,

Executive Officer.

[FR Doc. 86-24092 Filed 10-21-86; 3:03 pm]

BILLING CODE 6750-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 3:00 p.m. on Thursday, October 16, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

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.

Application of Bank of Coweta, Newnan, Georgia, an insured State nonmember bank, for consent to merge, under its charter and title, with First American Bank, Warm Springs, Georiga, and for consent to establish the Luthersville Office of First American Bank as a branch of the resultant bank.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: October 20, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-24061 Filed 10-21-86; 12:14 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 3:30 p.m. on Thursday, October 16, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven days' notice the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The National Bank of Carmel, Carmel, California

Recommendation regarding the anticipated closing of Valley State Bank, Baggs, Wyoming, by the State Examiner for the State of Wyoming.

Memorandums regarding the Corporation's assistance agreement with an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; 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 by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) 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), (c)(9)(B), and (c)(10)).

Dated: October 20, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-24062 Filed 10-21-86; 12:14 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 28, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEM TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86-24082 Filed 10-21-86; 2:40 pm]

BILLING CODE 6715-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 15, 1986, 51 FR 36771.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 15, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following docket numbers have been added:

Item No., Docket No. and Company

CAG–1
CP86–582–000, Natural Gas Pipeline Company of America
CAG–4
CP86–521–000, Texas Gas Transmission Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–24091 Filed 10–21–86; 3:00 pm]

BILLING CODE 6717–02–M

6

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 36771, October 15, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, October 20, 1986.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Request from an outside organization for funding. (This item was originally announced for a closed meeting on October 8, 1986.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: October 20, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–24014 Filed 10–20–86; 4:56 pm]

BILLING CODE 6210–01–M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (51 FR 36338 10/9/86).

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC

DATE PREVIOUSLY ANNOUNCED: Friday, October 3, 1986.

The following item will be considered at an open meeting to be held on Thursday, October 23, 1986, at 9:30 a.m., in Room 1C30:

Issuance of an interpretive release on disclosure by registrants of the effects of the Tax Reform Act of 1986. The Commission may discuss whether it should object to the presentation of disclosures that quantify the effects of the Tax Reform Act by the proforma application of provisions of the Financial Accounting Standards Board's Exposure Draft entitled "Proposed Statement of Financial Accounting Standards—Accounting for Income Taxes." For further information, please contact John A. Heyman at (202) 272–2130.

Commissioner Grundfest, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Gerald Laporte at, (202) 272–3085.

Jonathan Katz

Secretary.

[FR Doc. 86–24083 Filed 10–21–86; 2:41 pm]

BILLING CODE 8010–01–M

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Federal Register

Vol. 51, No. 205

Thursday, October 23, 1986

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Public inspection desk	523-5215
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Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

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Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

5535.....35201
5536.....35625
5537.....35991
5538.....36373
5539.....36375
5540.....36377
5541.....36379
5542.....36531
5543.....36533
5544.....36535
5545.....36537
5546.....36539
5547.....36541
5548.....36673
5549.....36675
5550.....36677
5551.....36679
5552.....36991
5553.....36993
5554.....37263
5555.....37379
5556.....37381

Executive Orders:

11021 (Superseded by EO 12569).....37171
11269 (Amended by EO 12567).....35495
12567.....35495
12568.....35497
12569.....37171

Administrative Orders:

Memorandums:
September 30, 1986.....35492
October 6, 1986.....35993, 35995

5 CFR

110.....36174
540.....36795
870.....36795
873.....36795
950.....36174

Proposed Rules:

540.....35651
890.....36810

7 CFR

2.....34945, 35203
51.....36681
68.....36995
301.....36682
319.....35627
412.....35204
418.....36682
419.....36682
427.....36682
429.....36682
713.....36782, 36902
770.....36902
795.....36902
796.....36902
910.....35347, 36381, 36996
916.....36997
917.....36997
919.....36997
920.....36997
926.....36997
928.....35342
930.....36381, 36997
932.....36997
948.....36997
958.....36997
981.....36382, 36997
993.....36997
1137.....34946
1230.....36383
1260.....35196
1421.....36902
1425.....36902
1427.....36902
1434.....36902
1474.....36902
2003.....34947

Proposed Rules:

29.....34994
251.....37036
272.....35152
273.....35152
276.....35152
277.....35152
436.....37186
810.....35224
905.....37191
907.....35517
911.....37192
918.....36701
966.....35358
994.....37578
1033.....36037
1036.....34997, 37037
1040.....37037
1942.....35359

8 CFR

238.....35205, 35499
332c.....35628
341.....35628
343a.....35628

Proposed Rules:

214.....36701

9 CFR

77.....36383
78.....35205
91.....37175
114.....37383
161.....37175
162.....37175
318.....35630

Proposed Rules:

92.....35368

94 37193
318 35239

10 CFR

0 35997
1 35997
9 35997
10 35997
11 35206
14 35997
20 35499
21 35499
25 35206
30 ..... 35999, 36932
31 36932
32 36932
35 36932
40 ..... 35999, 36932
51 35997
70 35999
73 35499
110 35997

Proposed Rules:

2 36811
30 37195
31 37195
32 37195
33 37195
50 ..... 35518, 36812
70 37578
71 36816
73 36812
74 37578
430 35736
862 35518

12 CFR

225 36201
304 36683
524 34950
526 34950
532 34950
545 34950
556 34950
569a 35500
571 ..... 34950, 36528
584 34950
611 37549
740 37549
741 37549
745 37549

Proposed Rules:

202 35521
205 36406
614 36824
615 36824

13 CFR

101 35501
124 36132
309 37175

Proposed Rules:

129 37580

14 CFR

21 36998
23 36998
39 ..... 34952, 35208, 35502, 35503, 35631, 36002–36005, 36543–36545, 36796, 36797, 37000, 37384–37390
71 ..... 35209, 35504, 35505, 36798, 37001, 37256, 37391
73 36798
95 37392
97 36799

Proposed Rules:

Ch. I 35652
21 35523
39 ..... 34997–34999, 35001, 36015–36018, 36229, 36230, 37039, 37041, 37413, 37414
71 ..... 35140, 35527, 35528, 36020, 36562, 36563, 36827, 37042, 37415, 37416
73 36827
75 ..... 35528, 37196, 37416

15 CFR

Ch. III 36702, 37265
379 36212
399 ..... 36212, 36217
917 35209

Proposed Rules:

970 37043
971 37043

16 CFR

4 36801
13 ..... 35211, 36802, 36803, 37001

Proposed Rules:

13 36406
703 35370

17 CFR

2 37177
12 35506
230 36385
239 36385
240 ..... 36547, 37291
249 37291

Proposed Rules:

1 37196
201 35653
211 36006
240 ..... 35002, 37291
249 ..... 35655, 37291

18 CFR

2 36217
37 37265
357 35507
381 35347

19 CFR

24 34954
101 35352
111 ..... 36221, 37002
113 34954
171 36221
178 36221

Proposed Rules:

127 37043
175 ..... 35240, 36703
353 ..... 35529, 37043
355 35529

20 CFR

416 36221

Proposed Rules:

404 36510
416 36510

21 CFR

74 35509
81 ..... 35509, 35511
82 35509
178 35511
341 35326
369 35326
442 36687
448 35211
452 ..... 35213, 35214
520 ..... 34959, 34960
522 35632
558 ..... 34961, 36221, 36392, 37271
1308 36552

Proposed Rules:

331 35002
334 35136
358 35003
660 36563
812 35531

24 CFR

44 37567
111 37567
115 36222
201 34961
203 ..... 34961, 37567
207 37567
234 34961
236 37567
290 37567
511 37567
570 37567
571 37567
850 37567
880 37567
881 37567
882 37567
883 37567
884 37567
886 37567
888 36689
892 37567
941 37567
968 37567
970 37567
990 37567
3282 37567

Proposed Rules:

207 36021
255 36021

25 CFR

Proposed Rules:

120 35533

26 CFR

46 36392
602 36392

Proposed Rules:

1 ..... 35659, 36409

27 CFR

5 36392
9 ..... 36396, 36398
19 ..... 36392, 37271
270 35353

Proposed Rules:

5 37605
19 37605

29 CFR

102 36223
1910 37002
1926 37002
2603 35354
2619 36690
2676 36691

Proposed Rules:

530 ..... 37045, 37298
1910 ..... 35003, 35241

30 CFR

16 37007
17 37007
56 ..... 36192, 36804
57 ..... 36192, 36804
256 37177
705 37118
915 35632
934 37271

Proposed Rules:

75 37376
250 37200
906 36231
914 37298
917 35532
934 35534
936 36704
938 35370
944 35666

31 CFR

535 37568

32 CFR

73 35512
199 36008
358 37571
706 ..... 35633, 36400
1285 ..... 35634, 37396

Proposed Rules:

43 35535
220 36023

33 CFR

3 37178
100 ..... 35216, 35218, 37179
117 ..... 35218, 36224
162 37274
165 ..... 36009, 37179, 37181
181 37572
183 ..... 37572, 37577

Proposed Rules:

117 ..... 35535, 37606
151 ..... 36233, 37607, 37608
158 ..... 36233, 37607, 37608

34 CFR

30 35645
76 35582
653 35582

Proposed Rules:

600 37366
614 37366
668 37132

35 CFR

105 36010
253 37181

36 CFR

1 37008
7 ..... 35647, 37008
13 36011
50 37008
1155 36804

Proposed Rules:

7 ..... 35009, 36409, 37201

37 CFR

Proposed Rules:

201 ..... 35244, 36705
202 36410

38 CFR

19 35648
26 37182

Proposed Rules:

3 35667

39 CFR

3001 37019

40 CFR

52 36011
61 35354
62 37274
65 36691
81 35648
157 36692
162 36692
180 ..... 34973, 36012
261 ..... 35355, 37019
262 35190
271 ..... 36013, 36804
403 ..... 36368, 36806
716 36013

Proposed Rules:

51 37418
52 37418
86 35372
124 37608
141 37608
143 37608
261 ..... 35372, 36024, 36233–36241, 36707, 36974, 37140, 37299, 37420
262 36342
264 37608
265 ..... 36342, 37608
270 37608
271 36342
704 35762
766 37612

41 CFR

51-3 36560

Proposed Rules:

105-56 35245

42 CFR

Ch. V 37577
405 ..... 34975, 34980
412 34980
413 37398
417 37398
430 36225
433 36225

Proposed Rules:

36 36412
57 ..... 35668, 36412

43 CFR

4 ..... 35218, 35219
36 36011
1820 34981

Proposed Rules:

4 ..... 35248, 36414
1600 35378
3100 37202
3190 36565
3400 37202
3470 37202
3450 37202

Public Land Orders:

6625 36808

44 CFR

64 ..... 36693, 36698
65 ..... 37276, 37277
67 ..... 37278, 37280

Proposed Rules:

67 ..... 37311, 37438

45 CFR

201 36225
2001 36786

46 CFR

97 35515
159 35220
170 35515
172 35515

Proposed Rules:

202 36253
502 36731
568 36034

47 CFR

0 34981
2 37398
15 37398
19 37022
22 ..... 35649, 37022, 37398
25 37398
43 37023
64 34983
73 ..... 35515, 35516, 36401, 37024–37026, 37289, 37405
80 34983
87 34984
90 ..... 36013, 37398, 37405
97 37026

Proposed Rules:

Ch. I 36415
1 ..... 35536, 35537
43 35537
67 ..... 36731, 37045
69 36731
73 ..... 36416, 36417, 36731

48 CFR

1 36970
6 36970
8 36970
13 36970
15 36970
31 36970
33 36970
36 36970
44 36970
52 36970
53 36970
513 36700
546 35220
553 36700
725 34984
737 34984
752 34984
846 37027
5315 37451

Proposed Rules:

15 36777
201 37205
208 37207
225 37205
245 37205
5242 36828
5252 36828

49 CFR

106 34985
107 34985
171 34985
172 34985
173 34985
174 34985
175 34985
178 34985
192 34987
531 35594
571 ..... 35222, 35357, 37028
585 37028
635 36401
1008 34989
1011 ..... 34989, 35222, 36403
1057 ..... 37034, 37406
1130 34989
1135 37034
1152 35222
1312 37034

Proposed Rules:

390 36830
391 ..... 35538, 36830
392 36830
393 36830
394 36830
395 36830
396 36830
397 36830
398 36830
399 36830
1162 36732
1312 36732

50 CFR

36 36011
216 36560
261 34989
262 34989
263 34989
264 34989
265 34989
266 34989
604 37185
611 ..... 37407, 37408
651 37185
672 36404
675 37408
681 34991

Proposed Rules:

216 36568
611 36569
641 36574
642 35670
650 36576
653 36035
661 37613

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Last List October 22, 1986

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To provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona. (Oct. 20, 1986; 1 page) Price: $1.00

H.R. 3773/Pub. L. 99-502

Federal Technology Transfer Act of 1986. (Oct. 20, 1986; 13 pages) Price: $1.00

H.R. 4216/Pub. L. 99-503

Gila Bend Indian Reservation Lands Replacement Act. (Oct. 20, 1986; 4 pages) Price: $1.00

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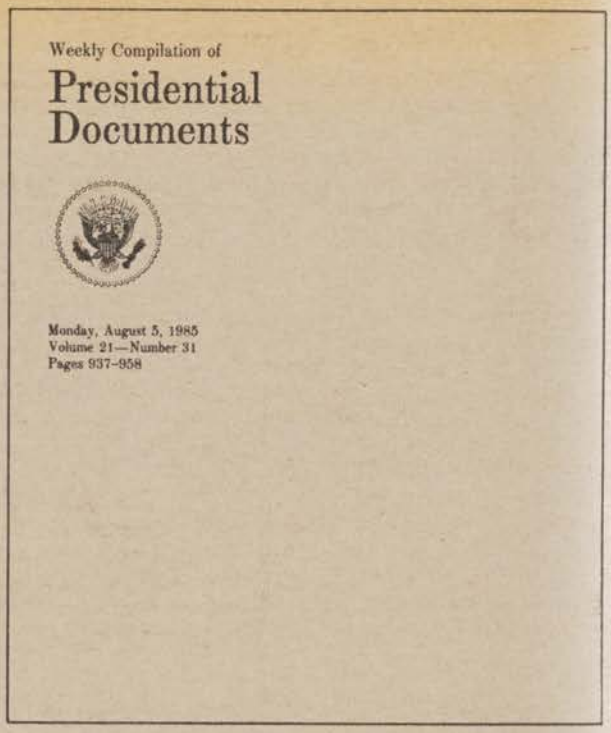

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