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CORRECTIONS

Beginning with the **Federal Register** of Wednesday, November 19, 1986, editorial corrections of previously published documents and Code of Federal Regulations volumes appear in a separate section called "Corrections." The Corrections section follows the Sunshine Act Meetings section.

These corrections in the past have appeared in the Rules and Regulations, Proposed Rules, or Notices section of the issue depending on the classification of the document corrected. They are now appearing in a separate section because of new production procedures.

Agency-prepared corrections are issued as signed documents and will continue to appear in the appropriate section elsewhere in the issue.

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Presidential Documents

Title 3—

The President

Proclamation 5573 of November 18, 1986

National Community Education Day, 1986

By the President of the United States of America

A Proclamation

Education is a lifelong process. Local support for education helps to promote programs for learners of all ages, backgrounds, and needs and encourages full use of school facilities. As each community draws upon its own resources, new opportunities are created, helping many individuals achieve their goals and aspirations. These are the opportunities that have always sustained the freedoms and responsibilities so important to all Americans.

Public education is a community enterprise, and everyone in the community has a stake in the education of adults as well as children. Local citizen involvement is critical in deciding how the financial and educational resources of the community should be used. Many communities are making valuable efforts to promote the use of community resources in schools and colleges, citizen involvement in educational decision-making, the use of community resources to provide educational opportunities for learners of all ages and educational backgrounds, and interagency cooperation to assure effective use of limited resources.

The Congress, by Public Law 99-405, has designated November 18, 1986, as "National Community Education Day" and authorized and requested the President to issue a proclamation in observance of the day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Tuesday, November 18, 1986, as National Community Education Day. I invite State and local officials, educators, parents, students, and all Americans to participate in activities that recognize and show appreciation for what community resources are doing for education.

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

Ronald Reagan

[FR Doc. 86-26315
Filed 11-18-86; 4:10 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-359]

Golden Nematode; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the Golden Nematode regulations by deleting Yates County in New York from the list of suppressive regulated areas. This rule is necessary in order to remove unnecessary restrictions on the interstate movement of regulated articles.

EFFECTIVE DATE: November 20, 1986.

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

SUPPLEMENTARY INFORMATION:

Background

An interim rule published in the **Federal Register** on August 22, 1986, (51 FR 30049-30051) amended § 301.85-2a of the Golden Nematode quarantine and regulations (referred to below as the regulations; 7 CFR 301.85 through 301.85-10) by deleting Yates County in New York from the list of suppressive regulated areas. The regulations deleted unnecessary restrictions on the interstate movement of regulated articles. The interim rule became effective on the date of publication.

Comments were solicited for 60 days after publication of the interim rule. No comments were received in response to the interim rule. The factual situation set forth in the document of August 22, 1986, still provide a basis for the amendment made by the interim rule. Accordingly, we have determined that the amendment should remain effective as published in the **Federal Register** on August 22, 1986.

Executive Order 12291 and Regulatory Flexibility Act

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

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

The interim rule removed restrictions on the interstate movement of regulated articles from Yates County in New York. The regulated articles that are affected by the interim rule represent significantly less than one percent of such articles that are moved interstate in the United States.

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Golden nematode, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 51 FR 30049-30051 on August 22, 1986, is adopted as a final rule.

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

Done in Washington, DC, this 17th day of November, 1986.

Richard R. Backus,

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

[FR Doc. 86-26214 Filed 11-19-86; 8:45 am]

BILLING CODE 3410-34-M

7 CFR Part 301

[Docket No. 86-339]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms without change an interim rule published in the **Federal Register** on July 28, 1986, which amended the list of generally infested areas under the imported fire ant quarantine and regulations by designating previously nonregulated areas in Arkansas and South Carolina as generally infested areas and by expanding the previously designated generally infested areas in Alabama, Arkansas, Georgia, Mississippi, and South Carolina. The interim rule also made certain other nonsubstantive, editorial changes. This rule is necessary in order to impose certain restrictions on the interstate movement of regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

EFFECTIVE DATE: November 20, 1986.

FOR FURTHER INFORMATION CONTACT: Charles H. Bare, Staff Officer, Field Operations Support Staff, Plant

Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8295.

SUPPLEMENTARY INFORMATION:

Background

An interim rule published in the **Federal Register** on July 28, 1986 (51 FR 26855 through 26860) amended § 301.81–2a of the imported fire ant quarantine and regulations (7 CFR 301.81 *et seq.*, referred to below as the regulations) by designating previously nonregulated areas in Arkansas and South Carolina as generally infested areas and by expanding the previously designated generally infested areas in Alabama, Arkansas, Georgia, Mississippi, and South Carolina. The regulations, among other things, impose certain restrictions on the interstate movement of regulated articles from generally infested areas. The interim rule became effective on the date of publication.

Comments were solicited for 60 days after publication of the interim rule. No comments were received in response to the interim rule. The factual situations set forth in the document of July 28, 1986, still provide a basis for the amendments made by the interim rule. Accordingly, it has been determined that the amendments should remain effective as published in the **Federal Register** on July 28, 1986.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an estimated annual effect on the economy of approximately $4,700; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Arkansas, Georgia, Mississippi, and South Carolina. There are thousands of small entities that move such articles interstate from the above mentioned States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 34 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be approximately $4,700.

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

Executive Order 12372

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Imported fire ant.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the interim rule published at 51 FR 26855–26860 on July 28, 1986, is adopted as a final rule.

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

Done in Washington, DC, this 17th day of November, 1986.

Richard R. Backus,

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

[FR Doc. 86–26165 Filed 11–19–86; 8:45 am]

BILLING CODE 3410–34–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 600, 601, 602, 603, 604, 611, 612, 613, 614, 615, 617, and 618

Miscellaneous Technical Changes

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration Board (Board) adopts technical amendments to certain regulations relating to the organization, authorities, and responsibilities of the Farm Credit Administration (FCA) and the Farm Credit System (System). The regulations implement statutory changes to the structure and operations of the FCA, the FCA Board, and the System resulting from the enactment of the Farm Credit Amendments Act of 1985 (1985 Amendments) and contain various other technical changes.

EFFECTIVE DATE: November 20, 1985.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22012–5090, (703) 883–4020.

SUPPLEMENTARY INFORMATION: The 1985 Amendments amended a number of sections of the Farm Credit Act of 1971 (Act) relating to the organization and operation of the FCA and the System. Among other things, the 1985 Amendments restructured the FCA by creating the FCA Board and dissolving the prior Federal Farm Credit Board; created the Farm Credit System Capital Corporation; changed the procedure for the selection of the seventh member of each Farm Credit district board; and deleted certain authorities of the FCA related to the delegation of functions and the auditing of System institutions. These amendments to FCA regulations implement these statutory changes and also include other technical amendments, including the elimination of gender-based designations.

The amendments contained in these regulations relate to the following matters:

(1) Substitute "Chairman" for "Governor";

(2) Eliminate gender-based designations;

(3) Provide for the election of at-large district directors;

(4) Update Federal agency designations, i.e., Office of Personnel Management (OPM) for Civil Service Commission;

(5) Provide for the reorganization of the FCA;

(6) Include appropriate references to the Farm Credit System Funding Corporation and the Farm Credit System Capital Corporation;

(7) Provide for yearly examination of System institutions by the FCA;

(8) Delete the authority of the FCA to audit System institutions;

(9) Delete the authority of the FCA to delegate matters to System institutions;

(10) Correct errors in numbering of regulations; and

(11) Delete certain redundant regulations.

In acting on the regulations, the Board determined that the amendments conform the regulations to statutory changes and relate to agency management and personnel and, therefore, do not involve rulemaking as defined in 5 U.S.C. 553(a)(2). The purpose of the rulemaking requirements of the Administrative Procedure Act is to allow public participation in the promulgation of rules which have a substantial impact on those regulated. Since these regulations contain nondiscretionary implementations of statutory changes or relate to agency management and personnel, no public participation is required under the Administrative Procedure Act nor would such participation serve a useful function.

Even if these regulations did involve rules for purposes of 5 U.S.C. 553(a), the Board finds that notice and public comment are unnecessary and contrary to the public interest. 5 U.S.C. 553(b) (A) and (B) provide that when regulations involve matters of agency organization, or where the agency finds for good cause that notice and public comment are unnecessary or contrary to the public interest, the agency may publish regulations in final form. As discussed above, these regulations involve technical amendments or conforming changes required by the 1985 Amendments. It would be contrary to the public interest to delay these changes since they are necessary to the public's awareness and understanding of the changes to the FCA's organization and operations which resulted from the 1985 Amendments. Without these amendments, the existing reuglations are inaccurate and confusing to the public.

For the same reasons, the Board has determined, in accordance with 5 U.S.C. 553(d), that these regulations will be effective immediately upon publication.

The Board has also determined, for the same reasons, that a delay in the effective date in accordance with § 5.17(b)(1) of the Act is unnecessary and would be contrary to the intent of Congress.

Accordingly, the Board directs that the regulations are effective immediately upon publication.

List of Subjects in 12 CFR Parts 600 through 604, 611 through 615, 617, and 618

Accounting, Agriculture, Archives and records, Banks, Banking, Civil rights, Conflict of interest, Credit, Freedom of information, Marital status discrimination, Organization and functions (Government agencies), Privacy, Religious discrimination, Rural areas, Sex discrimination, Sunshine Act.

As stated in the preamble, Parts 600 through 604, 611 through 615, 617, and 618 of Chapter VI, Title 12, of the Code of Federal Regulations are amended as follows:

1. Part 600 is revised to read as follows:

PART 600—ORGANIZATION AND FUNCTIONS

Subpart A—Farm Credit Administration

Sec.

600.1 Farm Credit Administration.
600.2 Farm Credit Administration Board.
600.3 Chairman of the Farm Credit Administration Board.
600.4 Office of Administration.
600.5 Office of Analysis and Supervision.
600.6 Office of Congressional and Public Affairs.
600.7 Office of Examination.
600.8 Office of General Counsel.
600.9 Other offices.

Subpart B—[Reserved]

Authority: 12 U.S.C. 2243, 2252.

§ 600.1 Farm Credit Administration.

The Farm Credit Administration is an independent agency in the executive branch of the Federal Government. It is composed of the Farm Credit Administration Board and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration. The mailing address of the central offices of the Farm Credit Administration is McLean, Virginia 22102–5090. The hours of business are 8 a.m.–6 p.m., Monday through Friday, excluding holidays.

§ 600.2 Farm Credit Administration Board.

(a) *Organization.* The Farm Credit Administration Board (Board) is a full-time, three-member board entrusted with the responsibility to manage the Farm Credit Administration. The Board consists of three members appointed by the President with the advice and consent of the Senate. The Board may not contain more than two members of the same political party. One member is designated by the President as Chairman of the Board for the duration of such member's term. Each member of the Board shall serve a single 6-year term and cannot be reappointed except in the case of such members who are initially appointed for less than a 6-year term on initial formation of the Board or any member who is appointed to fill an unexpired term of less than 3 years. A member of the Board shall continue to serve subsequent to the expiration of that member's term until the point in time at which an eligible successor has taken his or her oath of office. A person appointed to the Board shall subscribe to the oath of office within 15 days after having received notice of appointment. Each Board member is assisted by a staff.

(b) *Functions and responsibilities.* The Board establishes and administers policy and directs the management and operation of the Farm Credit Administration. Specifically, the Board prescribes the rules and regulations necessary for the implementation of the Farm Credit Act of 1971, as amended, and provides for the examination of Farm Credit System institutions and for the performance of all the powers and duties vested in the Farm Credit Administration.

§ 600.3 Chairman of the Farm Credit Administration Board.

(a) The Chairman of the Board is the executive officer of the Board and the chief executive officer of the Farm Credit Administration. The Chairman is responsible for directing the implementation of the policies and regulations of the Board and the execution of all the administrative functions and duties of the Farm Credit Administration. The Chairman is the spokesperson for the Board in its dealings with other branches of the Federal Government and consults with the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Secretary of Agriculture on specified matters.

(b) The Chairman is empowered with the authority to establish and fix the powers and duties of offices and divisions and such other units as the Chairman deems necessary for the efficient functioning of the Farm Credit Administration. The Chairman may appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The powers of the Chairman as chief executive officer of the Farm Credit Administration may be exercised and performed by the Chairman through such officers and employees of the Farm Credit Administration as the Chairman may designate.

(c) The Chairman shall enforce the rules and regulations and orders of the

Board. In carrying out the aforementioned responsibilities, the Chairman is governed by the general policies adopted by the Board and by such regulatory decisions, findings, and determinations as the Board is authorized by law to formulate.

§ 600.4 Office of Administration.

The Office of Administration, headed by a Director, provides administrative management and services to the agency; administers strategic planning activities for the agency; represents the agency with other Federal agencies and departments; and provides the agency with document processing assistance. The Office of Administration contains five divisions, each of which is headed by a Chief. The divisions are organized as follows:

(a) The Administration Division administers agency support functions relating to financial and material resources such as preparation of the budget, accounting and payroll, contracting and purchasing, supplies and equipment, mail, telecommunications, graphic design, and printing and reproduction.

(b) The Human Resources Division administers agency personnel and general training programs, security, and ethics responsibilities for agency personnel; reviews the compensation programs of Farm Credit System institutions; and administers requests of Farm Credit System institutions for related approvals required under the Act.

(c) The Records and Projects Division directs the agency information resource program; administers the process for the election of district directors; and is the liaison with the Farm Credit System Building Association.

(d) The Information Processing Division administers the development and operation of the agency's electronic information processing facilities and operations; develops software and applications programs; and is responsible for electronic data security.

(e) The Examiner Training Division develops and administers a comprehensive training and development program for Farm Credit Administration examiners, including creating development programs for prescribed career tracks and designing and implementing programs to maintain the competence of middle-level and senior examiners.

§ 600.5 Office of Analysis and Supervision.

The Office of Analysis and Supervision, headed by a Director, supervises, establishes standards, enforces rules and regulations, approves certain bank and association actions required by the Act, collects data, and conducts analytical and economic studies of the Farm Credit System. The Office of Analysis and Supervision contains four divisions, each of which is headed by a Chief. The divisions are organized as follows:

(a) The Supervision Division monitors the compliance of Farm Credit System institutions with Farm Credit Administration rules and regulations; initiates, prepares, and pursues enforcement actions; and assists in the preparation of Farm Credit Administration rules and regulations.

(b) The Finance and Operations Division conducts special finance, security, accounting, or credit studies supporting the examination function and the development of agency policy, regulations, directives, and action by the Farm Credit Administration Board; analyzes and recommends agency action on approvals regarding mergers, charter amendments, or territorial changes of Farm Credit institutions; recommends agency action on approvals regarding bylaws and financial, security, accounting, or credit action required by the Act; and publishes and maintains the FCA Examination Manual.

(c) The Economic Analysis Division conducts economic research relevant to the activities of the Farm Credit Administration and the Farm Credit System. The Economic Analysis Division is responsible for providing advice to the Board on economic trends and otherwise furnishing assistance on economic issues arising in the examination, supervision, and planning functions.

(d) The System Data Analysis Division collects, reconciles, and interprets the financial data reported by Farm Credit System institutions and reports the results of its analysis to the Board and the appropriate offices and divisions in the agency.

§ 600.6 Office of Congressional and Public Affairs.

The Office of Congressional and Public Affairs, headed by a Director, is responsible for coordinating and disseminating all communication, written and oral, with Congress; monitoring and reporting legislation affecting the Farm Credit Administration or Farm Credit System institutions; advising and counseling the Farm Credit Administration Board on legislative affairs; acting, as directed by the Board, as spokesman for the Farm Credit Administration to members of Congress and congressional staff; directing timely responses to congressional inquiries from constituents; directing timely responses to hearing records; acting as liaison for the Board with congressional affairs departments of all financial regulators; planning and implementing all public communications; producing all news releases, newsletters, annual reports and similar publications; acting as first contact for the agency with the news media; advises and directs Board communication with the media; first source of contact with the public; is responsible for the public image of the Farm Credit Administration; functions as first source of information to Farm Credit System institutions and borrowers concerning the Farm Credit Administration; directs all communication and association with international publics and media; arranges briefings and documents for foreign visitors; and represents the Farm Credit Administration in world farm financial communities.

§ 600.7 Office of Examination.

The Office of Examination, headed by a Chief Examiner, is responsible for the planning and execution of examinations of Farm Credit System institutions and for the preparation of examination reports. The Chief Examiner is responsible for the management and operation of the examination function and for advising the Farm Credit Administration Board with respect to matters of policy, legislation, and regulation that relate to examination activity. The Office of Examination is composed of five divisions, each headed by a Chief, and each of which is responsible for conducting examination activities for the institutions assigned it. The divisions are organized as follows:

(a) Field Division A, headquartered in McLean, Virginia, with district examination teams in McLean, Virginia; Jackson, Mississippi; and Louisville, Kentucky; is responsible for the Baltimore, Louisville, and Jackson Districts.

(b) Field Division B, headquartered in McLean, Virginia, with district examination teams in McLean, Virginia; Albany, New York; Atlanta, Georgia; and Dallas, Texas; is responsible for the Springfield, Columbia, and Texas Districts.

(c) Field Division C, headquartered in Spokane, Washington, with district examination teams in Spokane, Washington; Sacramento, California; and St. Paul, Minnesota; is responsible for the Sacramento, Spokane, and St. Paul Districts.

(d) Field Division D, headquartered in St. Louis, Missouri, with district

examination teams in St. Louis, Missouri; Omaha, Nebraska; and Oklahoma City, Oklahoma; is responsible for the St. Louis, Wichita, and Omaha Districts.

(e) The Credit Risk Evaluation Division, located in McLean, Virginia, is responsible for examining the Farm Credit System Capital Corporation, Federal Farm Credit Bank Funding Corporation, Central Bank for Cooperatives, international activities of the banks for cooperatives, National Cooperative Bank, Farm Credit Corporation of America, Farm Credit Leasing Services Corporation, and other service organizations incorporated under Title IV, Part C, of the Act, which are not subject to examination by a district team.

§ 600.8 Office of General Counsel.

The Office of General Counsel, headed by a General Counsel, provides legal services to the Farm Credit Administration. The Office of General Counsel is responsible for advising the Farm Credit Administration Board with respect to interpretations involving questions of law; for advising the Board and making recommendations on requests for approvals; for the preparation of legislation submitted by the Board to Congress; for the preparation of Board comments to Congress upon pending legislation; and for coordinating the preparation of the rules and regulations. The Office of General Counsel is also responsible for representing the Board and the Farm Credit Administration in judicial proceedings in which the Board or the agency is involved as a party or as amicus curiae, and in administrative proceedings under the Act. The Office of General Counsel is divided into two divisions, the Litigation and Enforcement Division and the Corporate and Administrative Division, each of which is headed by an Associate General Counsel.

§ 600.9 Other offices.

(a) The Office of Internal Audit, headed by a Director, is responsible for the internal audit function in the agency and reports directly to the Chairman. The internal audit function involves reviewing and evaluating the adequacy and effectiveness of the controls and procedures of all Farm Credit Administration operating and administrative offices.

(b) The Office of Equal Employment Opportunity, headed by a Director, promotes the principles of equal employment opportunity and ensures agency compliance with applicable law, regulation, and policy, and reports directly to the Chairman.

Subpart B—[Reserved]

PART 601—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. The authority citation for Part 601 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

3. Section 601.100 is amended by revising paragraph (b) to read as follows:

§ 601.100 General policy.

* * * * *

(b) All officers and employees have an obligation to the Government, to the people they serve, and to their fellow officers and employees to carry out the purpose and spirit of this policy.

* * * * *

4. Section 601.101 is revised to read as follows:

§ 601.101 Responsibilities.

(a) In the administration of the policy set forth in § 602.200 of this chapter, the rules and regulations thereunder, the Chief, Human Resources Division, Office of Administration, is responsible for:

(1) General coordination,

(2) Dissemination of information,

(3) Handling of complaints,

(4) Assignment of investigations,

(5) Administration interpretation, and

(6) Periodic review and evaluation of compliance.

(b) The Chief, Human Resources Division, Office of Administration, shall serve as counselor on ethical conduct and shall be responsible for assuring that counseling and interpretations on questions dealing with employee conduct and conflicts of interest are available to any officer or employee who desires advice and guidance on such questions.

5. Section 601.110 is amended by revising the introductory text and paragraphs (a), (b), (d) (4) and (5), (e), (f), (g), (h), and (i) to read as follows:

§ 601.110 Conflict of interest.

Except as specifically authorized by law or these regulations, no officer or employee of the Farm Credit Administration:

(a) Shall, in any manner directly or indirectly, participate in the deliberation upon, or the determination of, any question affecting that person's personal interests, those of any person related to that person by blood or marriage, or those of any partnership, association, or corporation in which that person is directly or indirectly interested;

(b) Shall, except in the performance of official duties, divulge to another person, or utilize for personal benefit or that of another, any fact or information acquired by such officer or employee, directly or indirectly, by virtue of that person's employment;

* * * * *

(d) * * *

(4) From any person who has an interest that may be substantially affected by the performance or nonperformance of such officer's or employee's official duty, any salary, loan, fee, commission, or honorarium or, for any purpose or in any way, any gift, favor, entertainment, or other benefit which might reasonably be interpreted by others as being of such nature that it could affect that person's impartiality; *Exception:* Such officer or employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting where such officer or employee may properly be in attendance, may accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars and other items of nominal value, and may accept, with the written approval of the Chairman and upon such conditions as the Chairman may prescribe, any benefit otherwise enjoined hereby if the circumstances make clear that the motivating factor for the extension of such benefit is not based on the Government responsibilities of the officer or employee and the business of the other person concerned.

(5) Nothing in this part precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on that person's behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under Agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

(e) Shall acquire, directly or indirectly (including acquisition by membership in syndicates), any lands, or any interest therein, including mineral interests and interests as mortgagee or lessee, which are owned by or mortgaged to any corporation regulated by the Farm

Credit Administration or which were thus owned or mortgaged at any time within the preceding 12 months. However, such lands, or interests therein, may be acquired by will or inheritance or upon the written approval of the Chairman subject to such conditions as the Chairman may prescribe. As used in this paragraph, "mineral interests" means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed or royalty conveyance;

(f) Shall participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property if such action might tend to interfere with the proper and impartial performance of that person's duties or bring discredit upon the Farm Credit Administration or any corporation under its supervision;

(g) Shall engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or otherwise conduct himself/herself in a manner which might be prejudicial and cause embarrassment to or criticism of the Government or the Farm Credit Administration or any corporation under its supervision or interfere with the efficient performance of that person's duties;

(h) Shall receive any salary or anything or monetary value from a private source as compensation for that person's services to the Government;

(i) Shall refuse to pay in a proper and timely manner each financial obligation which is imposed by law, such as Federal, State, or local taxes, or which he has acknowledged, or which has been reduced to judgment by a court. As used herein, "proper and timely" means in a manner which the Farm Credit Administration deems does not, under the circumstances, reflect adversely on the Farm Credit Administration as that person's employer. In the event of a dispute between an employee and an alleged creditor, this section does not require the Farm Credit Administration to determine the validity or amount of the disputed debt;

* * * * *

6. Section 601.126 is revised to read as follows:

§ 601.126 Teaching, writing, and lecturing.

(a) No officer or employee of the Farm Credit Administration shall receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Farm Credit Administration or any institution regulated by the Farm Credit Administration, or draws substantially upon official data or ideas which have not become part of the body of public information.

(b) No officer or employee of the Farm Credit Administration shall, either for or without compensation, engage in teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service that depends on information obtained as a result of that person's Government employment, except when that information has been made available to the general public or will be made available on request, or when the Chairman gives written authorization for use of nonpublic information on the basis that the use is in the public interest.

7. Section 601.127 is amended by revising paragraphs (c) and (e) to read as follows:

§ 601.127 Administrative approval to engage in outside employment.

* * * * *

(c) The request for approval will be submitted to the supervisor who will make a written recommendation for approval or disapproval and forward the request through the director of the appropriate office to the Chief of Human Resources Division. The Chief of Human Resources Division will notify employees in writing of the actions taken on their requests and the reasons for approval or disapproval. This notification will be coordinated and cleared with the employees' supervisor prior to issuance. All approved requests and a copy of the notification of the approval action will be maintained in the Human Resources Division.

* * * * *

(e) Failure to request administrative approval for outside employment or other outside activity for which approval is required is grounds for disciplinary action.

* * * * *

8. Section 601.130 is revised to read as follows:

§ 601.130 Farm Credit Administration examiners.

Farm Credit Administration examiners occupy positions established specifically by law to carry out special responsibilities. In order that they may carry out these responsibilities effectively, it is expected that they will refrain from action or conduct that may result in, or create the appearance of, obligating them to or causing them to be influenced by any of the officers or employees of the institutions examined, supervised, or regulated by the Farm Credit Administration.

9. Section 601.140 is revised to read as follows:

§ 601.140 Political activity.

Various provisions of Federal statutes and regulations prohibit or limit political activity on the part of officers and employees of Federal agencies. Any officer or employee who desires to have more detailed information should make inquiry of the Human Resources Division.

10. Section 601.141 is revised to read as follows:

§ 601.141 Prohibition against involvement in Farm Credit System elections of board members.

No officer or employee of the Farm Credit Administration, except as authorized in the discharge of his or her official duties, shall take any part, directly or indirectly, in the nomination or election of a member of a district Farm Credit board or the board of the Central Bank for Cooperatives or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. Any such officer or employee who violates the provisions of this section shall be dismissed.

11. Section 601.150 is amended by revising the introductory text and paragraphs (b) and (d) to read as follows:

§ 601.150 Distribution of printed material by employees.

The distribution of circulars, flyers, posters, etc., by individual Farm Credit Administration employee groups should be confined to material that will not result in embarrassment to the Farm Credit Administration. Distribution of any such material should be cleared with the Human Resources Division. Specifically, no circulars, flyers, posters, etc., may be so distributed which:

* * * * * *

(b) Directly or indirectly attack or adversely reflect on the integrity or character of Members of Congress, the judiciary, the President or Members of the President's Cabinet, or any other Government official in a similarly responsible position:

* * * * *

(d) Directly or indirectly criticize the policies of another Government department or agency which relate to programs of the Farm Credit

Administration or institutions under its examination, supervision, or regulation.

12. Section 601.165 is amended by revising paragraph (b) to read as follows:

§ 601.165 Foreign decorations.

* * * * *

(b) Any Farm Credit Administration employee who has had such a present conferred on him or her must notify the Human Resource Division that it is being held by the State Department so that appropriate steps may be taken at time of the employee's retirement, for reporting to Congress.

13. Section 601.170 is amended by revising paragraphs (a)(2), (3), and (4) to read as follows:

§ 601.170 Statements of employment and financial interests.

(a) * * *

(2) Employees classified at the GS–13 level and above under 5 U.S.C. § 5332 or at comparable pay levels under other authority and who are identified by the Chief of Human Resources Division as holding positions requiring the incumbent thereof to exercise judgment in making Government decisions or taking actions where such decisions or actions may have an economic impact on the interest of any non-Federal enterprise, including the institutions of the Farm Credit System.

(3) Employees classified below the GS–13 level under 5 U.S.C. 5332 or at a comparable pay level under authority, and who are in positions which otherwise meet the criteria of paragraphs (a) (1) and (2) of this section, providing the Office of Personnel Management has approved the determination that the incumbents of such positions should be required to file statements of employment and financial interests in order to protect the integrity of the Government and to avoid the employee's involvement in a possible conflict-of-interest situation.

(4) An employee described in paragraph (a) (1) and (2) of this section may be exempted from the requirement for filing a statement of employment and financial interests when the Chief of Human Resources Division determines that the employee's duties are of such a nature, or are at such a level of responsibility and are subject to such a degree of supervision and review, that the possibility of his or her becoming involved in a conflict of interest is remote.

* * * * *

14. Section 601.171 is amended by revising the introductory text to read as follows:

§ 601.171 Time and place for submission of statements.

The statement of employment and financial interest, which need not include the amount of financial interest, indebtedness, or value of real property, shall be submitted to the designee of the Chairman not later than:

* * * * *

15. Section 601.176 is revised to read as follows:

§ 601.176 Confidentiality of statements.

The Farm Credit Administration shall hold each statement of employment and financial interest, and each supplementary statement, in confidence. To ensure this confidentiality, the designee of the Chairman shall review and retain such statements and maintain them in confidence, and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this subpart. The Farm Credit Administration will not disclose information from a statement except as the Office of Personnel Management or the Chairman may determine for good cause shown.

16. Section 601.178 is revised to read as follows:

§ 601.178 Review of statements.

The statement of employment and financial interests shall be reviewed by the designee of the Chairman to determine whether the statement reveals a conflict or an apparent conflict between the interests of the officer or employee and the performance of such officer's or employee's service for the Farm Credit Administration. If such conflict or apparent conflict cannot be resolved by consultation between the designee of the Chairman and the officer or employee, the conflict or apparent conflict shall be reported to the Chairman for such further handling or action as the Chairman may deem indicated under the circumstances.

17. Section 601.180 is revised to read as follows:

§ 601.180 Special Government employees.

In addition to those requirements of §§ 601.110 through 601.170 of this part which may be made conditions of employment of a special Government employee in writing at the time of that person's employment, or otherwise apply to that person by operation of law, such employee:

(a) Shall not use Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the employee or another person, particularly one with whom the employee has family, business, or financial ties;

(b) Shall not use inside information obtained as a result of Government employment for private gain for the employee or another person either by direct action on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties (for this purpose "inside information" means information obtained under Government authority which has not become part of the body of public information);

(c) Shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties;

(d) Shall not while so employed or in connection with such employment receive or solicit from a person having business with the Farm Credit Administration anything of value as a gift, gratuity, loan, entertainment, or favor for the employee or another person, particularly one with whom the employee has family, business, or financial ties. However, such employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting where such employee may properly be in attendance, may accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars and other items of nominal value, and may accept, with written approval of the Chairman and upon such conditions as he may prescribe, any benefit otherwise enjoined hereby if the circumstances make clear that the motivating factor for the extension of such benefit is not based on the Government responsibilities of the employee and the business of the other person concerned;

(e) Shall submit to the designee of the Chairman prior to the commencement of employment a statement of employment and financial interests in the form prescribed by the Office of Personnel Management which reports all other employment and any financial interests which relate either directly or indirectly to the employee's duties and responsibilities as a special Government employee. The employee shall keep such statement current throughout the period of employment by the submission of supplementary statements. The information contained in the statement shall be reviewed and otherwise handled as is provided in § 601.178 of

this part with regard to statements of employment and financial interests required to be furnished by officers and employees. The Chairman may waive the requirements for the submission of such statement in the case of a special Government employee who is not a consultant or an expert when the Farm Credit Administration finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibilities the the submission of that statement by the incumbent is not necessary to protect the integrity of the Government.

§ 601.190 [Removed]

18. Section 601.190 is removed.

PART 602—RELEASING INFORMATION

19. The authority citation for Part 602 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

Subpart A—Information and Records Generally

20. Section 602.200 is revised to read as follows:

§ 602.200 General rule.

Except as necessary in performing official duties or as authorized by §§ 602.205 through 602.288 of this part, no one employed by the Farm Credit Administration shall disclose information of a type not ordinarily contained in published reports or press releases regarding the Farm Credit Administration or any banks or associations of the Farm Credit System or its borrowers or members. Information prepared for newspapers, publishing and broadcasting companies, and all new or revised publications shall be cleared with the Office of Congressional and Public Affairs.

21. Section 602.205 is revised to read as follows:

§ 602.205 Farm Credit Administration examination reports.

Reports of examinations of Farm Credit System institutions made by the Farm Credit Administration may be disclosed only with the consent of the Chairman of the Farm Credit Administration Board. Consent is given for disclosing reports of regular examinations to the Farm Credit System institution involved or interested, but disclosure of reports of special examinations shall be only by action or consent of the Chairman in each instance. Consent is also given for disclosing reports of regular examinations to authorized representatives of the Farm Credit Administration and, when requested for confidential use in official investigations of matters touched upon therein, to agents of the Federal Bureau of Investigation, Department of Justice; the Assistant Postmaster General, Inspection Service, U.S. Postal Service; the Secret Service; the Internal Revenue Service; Office of the Inspector General, Department of Agriculture; and the General Accounting Office.

§ 602.210 [Removed]

22. Section 602.210 is removed.

23. Section 602.215 is amended by revising the introductory text and paragraphs (a), (b), (c) and (e) to read as follows:

§ 602.215 Data regarding borrowers and loan applicants.

Because the relationship between borrowers and the institutions in the cooperative Farm Credit System is confidential, Farm Credit Administration personnel shall hold in strict confidence all information regarding character, credit standing, and property of borrowers and applicants for loans. They shall not exhibit or quote the following documents: Loan applications; letters and statements relative to the character, credit standing, and property of borrowers and applicants; recommendations of loan committees; and reports of inspectors, fieldmen, investigators, and appraisers, except as authorized by § 618.8320 of this chapter. This section is subject to the following further exceptions:

(a) Farm Credit Administration examiners and other accredited representatives of the Farm Credit Administration shall have free access to all information, records, and files.

(b) Accredited representatives of the offices named in § 602.205 of this part at their request, be given information pertinent to their official investigations of individual cases, and may examine such portions of the records and files as contain the information.

(c) Information concerning borrowers may be given for the confidential use of any Farm Credit System institution, or any Government agency, in contemplation of the extension of agricultural credit or the collection of loans.

* * * * *

(e) In litigation between a borrower (or that borrower's successor in interest) and the United States or a bank or association, any competent evidence may be introduced with respect to any relevant statements made orally or in writing by or to the borrower or that borrower's successor.

24. Section 602.220 is revised to read as follows:

§ 602.220 Waiver of restrictions.

If it appears that justice would be served by releasing information in circumstances forbidden by § 602.215 of this part, the restrictions of that section may be waived as to a particular case by the Chairman of the Farm Credit Administration Board. A recommendation for such waiver may be submitted by any institution concerned. Any such recommendation from a Federal land bank association or a production credit association shall be submitted through the appropriate Federal land bank or Federal intermediate credit bank, with the request that it be considered and forwarded to the Farm Credit Administration, if deemed advisable. Each such recommendation shall be supported by a statement of facts and approved by counsel for the forwarding bank. The recommendation should be addressed to the General Counsel, Farm Credit Administration.

§§ 602.235, 602.240 and 602.245 [Removed]

25. Sections 602.235, 602.240, and 602.245 are removed.

Subpart B—Availability of Records of the Farm Credit Administration

26. Section 602.260 is revised to read as follows:

§ 602.260 Request for records.

Requests for records, other than records identified in § 602.265(a) of this part which are available in a public reference facility in the offices of the Farm Credit Administration, shall be in writing, in an envelope clearly marked "FOIA Request," and addressed to the Freedom of Information Officer, Office of Congressional and Public Affairs, Farm Credit Administration, McLean Virginia 22102–5090. A request improperly addressed will be deemed not to have been received for purposes of the 10-day time period set forth in § 602.261(a) of this part until it is received, or would have been received with the exercise of due diligence by agency personnel, in the Office of Congressional and Public Affairs. Records requested in conformance with this subpart and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection of copying during business hours on a regular business day in the public reference facility in the offices of the Farm Credit

Administration, McLean, Virginia 22102–5090.

27. Section 602.261 is amended by revising paragraphs (a), (b) (c), and (d) introductory test to read as follows:

§ 602.261 Response to requests for records.

(a) Within 10 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of a request in the Office of Congressional and Public Affairs, the Freedom of Information Officer shall determine whether to comply with or to deny such request and place a notice thereof in writing in the mails addressed to the requester.

(b) Within 30 days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Director, Office of Administration, Farm Credit Administration, and both the letter and envelope shall be clearly marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by agency personnel, in the Office of the Director, Office of Administration.

(c) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of an appeal in the Office of the Director, Office of Administration, the Director shall act upon the appeal and place a notice of the determination thereof in writing in the mails addressed to the requester. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted that person's administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(d) In unusual circumstances as specified in this paragraph the 10-day time limit prescribed in paragraph (a) of this section or the 20-day time limit prescribed in paragraph (c) of this section, or both, may be extended by the Freedom of Information Officer or the Director, Office of Administration, as the case may be, provided that the total of all extensions shall not exceed 10 days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be mailed. As used in this paragraph, "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

* * * * *

28. Section 602.265 is amended by revising paragraphs (c), (d)(2), and (e) to read as follows:

§ 602.265 Fees for provision of records.

* * * * *

(c) When a request for information which cannot be furnished by the Farm Credit Administration under paragraphs (a) and (b) of this section is received, fees shall be charged in accordance with the schedule contained in paragraph (d) of this section for services rendered in response to requests for Farm Credit Administration records under this Subpart B unless the Director, Office of Administration, determines that such charges or a portion thereof are not in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $5. Fees shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt. However, if the time expended in procesing the request is substantial, and if the requester has been notified of the estimated cost pursuant to paragraph (d) of this section and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees may be charged.

(d) * * *

(2) For each one-quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing a requested record, including services to transport personnel to places of record storage, or records to the location of personnel for the purpose of search, $1.50.

* * * * *

(e) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. When the anticipated fees exceed $50, a deposit of 50 percent of the anticipated fees must be made within 5 business days of the Farm Credit Administration's notice to the requester. Unless the request specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit, a request that is expected to involve fees in excess of $25 will not be deemed to have been received for purposes of this subpart until the requester is notified of the anticipated cost and that person's agreement to bear it is received. The notice or request for an advance deposit shall extend an offer to the requester to confer with identified Farm Credit Administration personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

* * * * *

Subpart C—Testimony and Production of Documents in Legal Proceedings in Which the Farm Credit Administration Is Not a Named Party

29. Section 602.280 is revised to read as follows:

§ 602.280 General purposes.

The purposes of these rules are to maintain the confidentiality of official documents and information of the Farm Credit Administration, conserve the time of Farm Credit Administration employees for their official duties, maintain the impartial position of the Farm Credit Administration in litigation in which the Farm Credit Administration is not a named party, and enable the Chairman to determine when to authorize testimony and to produce documents in legal proceedings in which the Farm Credit Administration is not a named party. This subpart sets forth the procedures to be followed with respect to testimony concerning official matters and production of official documents of the Farm Credit Administration in legal proceedings in which the Farm Credit Administration is not a named party. This subpart in no way affects the rights and procedures governing public access to official documents pursuant to the freedom of information act or the privacy act. See Part 602, Subpart B, and Part 603 of this chapter.

30. Section 602.281 is amended by revising paragraphs (a) through (j) to read as follows:

§ 602.281 Definitions.

* * * * *

(a) "Chairman" means the Chairman of the Farm Credit Administration Board or his or her designee.

(b) "Court" means any entity conducting a legal proceeding.

(c) "Demand" means any order, subpoena, or other legal process for testimony or documents.

(d) "Document" means any record or paper, including but not limited to a report, credit review, audit, examination, letter, telegram, memorandum, study, calendar and diary entry, log, graph, pamphlet, note, chart, tabulation, analysis, statistical or information accumulation, any kind of record of meetings and conversations, film impression, magnetic tape, or any electronic media, disk, film, or mechanical reproduction that is generated, obtained, or adopted by the FCA in connection with the conduct of its official business.

(e) "Employee" means any officer, former officer, employee or former employee of the FCA, any member of the Farm Credit Administration Board or former member of the Farm Credit Administration Board or the Federal Farm Credit Board, any receiver or conservator appointed by the FCA, or any agent or independent contractor acting on behalf of the FCA, even though the appointment or contract has terminated.

(f) "FCA" means the Farm Credit Administration.

(g) "FCA Counsel" means the General Counsel or his or her designee, a Department of Justice attorney, or counsel authorized by the FCA to act on behalf of the FCA or an employee.

(h) "General Counsel" means the General Counsel of the FCA or his or her designee.

(i) "Legal proceeding" means any administrative, civil, or criminal proceeding, including a discovery proceeding therein, before a court of law, administrative board or commission, hearing officer, or other body in which the FCA is not a named party or in which the FCA has not instituted the administrative investigation or administrative hearing.

(j) "Official" means concerning the authorized business of the FCA.

* * * * *

31. Section 602.282 is revised to read as follows:

§ 602.282 General policy.

It is the policy of the FCA that official documents will not be voluntarily produced and the FCA employees will not voluntarily appear as witnesses in any legal proceeding. Under appropriate circumstances, the Chairman may grant exceptions in writing to this policy when the Chairman determines that the disclosure of official documents or testimony would be in the best interest of the FCA or in the public interest.

32. Section 602.283 is revised to read as follows:

§ 602.283 Request for testimony or production of documents.

(a) No FCA employee shall give testimony concerning official matters nor produce any official documents in any legal proceeding without the prior written authorization of the Chairman.

(b) If testimony by an FCA employee concerning official matters or the production of official documents is desired, the requesting party or his or her counsel shall submit a letter to the Chairman setting forth the title of the case, the forum, the requesting party's interest in the case, a summary of the issues in the litigation, the reasons for the request, and a showing that the desired testimony, documents, or information are not reasonably available from any other source. If an appearance or testimony is requested, the letter shall also set forth the intended use of the testimony, a general summary of the scope of the testimony requested, and a showing that no document could be provided and used in lieu of the testimony or other appearance requested.

(c) The General Counsel is authorized to consult with the requesting party or his or her counsel to: (1) Refine and limit the request so that compliance is less burdensome, or (2) obtain information necessary to make the determination described in § 602.282 of this part. Failure of the requesting party or his or her counsel to cooperate in good faith with the General Counsel to enable the Chairman to make an informed determination under this subpart may serve as the basis for a determination not to comply with the request.

33. Section 602.284 is revised to read as follows:

§ 602.284 Scope of permissible testimony.

(a) The scope of permissible testimony by an FCA employee is limited to that set forth in the written authorization granted that employee by the Chairman.

(b) FCA employees are not authorized to give opinion testimony. The FCA, as the regulatory agency charged with the responsibility of examining, supervising, and regulating the banks and associations and other institutions organized or chartered under the Farm Credit Act of 1971, as amended, relies on the ability of its employees to gather full and complete information in order to carry out its statutory responsibilities. The use of FCA employees to give opinion testimony would hamper the FCA's ability to carry out its statutory responsibilities and would cause a serious administrative burden on the FCA's staff.

34. Section 602.285 is amended by revising paragraph (b) to read as follows:

§ 602.285 Manner in which testimony is given.

* * * * *

(b) Where, in response to a request, the Chairman determines that circumstances warrant authorizing testimony by an FCA employee, the requesting party shall cause a subpoena to be served on the employee in accordance with applicable Federal or State rules of procedure, with a copy of the subpoena sent by registered mail to the General Counsel.

* * * * *

35. Section 602.286 is revised to read as follows:

§ 602.286 Manner in which documents will be produced.

(a) An FCA employee's authorization to produce official documents is limited to the authority granted that employee by the Chairman.

(b) Prior to the release of any official documents authorized by the Chairman to be released, the requesting party shall obtain a protective order satisfactory in form to the FCA from the court before which the action is pending to preserve the confidentiality of the documents subsequently produced.

(c) Certified or authenticated copies of official FCA documents authorized by the Chairman to be released under this subpart will be provided upon request.

36. Section 602.288 is amended by revising paragraphs (b) and (c) to read as follows:

§ 602.288 Responses to demands served on FCA employees.

* * * * *

(b) When authorization to testify or to produce documents has not been granted by the Chairman, FCA counsel shall provide the party issuing the demand or the court with a copy of the regulations contained in this subpart and shall inform the party issuing the demand or the court that the employee

upon whom the demand has been made is prohibited from testifying or producing documents without the prior approval of the Chairman.

(c) If the court rules that the demand must be complied with irrespective of instructions from the Chairman not to produce the documents or disclose the information sought, the FCA employee upon whom the demand has been made shall respectfully decline to comply with the demand.

* * * * *

37. Section 602.289 is revised to read as follows:

§ 602.289 Responses to demands served on non-FCA employees or entities.

(a) FCA reports of examinations or such other reports generated or adopted by the FCA, or any documents related thereto are the property of the FCA and are not to be disclosed to any person without the FCA's consent.

(b) If any person who has possession of an FCA report of examination or such other report generated or adopted by the FCA, or any documents related thereto is served with a demand in a legal proceeding directing that person to produce such FCA documents or to testify with respect thereto, such person shall immediately notify the FCA General Counsel of such service, of the testimony and described documents in the demand, and of all relevant facts. Such person shall also object to the production of such documents or information contained therein on the basis that the documents are the property of the FCA and cannot be released without FCA's consent and that their production must be sought from the FCA following the procedures set forth in § 602.283 (b) and (c) and § 602.286(b) of this part.

PART 603—PRIVACY ACT REGULATIONS

38. The authority citation for Part 603 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

39. Section 603.300 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 603.300 Purpose and scope.

(a) This part is published by the Farm Credit Administration pursuant to the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a) which requires each Federal agency to promulgate rules to establish procedures for notification and disclosure to an individual of agency records pertaining to that person, and for review of such records.

(b) * * *

(1) Personnel and employment records maintained by the Farm Credit Administration which are not covered by §§ 293.101 through 293.108 of the regulations of the Office of Personnel Management (5 CFR 293.101 through 293.108), and

* * * * *

40. Section 603.305 is revised to read as follows:

§ 603.305 Definitions.

For the purposes of this part:

(a) "Agency" means the Farm Credit Administration.

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) "Maintain" includes maintain, collect, use, or disseminate;

(d) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency including, but not limited to, that person's education, financial transactions, medical history, and criminal or employment history, and that contains that person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph;

(e) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected;

(f) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8;

(g) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

41. Section 603.310 is revised to read as follows:

§ 603.310 Procedures for requests pertaining to individual records in a record system.

(a) Any present or former employee of the Farm Credit Administration seeking access to that person's official civil service records maintained by the Farm Credit Administration shall submit a request in such manner as is prescribed by the Office of Personnel Management.

(b) Individuals shall submit their requests in writing to the Privacy Act Officer, Office of Congressional and Public Affairs, Farm Credit Administration, McLean, Virginia 22102–5090, when seeking to obtain from the Farm Credit Administration:

(1) Notification of whether the agency maintains a record pertaining to that person in a system of records;

(2) Notification of whether the agency has disclosed a record for which an accounting of disclosure is required to be maintained and made available to that person;

(3) A copy of a record pertaining to that person or the accounting of its disclosure;

(4) The review of a record pertaining to that person or the accounting of its disclosure. The request shall state the full name and address of the individual, and identify the system or systems of records believed to contain the information or record sought.

42. Section 603.315 is revised to read as follows:

§ 603.315 Times, places, and requirements for identification of individuals making requests.

The individual making written requests for information or records ordinarily will not be required to verify that person's identity. The signature upon such requests shall be deemed to be a certification by the requester that he or she is the individual to whom the record pertains, or the parent of a minor, or the duly appointed legal guardian of the individual to whom the record pertains. The Privacy Act Officer, however, may require such additional verification of identity in any instance in which the Privacy Act Officer deems it advisable.

43. Section 603.320 is amended by revising paragraphs (a) introductory text, (a)(3), (b), (c), and (d) to read as follows:

§ 603.320 Disclosure of requested information to individuals.

(a) The Privacy Act Officer shall, within a reasonable period of time after the date of receipt of a request for information of records:

* * * * *

(3) Notify the requester that fees for reproducing copies of records may be charged as provided in § 603.345 of this part.

(b) If access to a record is denied because the information therein has been compiled by the Farm Credit Administration in reasonable anticipation of a civil or criminal action proceeding, the Privacy Act Officer shall notify the requester of that person's right to judicial appeal under 5 U.S.C. 552a(g).

(c)(1) If access to a record is granted, the requester shall notify the Officer whether the requested record is to be

copied and mailed to the requester or whether the record is to be made available for personal inspection.

(2) A requester who is an individual may be accompanied by an individual selected by the requester when the record is disclosed, in which case the requester may be required to furnish a written statement authorizing the discussion of the record in the presence of the accompanying person.

(d) If the record is to be made available for personal inspection, the requester shall arrange with the Privacy Act Officer a mutually agreeable time in the offices of the Farm Credit Administration for inspection of the record.

44. Section 603.325 is revised to read as follows:

§ 603.325 Special procedures for medical records.

Medical records in the custody of the Farm Credit Administration which are not subject to Office of Personnel Management regulations shall be disclosed either to the individual to whom they pertain or that person's authorized or legal representative or to a licensed physician named by the individual.

45. Section 603.330 is revised to read as follows:

§ 603.330 Request for amendment to record.

(a) If, after disclosure of the requested information, an individual believes that the record is not accurate, relevant, timely, or complete, that person may request in writing that the record be amended. Such a request shall be submitted to the Privacy Act Officer and shall contain identification of the system of records and the record or information therein, a brief description of the material requested to be changed, the requested change or changes, and the reason for such change or changes.

(b) The Privacy Act Officer shall acknowledge receipt of the request within 10 days (excluding Saturdays, Sundays, and legal holidays) and, if a determination has not been made, advise the individual when that person may expect to be advised of action taken on the request. The acknowledgment may contain a request for additional information needed to make a determination.

46. Section 603.335 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 603.335 Agency review of request for amendment of record.

Upon receipt of a request for amendment of a record, the Privacy Act Officer shall:

* * * * *

(b) Inform the individual in writing of refusal to amend the record and of the reasons therefor, and advise that the individual may appeal such determination as provided in § 603.340 of this part.

47. Section 603.340 is amended by revising paragraphs (a) through (d) to read as follows:

§ 603.340 Appeal of an initial adverse determination of a request to amend a record.

(a) Not more than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt by an individual of an adverse determination on the individual's request to amend a record or otherwise, the individual may appeal to the Director, Office of Administration.

(b) The appeal shall be by letter, mailed or delivered to the Director, Office of Administration, Farm Credit Administration, McLean, Virginia 22102-5090. The letter shall identify the records involved in the same manner they were identified to the Privacy Act Officer, shall specify the dates of the request and adverse determination, and shall indicate the expressed basis for that determination. Also, the letter shall state briefly and succinctly the reasons why the adverse determination should be reversed.

(c) The review shall be completed and a final determination made by the Director not later than 30 days (excluding Saturdays, Sundays, and legal holidays) from receipt of the request for such review, unless the Director extends such 30-day period for good cause. If the 30-day period is extended, the individual shall be notified of the reasons therefor.

(d) If the Director refuses to amend the record in accordance with the request, the individual shall be notified of the right to file a concise statement setting forth that person's disagreement with the final determination and that person's right under 5 U.S.C. 552a(g)(1)(A) to a judicial review of the final determination.

* * * * *

PART 604—FARM CREDIT ADMINISTRATION BOARD MEETINGS

48. The authority citation for Part 604 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

49. The title of Part 604 is revised to read as follows:

PART 604—FARM CREDIT ADMINISTRATION BOARD MEETINGS

§ 604.300 [Redesignated as 604.400]

50. Section 604.300 is redesignated as § 604.400 amd revised to read as follows:

§ 604.400 Definitions.

For purposes of this part:

(a) "Agency" means the Farm Credit Administration.

(b) "Board" means the Farm Credit Administration Board.

(c) "Exempt meeting" and "exempt portion of a meeting" mean, respectively, a meeting or that part of a meeting designated as provided in § 604.430 of this part as closed to the public by reason of one or more of the exemptive provisions listed in § 604.420 of this part.

(d) "Meeting" means the deliberations of at least two (quorum) members of the Board where such deliberations determine or result in joint conduct or disposition of official Farm Credit Administration business.

(e) "Member" means any one of the members of the Board.

(f) "Open meeting" means a meeting or portion of a meeting which is not an exempt meeting or an exempt portion of a meeting.

(g) "Public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in, an open meeting of the Board, within the limits of reasonable and comfortable accommodations made available for such purpose by the Farm Credit Administration.

§ 604.305 [Redesignated as § 604.405]

51. Section 604.305 is redesignated as § 604.405 and amended by revising paragraph (b) to read as follows:

§ 604.405 Notice of public observation.

* * * * *

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 604.440 of this part.

* * * * *

§ 604.310 [Redesignated]

52. Section 604.310 is redesignated as § 604.410 and revised to read as follows:

§ 604.410 Scope of application.

The provisions of this part apply to meetings of the Board, and do not apply to conferences or other gatherings of

employees of the Farm Credit Administration who meet or join with others, except at meetings of the Board, to deliberate official agency business.

§ 604.315 [Redesignated as § 604.415]

53. Section 604.415 is redesignated as § 604.315 and revised to read as follows:

§ 604.415 Open meetings.

Every meeting and portion of a meeting of the Board shall be open to public observation unless the Board determines that such meeting or portion of a meeting will involve the discussion of matters which are within one or more of the exemptive provisions listed in § 604.420 of this part, and that the public interest is not served by the discussion of such matters in an open meeting.

§ 604.320 [Redesignated as § 604.420]

54. Section 604.320 is redesignated as § 604.420 and revised to read as follows:

§ 604.420 Exemptive provisions.

Except in a case where the Board determines that the public interest requires otherwise, a meeting or portion of a meeting may be closed to public observation where the Board determines that the meeting or portion of the meeting is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and

(2) In fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Farm Credit Administration;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): Provided, That such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular types of matters to be withheld;

(d) Disclose trade secrets and privileged or confidential commercial or financial information obtained from a person;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigator records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, supervision, operating, or condition reports prepared by, on behalf of, or for the use of the Farm Credit Administration;

(i) Disclose information the premature disclosure of which would:

(1) Significantly endanger the stability of any Farm Credit System institution, including banks, associations, service organizations, or the Capital Corporation; or

(2) Be likely to significantly frustrate implementation of a proposed action of the Farm Credit Administration: *Provided,* said Administration has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(j) Specifically concern participation by the Farm Credit Administration in a civil action or proceeding otherwise involving a determination on the record before an opportunity for a hearing.

§ 604.325 [Redesignated as § 604.425]

55. Section 604.325 is redesignated as § 604.425 and amended by revising paragraphs (a) and (c) to read as follows:

§ 604.425 Announcement of meetings.

(a) The Board meets in the offices of the Farm Credit Administration, McLean, Virginia 22102-5090, on the first Tuesday of each month.

* * * * *

(c) At the earliest practicable time, which is estimated to be not later than 8 days before the beginning of a meeting of the Board, the Farm Credit Administration shall make available for public inspection by posting notice on its public notice board in its offices, or pursuant to telephonic or written requests, the time, place, and subject matter of the meeting except to the extent that such information is exempt from disclosure under the provisions of § 604.420 of this part.

§ 604.330 [Redesignated as § 604.430]

56. Section 604.330 is redesignated as § 604.430 and amended by revising paragraphs (a) and (c) to read as follows:

§ 604.430 Closure of meetings.

(a) A majority of the meetings or portions of a majority of the meetings of the board are exempt by reason of § 604.420 (d), (h), (i)(1), or (j) of this part. An exempt meeting or an exempt portion of a meeting shall be closed to the public when at least two members of the Board vote by a recorded vote of the Board at the beginning of the exempt meeting or exempt portion of a meeting to close such meeting or such exempt portion, and the General Counsel, Farm Credit Administration, publicly certifies that, in his or her opinion, the meeting or portion of the meeting may be closed to the public stating each relevant exemptive provision listed in § 604.420 of this part.

* * * * *

(c) A copy of the certification of the General Counsel, together with a statement from the presiding officer of the meeting setting forth the time and place of an exempt meeting or an exempt portion of a meeting which was closed and the persons present, shall be retained by the Farm Credit Administration for a period of at least 2 years after the date of such closed meeting or closed portion of a meeting.

§ 604.335 [Redesignated as § 604.435]

57. Section 604.335 is redesignated as § 604.435 and amended by revising paragraphs (a), (c), (d), and (e) to read as follows:

§ 604.435 Record of closed meetings or closed portion of a meeting.

(a) The Farm Credit Administration shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 604.420 (d), (h), (i)(1), or (j) of this part, the Farm Credit Administration shall maintain either such transcript, recording, or a set of minutes.

* * * * *

(c) The Farm Credit Administration shall promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the

discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for such item or items of discussion which the Farm Credit Administration determines to contain information which may be withheld under § 604.420 of this part. Copies of such transcript or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(d) The Farm Credit Administration shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of 2 years after the date of such closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Farm Credit Administration shall be by or under the authority of the Director, Office of Administration.

§ 604.340 [Redesignated as § 604.440]

58. Section 604.340 is redesignated as § 604.440 and revised to read as follows:

§ 604.440 Requests for information.

Requests to the Farm Credit Administration for information about the time, place, and subject matter of a meeting, whether it or any portion thereof is closed to the public, and any requests for copies of the transcript or minutes, or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 604.420 of this part, shall be addressed to the Director, Office of Administration, Farm Credit Administration, McLean, Virginia 22102-5090.

PART 611—ORGANIZATION

59. The authority citation for Part 611 is revised to read as follows:

Authority: 12 U.S.C. §§ 2031, 2091, 2182, 2183, 2216–2216k, 2243, 2244, 2250, 2252.

Subpart A—Introduction

60. Section 611.100 is revised to read as follows:

§ 611.100 The Farm Credit Act.

The Farm Credit Act of 1971, Pub. L. 92-181, approved December 10, 1971, recodified and replaced the prior laws under which the Farm Credit Administration and the institutions of the Farm Credit System were organized and operated. The prior laws, which were repealed and superseded by the 1971 Act, are identified in section 5.40(a) of the Act. Section 5.40(b) retained the effectiveness of the existing regulations of the Farm Credit Administration and the Farm Credit System, the institutions' charters, bylaws, resolutions, stock classifications, policies, and elections until superseded, modified, or replaced under the authority of the Act. The Farm Credit Act Amendments of 1980, Pub. L. 96-592, amended the Farm Credit Act of 1971, effective December 24, 1980. The Farm Credit Amendments Act of 1985, Pub. L. 99-205, amended the Farm Credit Act of 1971, effective December 23, 1985. All references to "the Act" in this part shall be deemed to be references to the Farm Credit Act of 1971, as amended. All obligations and contracts under the prior laws remain enforceable unless and until modified by the Act.

Subparts B and C—[Reserved]

61. Subpart B consisting of § 611.200 and Subpart C are removed and reserved.

Subpart D—The Farm Credit System

62. Section 611.400 is amended by revising paragraph (a) to read as follows:

§ 611.400 System organization.

(a) The Farm Credit System includes the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, the banks for cooperatives, service corporations authorized by section 4.25 of the Act, unincorporated service organizations formed pursuant to agreements authorized by 5.6(a)(5) of the Act, and the Farm Credit System Capital Corporation. Each institution is chartered by the Farm Credit Administration. Each of the banks, associations, service corporations, and the Capital Corporation is an instrumentality of the United States, created to carry out the congressional policy and objectives of the Act. These institutions are subject to the examination, supervision, and regulation of the Farm Credit Administration. Each bank has immediate supervisory responsibility over its respective associations in its district. The banks which are stockholders of a service corporation have, through their boards of directors, immediate supervisory responsibility over the service corporation.

* * * * *

Subpart E—Farm Credit Districts

63. Subpart E consisting of § 611.500 is revised to read as follows:

§ 611.500 District territories.

The United States is divided into 12 Farm Credit districts. The designation and territory comprising each district are as follows:

District No.	District name	Territory
1	Springfield	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey.
2	Baltimore	Pennsylvania, Delaware, Maryland, Virginia, West Virginia, District of Columbia, Puerto Rico.
3	Columbia	North Carolina, South Carolina, Georgia, Florida.
4	Louisville	Ohio, Indiana, Kentucky, Tennessee.
5	Jackson	Alabama, Mississippi, Louisiana.
6	St. Louis	Illinois, Missouri, Arkansas.
7	St. Paul	Michigan, Wisconsin, Minnesota, North Dakota.
8	Omaha	Iowa, Nebraska, South Dakota, Wyoming.
9	Wichita	Oklahoma, Kansas, Colorado, New Mexico.
10	Texas	Texas.
11	Sacramento	California, Nevada, Utah, Arizona, Hawaii.
12	Spokane	Washington, Oregon, Montana, Idaho, Alaska.

Subpart F—General Rules for the Districts

64. Section 611.1000 is revised to read as follows:

§ 611.1000 Organization—district boards of directors.

(a) Each Farm Credit district shall have a district board of directors composed of seven members, nominated and elected as provided in section 5.2 of the Act. Limitations on the eligibility and term of office on the district board are specified in section 5.1 of the Act. The district board may adopt additional eligibility requirements, such as an age limitation of a number of successive terms for which a director will be eligible to serve. The members of each Farm Credit district board of directors shall operate as a single policymaking board. They also serve as the boards of directors of the Federal land bank, the Federal intermediate credit bank, and the bank for cooperatives in their respective districts. In neither capacity may board members engage in management functions. Whether acting as the board of directors for the district or ex officio as the boards for the district banks, they are responsible for coordinating the policies and functions of the banks and associations so that they complement the other institutions in the district.

(b) As provided in section 3.2 of the Act, the Central Bank for Cooperatives has a separate board of directors of not more than 13 members, one elected by each district board and a member-at-large appointed by the Farm Credit Administration. The powers, duties, responsibilities, and limitations of the Central Bank board are comparable to those of the district board acting ex officio as the board of directors of the district bank for cooperatives. In interpreting these regulations, the terms "district board" and "bank board" shall also be read to mean the Central Bank board, and the terms "board member," "district board member" and "bank board member," or "director" shall also be read to mean Central Bank board member. The principal purpose of the Central Bank is to participate in loans with the district banks for cooperatives.

65. Section 611.1010 is amended by revising paragraph (i) to read as follows:

§ 611.1010 Powers, duties, and responsibilities.

* * * * *

(i) Consider recommendations made in examination reports and take appropriate corrective actions, as determined by the board or as required by the Farm Credit Administration. If the district board fails to implement the corrective actions required by the Farm Credit Administration, the Farm Credit Administration may direct action as it deems appropriate to enforce compliance, including undertaking an enforcement action as provided in Part C, Title V, of the Act, or taking such other action as the Farm Credit Administration is permitted by law to undertake.

* * * * *

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

66. Section 611.1120 is amended by revising paragraphs (b) and (c) to read as follows:

§ 611.1120 General authority.

* * * * *

(b) The Farm Credit Administration may make changes in the charter of an association as may be requested by that association and approved by the Farm Credit Administration pursuant to § 611.1121 of this part.

(c) The Farm Credit Administration may, by order of the Chairman and on its own initiative, make changes in the charter of a Federal land bank association or a production credit association where the Chairman determines that the change is necessary for the accomplishment of the purposes of the Act.

Subpart H—Rules for Inter-System Fund Transfers

67. Section 611.1130 is amended by revising paragraph (d) to read as follows:

§ 611.1130 Inter-System transfer of funds and equities.

* * * * *

(d) A direction by the FCA for a transfer of funds or equities pursuant to this section shall be signed by the Chairman and shall establish the amount, timing, duration, repayment, and other terms of assessments necessary to accomplish such transfer, taking into consideration the financial condition of each institution to be assessed. Where the FCA directs a transfer of funds or equities between associations under paragraph (c) (1) or (2) of this section, it may authorize the district bank in which such associations are stockholder to accomplish the necessary assessments through debits and credits to the accounts of the bank.

Subpart I—Service Organizations

68. Section 611.1135 is amended by revising paragraphs (a), (b)(2), (b)(7), (c), (d)(1) introductory text, (d)(1)(iv), (d)(2), and (e) to read as follows:

§ 611.1135 Incorporation of service organizations.

(a) *General.* Any Farm Credit bank(s) may organize a corporation to perform, for or on behalf of the bank(s), any function or service that the bank(s) is authorized to perform under the Act and the regulations, except extending credit and providing the sale of insurance services. The bank(s) wishing to organize such a corporation shall submit an application to the Farm Credit Administration according to the application requirements of paragraph (b) of this section. If the proposal meets the requirements of the Act, the regulations, and any other conditions which the Chairman may impose, the Chairman may issue a charter for the service corporation making it a federally chartered instrumentality of the United States. Such service corporation shall be subject to examination, supervision, and by the Farm Credit Administration. Only Farm Credit banks are eligible to become stockholders in such a corporation. Each bank shall be eligible to become a stockholder of each service corporation organized under this section.

(b) * * *

(2) A request signed by the president(s) of the organizing bank(s) to the Chairman of the Farm Credit Administration to issue a charter, supported by a detailed statement demonstrating the need and the justification for the proposed entity.

* * * * *

(7) Any other supporting documentation as may be requested by the Chairman of the Farm Credit Administration.

(c) *Approval.* The Chairman may condition the issuance of a charter as he deems appropriate and for good cause may deny the application. Upon approval by the Chairman of a completed application, which shall be kept on file at the Farm Credit Administration, the Chairman shall issue a charter for the service corporation which shall thereupon become a corporate body and a Federal instrumentality.

(d) * * *

(1) The board of directors of the corporation may request that the Chairman amend the articles of incorporation by sending with its request a certified resolution of the board of directors of the service corporation and stating:

* * * * *

(iv) That the requisite shareholder approval has been obtained. The request shall be subject to the approval of the Chairman as stated in paragraphs (a) and (c) of this section.

(2) The Chairman may at any time make any and all changes in the articles of incorporation of a service corporation that he deems necessary and appropriate for the accomplishment of the purposes of the Act.

(e) *Amendment of bylaws.* Amendments of the bylaws of a service corporation shall require prior approval of the Chairman.

Subpart L—Liquidation of Associations

69. Section 611.1168 is revised to read as follows:

§ 611.1168 Final discharge and release of receiver.

The association shall continue as an association chartered in accordance with the Act until such time as the liquidation has been completed and the charter of the association has been canceled by the Chairman of the Farm Credit Administration. When the receiver recommends final distribution of assets or is otherwise relieved of its duties by the Farm Credit Administration, the receiver shall file

with the Farm Credit Administration a detailed report in a form satisfactory to the Farm Credit Administration. Upon final liquidation of the receivership or when the receiver completes or is otherwise relieved of its duties, the receivership shall be examined and audited pursuant to § 617.7090 of this chapter. The receiver's accounts shall thereupon be approved or disapproved, and if approved, the receiver shall thereby be completely and finally released. The records of the receivership shall be stored and maintained in the manner directed by the Farm Credit Administration.

Subpart M—Liquidation of Banks

70. Section 611.1174 is amended by revising paragraphs (c) and (d)(5) to read as follows:

§ 611.1174 Creditor's claims and priority of claims.

* * * * *

(c) Except for any consolidated or Systemwide bonds issued on behalf of a bank which are assumed by one or more other banks of the System, when a bank is placed in receivership the Chairman shall assign such bank's primary liability (as that term is used in 12 U.S.C. 2155(a)) on bonds to the other banks of the System in accordance with 12 U.S.C. 2155(a) as of the date of the appointment of the receiver. Upon such assignment, the assignee banks shall acquire rights to and title in such assets of the bank as shall be eligible and available as collateral under 12 U.S.C. 2154(b) up to an aggregate value equal to the total amount of the bonds so assigned, with priority of claims as provided in paragraph (d) of this section.

(d) * * *

(5) All claims of holders of consolidated and Systemwide bonds and claims of the other banks of the System related to assignments made by the Chairman under paragraph (c) of this section.

* * * * *

71. Section 611.1176 is revised to read as follows:

§ 611.1176 Final discharge and release of receiver.

The bank in receivership shall continue as a bank chartered in accordance with the Act until such time as the liquidation has been completed and the charter of the bank has been canceled by the Chairman of the Farm Credit Administration. When the receiver recommends final distribution of assets or is otherwise relieved of its duties by the Farm Credit Administration, the receiver shall file a detailed report with, and in a form satisfactory to, the Farm Credit Administration. Unless the Farm Credit Administration otherwise directs, upon final liquidation of the receivership or when the receiver completes or is otherwise relieved of its duties, the receivership shall be examined and audited pursuant to § 617.7090 of this chapter. The receiver's accounts shall thereupon be approved or disapproved, and if approved, the receiver shall thereby be completely and finally released. The records of the receivership shall be stored and maintained in the manner directed by the Farm Credit Administration.

PART 612—PERSONNEL ADMINISTRATION

72. The authority citation for Part 612 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

Subpart B—Standards of Conduct for Directors, Officers, and Employees

73. Section 612.2130 is amended by revising paragraphs (p) and (t) to read as follows:

§ 612.2130 Definitions.

* * * * *

(p) "Service organization" means the Farm Credit System Capital Corporation, Federal Farm Credit Banks Funding Corporation, each service organization authorized by section 4.25 of the Act, and each unincorporated service organization formed pursuant to agreements authorized by section 5.6(a) of the Act.

* * * * *

(t) "System institution" and "institution" mean any bank, association, or service organization in the Farm Credit System, including the Federal land banks, Federal intermediate credit banks, banks for cooperatives, Central Bank for Cooperatives, Federal land bank associations, production credit associations, the Farm Credit System Capital Corporation, the Federal Farm Credit Banks Funding Corporation, and other service organizations.

74. Section 612.2150 is amended by revising paragraph (c) introductory text to read as follows:

§ 612.2150 Employees—prohibited acts.

* * * * *

(c) Except to the extent permitted under bank, Capital Corporation, or service organization policies and procedures which have been approved by the Farm Credit Administration pursuant to § 612.2160 of this part, an employee of a System institution:

* * * * *

75. Section 612.2200 is amended by revising the title and paragraph (a) to read as follows:

§ 612.2200 Soliciting support in election polls for association or district board membership.

(a) No employee or agent of a System institution shall take any part, directly or indirectly, in the nomination or election of members of a district, association, or service organization board, or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. These provisions shall not prohibit employees or agents from providing biographical and other information or engaging in other activities pursuant to the district policies and procedures for nominations and elections. This paragraph does not affect the right of an employee or agent to nominate or vote for directors of an institution in which the employee or agent is a voting member.

* * * * *

76. Section 612.2220 is revised to read as follows:

§ 612.2220 Political activity.

(a) No officer or employee of a System institution shall hold public office or be a candidate for such office unless the employing institution has, after investigation and consideration of all facts involved, determined in writing that such candidacy or holding of public office would not bring justified criticism on the grounds of political activities or partialities or in any other manner adversely affect the best interests of the institution or the System. All determinations made hereunder shall be reported to the board of directors of the institution concerned.

(b) No employee shall take an active part or issue public statements relating to the nomination or candidacy of any person or participate in partisan political campaigns for national or statewide elective office, in any way that would implicate by support, endorsement, or otherwise, the employee's connection with the System institution. This statement shall not be construed to prohibit an employee from expressing personal opinions on political affairs or candidates or making voluntary campaign contributions.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

77. The authority citation for Part 613 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

Subpart E—Nondiscrimination in Lending

78. Section 613.3170 is amended by revising paragraph (b) to read as follows:

§ 613.3170 Equal housing lender poster.

* * * * *

(b) The poster shall be at least 11 by 14 inches in size, and shall bear the logotype and legend set forth in § 613.3160(b) of this part and the following text:

WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL FAIR HOUSING LAW (TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968) IT IS ILLEGAL, BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN TO:

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or
- Discriminate in fixing the amount, interest rate, duration, application procedures, or other terms or conditions of such a loan.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST UNDER THIS LAW, YOU MAY SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410

or

Farm Credit Administration, McLean, VA 22102-5090

WE ALSO DO BUSINESS IN ACCORDANCE WITH THE EQUAL CREDIT OPPORTUNITY ACT

IT IS ILLEGAL TO DISCRIMINATE IN EXTENDING CREDIT:

- On the basis of race, color, religion, national origin, sex, marital satatus, or age (providing applicant has legal capacity to enter a binding contract)
- Because income is from public assistance
- Because a right was exercised under the Consumer Credit Protection Act

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST UNDER THIS LAW YOU MAY SEND A COMPLAINT TO THE FARM CREDIT ADMINISTRATION AT THE ABOVE ADDRESS.

PART 614—LOAN POLICIES AND OPERATIONS

79. The authority citation for Part 614 is revised to read as follows:

Authority: 12 U.S.C. 2183, 2199, 2202, 2243, 2244, 2252(a)(10).

§§ 614.4010, 614.4015, and 614.4020 [Removed]

Subpart A—General

80. Sections 614.4010, 614.4015, and 614.4020 are removed.

Subpart F—Security Requirements

81. Section 614.4260 is amended by revising paragraph (c)(5) to read as follows:

§ 614.4260 Banks for cooperatives.

* * * * *

(c) * * *

(5) Documents required in conjunction with these loans may be held by a custodian selected by the bank. In such cases the bank shall provide the custodian written instructions outlining procedures and practices to be followed in the acceptance, handling, and release of all related documents. The custodian shall be adequately bonded. The bank shall provide for periodic review of custodial activities by bank officials and shall establish that activities of the custodian are subject to review and examination by the Farm Credit Administration.

Subpart M—Loan Approval Requirements

82. Section 614.4450 is revised to read as follows:

§ 614.4450 General requirements.

Authority for loan approval is vested in the Farm Credit banks and associations.

83. Section 614.4460 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 614.4460 Loan approval responsibility.

* * * * *

(a) Loans to a member of the Farm Credit Administration Board.

* * * * *

(c) Loans to a cooperative of which a member of the district bank or Central Bank board of directors is a member of the board of directors, an officer, or employee.

(d) Loans to the president of a Farm Credit bank.

* * * * *

Subpart P—Federal Intermediate Credit Bank Financing of Other Financing Institutions

84. Section 614.4590 is revised to read as follows:

§ 614.4590 General financing agreement.

An OFI desiring to access a Federal intermediate credit bank shall execute a general financing agreement. The agreement shall state the general terms and conditions under which loans will be discounted or made or credit otherwise extended and shall provide for the OFI to periodically furnish the bank acceptable financial reports and any data necessary to assure that the OFI remains in compliance with these regulations. The agreement shall further provide that the OFI, other than a State bank, trust company, or savings association, agrees, to examination by the Farm Credit Administration if such examination is requested by the Chairman. With respect to an OFI which is a State bank, trust company, or savings association, the agreement shall provide that such OFI, at the request of the Chairman, consents that reports of its examination by constituted State authorities may be furnished by such authorities to the Farm Credit Administration.

Subpart Q—Banks for Cooperatives Financing International Trade

85. Section 614.4710 is amended by revising the introductory text, paragraphs (a)(1) introductory text, (a)(1)(ii), (a)(2), (a)(3), (a)(4), (d)(1), (d)(2), and (e) to read as follows:

§ 614.4710 Bankers acceptance financing.

The Federal Farm Credit Banks Funding Corporation (Funding Corporation) is authorized to accept drafts or bills of exchange drawn upon banks for cooperatives. With the exception of acceptances eligible for purchase by the Federal Reserve banks under the direction and regulation of the Federal Open Market Committee and rediscounted, acceptances shall be subject to the provisions of §§ 614.4350, 614.4354, and 614.4360 of this part and must be combined with any other loans to the account party by the banks for cooperatives for the purpose of applying the lending limits of § 614.4354 of this part.

(a) * * *

(1) The Funding Corporation's authority to accept drafts or bills of exchange drawn upon a district bank for cooperatives having not more than 6 months' sight to run, exclusive of days of grace, that are derived from transactions involving the importation or exportation of agricultural commodities, farm supplies, or aquatic products from the United States; or are derived from transactions involving the domestic shipment of goods that were produced from agriculture or commercial fishing or that have an agriculturally or aquatically related purpose; or are secured at the time of

acceptance by totally covering readily marketable staples.

* * * * *

(ii) The sum of all acceptance liabilities outstanding described in paragraph (a)(1) of this section, exclusive of participations sold to others, issued to all borrowers shall not exceed 100 percent of the bank for cooperatives' net worth but the aggregate of acceptances growing out of domestic transactions shall not exceed 50 percent or net worth calculated on the date indicated in paragraph (a)(1)(i) of this section.

(2) The limit specified in paragraph (a)(1)(i) of this section is separate from and in addition to the lending limits of § 614.4354 of this part if the acceptances are rediscounted.

(3) During any period within which a bank for cooperatives holds its own acceptance, having given value therefor, the amount thereof shall be included against the lending limits set forth in § 614.4354 of this part of the customer for whom the acceptance was made.

(4) The terms and requirements for the offering and purchase of participations in acceptance financing shall be the same as those for loans issued under § 614.4334 of this part.

* * * * *

(d) * * *

(1) A district bank for cooperatives shall determine limits on purchasing participations in discounted acceptances of another bank for cooperatives on the same basis as prescribed in § 614.4354 of this part for purchasing participations in loans of another bank for cooperatives.

(2) Participations in discounted acceptances shall be offered in accordance with § 614.4334 of this part.

(e) *Funding Corporation.* All acceptances created by the 13 banks for cooperatives shall be physically accepted by the Funding Corporation when intended for rediscount.

86. Section 614.4900 is amended by revising paragraph (i) to read as follows:

§ 614.4900 Foreign exchange.

* * * * *

(i) The 13 banks for cooperatives shall use the Federal Farm Credit Banks Funding Corporation (Funding Corporation) for purposes of trading foreign exchange. All foreign exchange transactions shall be made by the Funding Corporation on behalf of the banks consistent with instructions received from the respective bank.

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS

87. The authority citation for Part 615 is revised to read as follows:

Authority: 12 U.S.C. 2154, 2243, 2252.

Subpart J—Prescription, Subscription, and Retirement of Stock

88. Section 615.5250 is amended by revising paragraph (b) to read as follows:

§ 615.5250 Responsibility.

* * * * *

(b) The Chairman shall prescribe the initial amount of authorized capital stock for a newly chartered production credit association.

Subpart O—Issuance of Farm Credit Securities

89. Section 615.5453 is revised to read as follows:

§ 615.5453 Definitive bonds.

Consolidated and consolidated Systemwide bonds and discount notes may be issued in definitive form as determined to be appropriate by the Finance Committees or their subcommittees and as approved by the Chairman of the Farm Credit Administration.

90. Section 615.5495 is amended by revising paragraph (b) to read as follows:

§ 615.5495 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.

* * * * *

(b) Applicants for relief under paragraph (a) of this section, shall present claims and proof of loss (1) to the Claims Branch of the Securities Operations Division, Bureau of Public Debt, Department of the Treasury, Washington, DC 20226 in the case of consolidated or Systemwide obligations of the Farm Credit banks issued prior to May 1, 1978, or (2) to the Federal Farm Credit Banks Funding Corporation, 90 William Street, New York, NY 10038, in the case of consolidated or Systemwide obligations issued on or after May 1, 1978.

PART 617—EXAMINATIONS AND INVESTIGATIONS

91. The authority citation for Part 617 is revised to read as follows:

Authority: 12 U.S.C. 2243, 2252.

92. The title of Part 617 is revised to read as follows:

PART 617—EXAMINATIONS AND INVESTIGATIONS

93. The title of Subpart A is revised to read as follows:

Subpart A—Examinations

94. Section 617.7000 is revised to read as follows:

§ 617.7000 Farm Credit System institutions.

The Farm Credit Administration is required by § 5.19 of the Act to examine each System institution, including banks, associations, incorporated and unincorporated service organizations, and the Capital Corporation, and each of its agents, at such times as the Chairman may determine, but not less frequently than once each year. Such examinations shall be under the direction of the Chief Examiner of the Farm Credit Administration.

95. Section 617.7020 is revised to read as follows:

§ 617.7020 Other financing institutions.

(a) As a condition precedent to securing discount privileges with a bank of the Farm Credit System, any organization other than State banks, trust companies, and savings associations shall file with such bank its written consent to examination by the Farm Credit Administration pursuant to § 5.21 of the Act. Such organizations shall also agree to furnish the bank, the Farm Credit Administration, or any Farm Credit examiner, at any time upon call, full and current information regarding its financial conditions and operations.

(b) State banks, trust companies, and savings associations shall be required in like manner to file a written consent that reports of their examination by constituted state authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

96. Section 617.7030 is revised to read as follows:

§ 617.7030 Farm Credit Administration examiners' responsibilities.

(a) Examinations and investigations shall be made by Farm Credit Administration examiners appointed by the Chairman. Such examinations and investigations shall be under the direction of the Chief Examiner. Their responsibilities are to be discharged in the interest of carrying out the Act and in the interest of the investing public, stockholders, and directors and employees of the System. Examiners shall have full authority to inquire into

any and all matters which affect or may affect the interests of the Farm Credit Administration or any institution in the Farm Credit System. Such matters include, but are not limited to, the financial affairs, transactions, and condition of such institutions; effectiveness of management in all aspects of the operations of such institutions; compliance with all laws applicable, all regulations and procedures issued by the Farm Credit Administration and all institutions of the System, and all generally accepted business, management, credit, and accounting principles and standards as applicable to the operations of such institutions.

(b) To facilitate such inquiries, examiners are empowered to examine any documents and records in the custody of any Farm Credit institution; to take custody of such documents and records upon issuance of a receipt to the institution; to examine, with permission of the owner or custodian if needed, any other documents or records, wherever located, which may be pertinent to such inquiries; to interview any employee, borrower, or other person regarding any matters pertinent to such inquiries; to obtain signed or sworn statements and administer oaths; and to make personal observations of any physical conditions pertinent to such inquiries. Examiners are not authorized to issue to any person an order or instruction to perform or not to perform any action.

§§ 617.7050 and 617.7060 [Removed]

97. Sections 617.7050 and 617.7060 are removed.

98. Section 617.7070 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 617.7070 Coverage.

Examination of Farm Credit System institutions, and their agents, shall include but not be limited to the following:

(a) Examination of the books, accounts, financial records, files, and other papers.

* * * * *

99. Section 617.7080 is revised to read as follows:

§ 617.7080 Reports.

(a) The results of Farm Credit Administration examinations of banks, associations, service organizations, and the Capital Corporation shall be reported to the respective boards of directors at meetings which shall include an executive session with the board. Reports of examinations of associations shall also be submitted to the supervising bank for review and appropriate action.

(b) Reports of examinations are the property of the Farm Credit Administration and are furnished to the institution examined for its confidential use and may be disclosed only with the consent of the Chairman of the Farm Credit Administration. Consent is given for disclosing reports of regular examinations to the banks and associations involved or interested, but such disclosure of reports of special examinations shall be only by action or consent of the Chairman in each instance. Information needed for filing claims with surety companies, for establishing lines of credit, and for maintaining relations with other financial institutions may be extracted from such reports without further consent.

(c) Consent is given for disclosing reports of regular examinations to authorized representatives of the Farm Credit Administration and, when requested for confidential use in official investigations, to agents of the Federal Bureau of Investigation, Department of Justice; the Bureau of the Chief Postal Inspector, United States Postal Service; the Secret Service; the Internal Revenue Service; and the Office of Inspector General, United States Department of Agriculture.

(d) Reports of investigations are the property of the Farm Credit Administration. When such reports are furnished to concerned institutions for their confidential use, further disclosure of the reports shall be only by consent of the Chairman.

Subpart B—Investigations—Personnel

§ 617.7100 [Removed]

100. Section 617.7100 is removed.

PART 618—GENERAL PROVISIONS

101. The authority citation for Part 618 is revised to read as follows:

Authority: 12 U.S.C. 2183, 2243, 2244, 2252.

Subpart D—Procedures and Guidelines

102. Section 618.8100 is amended by revising the introductory text to read as follows:

§ 618.8100 Farm Credit Administration.

The Farm Credit Administration shall issue procedures and guidelines as necessary from time to time to facilitate carrying out requirements of the law and regulations. System institutions shall comply with such procedures and guidelines. These procedures will include but are not limited to the following:

* * * * *

Subpart E—Nomination and Election of Directors

§ 618.8150 [Removed]

103. Section 618.8150 is removed.

104. Section 618.8160 is amended by revising paragraphs (a) and (b) to read as follows:

§ 618.8160 District boards of directors.

(a) Polls for the nomination and election of district board directors shall be conducted by the election officer of the Farm Credit Administration appointed by the Chairman. The results of all such polls shall be certified by the Chief Examiner.

(b) Information pertaining to the results of any poll shall not be disclosed before the poll has closed, the voting results have been certified, and official announcement has been made by the Chairman, except that notification of the number of votes received by each nominee or candidate in a poll may be made to the nominees or candidates by the election officer. Information regarding voting by individual associations shall not be disclosed at any time.

* * * * *

Subpart F—Miscellaneous Provisions

§ 618.8200 [Removed]

105. Section 618.8200 is removed.

Subpart G—Releasing Information

106. Section 618.8340 is amended by revising paragraph (c) to read as follows:

§ 618.8340 Information regarding personnel.

* * * * *

(c) For use by their respective groups of associations and cooperatives in nominating and electing members of a district board, the banks may release lists of directors of their associations, and a bank for cooperatives may release lists of the cooperatives that hold stock in it.

* * * * *

§ 618.8350 [Removed]

107. Section 618.8350 is removed.

Subpart I—Federal Records

108. Section 618.8400 is revised to read as follows:

§ 618.8400 National Archives and Records Administration regulations.

The National Archives and Records Administration is the Federal agency responsible for promulgating rules and regulations governing the management and disposal of Federal records. Farm Credit Administration personnel shall manage and dispose of Federal records generated by or otherwise in possession of the Farm Credit Administration in accordance with such rules and regulations.

109. Section 618.8410 is revised to read as follows:

§ 618.8410 Transfers to Federal Records Center.

Any bank or office of joint services that wishes to be relieved of the custody of Federal records, but cannot do so either because authority to destory or microfilm them has not been obtained or because the retention periods approved by National Archives and the Congress require that the records be held either permanently or for further periods of time, may request the Farm Credit Administration to arrange with the National Archives and Records Administration to have such records transferred to a regional Federal Records Center.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 86-25918 Filed 11-19-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ASW-13, Amdt. 39-5468]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 206A, 206B, and 206L Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires removal and replacement of either the tail rotor (T/R) yoke or crosshead on certain BHTI Model 206A, 206B, and 206L helicopters. A T/R yoke, which may interfere with the T/R pitch links, has been made available as a replacement part. The AD is prompted by 25 reports of interference between the T/R yoke and pitch links. This interference can damage the T/R pitch links, initiate fatigue cracks, and result in failure of the T/R pitch link and loss of directional control of the helicopter. The AD is needed to prevent failure of the pitch links which could result in loss of directional control and loss of the helicopter.

EFFECTIVE DATE: December 15, 1986.

Compliance: As prescribed in body of AD.

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-5179.

SUPPLEMENTARY INFORMATION: There have been 25 reports of interference between the T/R yoke and pitch links on Bell Helicopter Models 206A, 206B, and 206L. This interference only occurs when particular T/R yokes are installed in combination with particular T/R crossheads. The wear which occurs due to the interference could result in failure of the pitch links, loss of directional control, and probable loss of the helicopter. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection and replacement, as necessary, of either the T/R yoke or crosshead.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Bell Helicopter Textron, Inc.: Applies to Model 206A, 206B, and 206L helicopters certificated in any category equipped with T/R yoke Part Number (P/N) 206-011-819-101 in combination with T/R crosshead P/N 206-010-741-001 or -003.

Compliance is required as indicated unless already accomplished.

To prevent failure of the T/R pitch links, accomplish the following:

(a) Within the next 25 hours' time in service, inspect T/R assembly and determine if T/R yoke P/N 206-011-819-101 is installed in combination with T/R crosshead P/N 206-010-741-001 or -003. If this T/R yoke and crosshead combination is installed, either:

(1) Remove T/R yoke P/N 206-011-819-101 and replace it with T/R yoke P/N 206-011-811-009; or

(2) Remove T/R crosshead P/N 206-010-741-001 or -003 and replace it with T/R crosshead P/N 206-011-855-001 or 206-011-857-001.

(b) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Helicopter Certification Branch, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

This amendment becomes effective December 15, 1986.

Issued in Fort Worth, Texas, on November 7, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86-26135 Filed 11-19-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 422

Federal Old-Age, Survivors, and Disability Insurance—Organization and Procedures; Removal of List of Title II Application Forms

AGENCY: Social Security Administration, HHS.

ACTION: Final rule with comment period.

SUMMARY: We are removing the list of application forms for Social Security benefits from our regulations and replacing it with the general statement that a person must apply for benefits on an application we prescribe. The purpose of the change is to permit experimentation with a variety of applications consisting of computer printouts.

DATES: These final regulations are effective November 20, 1986. We will consider your comments if we receive them no later than January 20, 1987.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7519.

SUPPLEMENTARY INFORMATION: Section 422.505(a) of 20 CFR currently gives a complete list of the names and numbers of our standard printed forms for applying for Social Security benefits. We are starting to experiment with a variety of applications consisting of computer printouts. These printouts are similar in content to the traditional printed application forms, but are produced only after our employee has keyed into a computer terminal the answers the applicant has given to the relevant questions. Taking advantage of this fact, the computer may combine a question and the answer to it into a simple statement and include it in the printout. Also, it may omit questions that the computer recognizes as irrelevant as a result of answers to other questions. Phrasing may differ from that on the traditional printed forms.

All of these differences can make the application clearer and easier for the applicant to review for accuracy before signing it. In addition, the information on the application the claimant reviews is certain to be the same as the information already entered into the computer system for use in processing the claim and paying benefits; this fact removes the opportunity for error that exists when information has to be keyed into the computer by hand after the applicant has reviewed the handwritten answers on a traditional application form.

However, the differences between the computer printouts and the traditional forms also mean that the printouts are not covered by the existing list of acceptable application forms. Since we wish to experiment with the printouts, including their content and phrasing, it would not be practical to add any meaningful description of them as additional applications in the list. Therefore, we believe the existing list has become more of an obstacle to innovation than a useful source of information to potential applicants for benefits, and we propose to remove the list from § 422.505(a) and remove the reference to the list from § 404.611(a). Instead, § 404.611(a) will say a person "must apply for benefits on an application we prescribe." For the forseeable future, the forms now listed in § 422.505(a) will still be in use as applications, and the computer printouts will not be very different from them.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on this regulation since opportunity for public comment is unnecessary. It is unnecessary because these regulations merely remove the list of Social Security application forms from our regulations and do not grant or deny rights or impose obligations. For example, when the computer-printout applications are used, no additional questions beyond those which are set forth in current forms will be asked. Applicants will still sign printed applications, although they will be printed by the computer and only after appropriate information is entered.

Although these regulations are effective on publication, we will consider any comments received by the date shown above and revise these regulations if comments warrant.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will have no economic impact; they only permit greater flexibility in the format of Social Security applications. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.802–13.805, Social Security)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors, and Disability Insurance.

20 CFR Part 422

Administrative practice and procedure, Freedom of Information, Organization and functions (Government agencies), Social Security.

Dated: September 24, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: October 31, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Subpart G of Part 404 and Subpart F of Part 422 of 20 CFR are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart G of Part 404 is revised to read as follows:

Authority: Secs. 202(j)(1), 205, and 1102 of the Social Security Act (42 U.S.C. 402(j)(1), 405, and 1302).

2. Paragraph (a) of § 404.611 is revised to read as follows:

§ 404.611 Filing of application with Social Security Administration.

(a) *General rule.* You must apply for benefits on an applications we prescribe. See § 404.614 for places where an application for benefits may be filed.

* * * * *

PART 422—[AMENDED]

3. The authority citation for Subpart F of Part 422 is revised to read as follows:

Authority: Secs. 205, 1102, and 1871 (42 U.S.C. 405, 1302, and 1395hh). Section 422.512 is also issued under title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 901 et seq.)

4. Paragraph (a) of § 422.505 is revised to read as follows:

§ 422.505 Applications and related forms for retirement, survivors, and disability insurance programs.

(a) *Applications.* To facilitate claims taking, the Social Security Administration (SSA) has designed applications to be used by the public when claiming benefits under title II of the Social Security Act. Prescribed applications include our traditional printed forms and our computer printouts. The printouts are similar in content to the traditional application, forms, but are produced only after an SSA employee has keyed into a computer terminal the answers the applicant has given to the relevant questions. The information on the applications includes such items as date of birth, family relationship, work history, etc. The printout may omit questions that the computer recognizes as irrelevant as a result of the answers to other questions. Phrasing may differ from that on the traditional printed forms.

* * * * *

[FR Doc. 86–26192 Filed 11–19–86; 8:45 am]
BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 761, 764, 769, 772, 773, 780, 784, 785, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Compliance With Court Order

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; suspension.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is suspending certain portions of its permanent program regulations. OSMRE is taking these actions as a result of a District Court's decisions in Round III of the litigation on OSMRE's permanent program regulations.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Miller, Regulatory Development and Issues Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240 (202) 343–5241.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Rules Suspended
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), sets forth general regulatory requirements governing surface coal mining and the surface operations and surface impacts of underground coal mining. OSMRE has by regulation implemented or clarified many of the general requirements of the Act and set performance standards to be achieved by different operations. See 30 CFR Chapter VII.

On March 13, 1979, OSMRE published regulations implementing the permanent regulatory program required by Title V of the Act. 44 FR 14902 *et seq.* A number of these regulations were challenged by States, coal industry representatives and citizen and environmental groups. *In Re: Permanent Surface Mining Regulation Litigation,* No. 79–1144 (D.D.C. 1980) (*In Re: Permanent (I)*). The District Court issued decisions in *In Re: Permanent (I)* in February and May 1980. Certain issues were appealed but the D.C. Circuit Court remanded the case on motion of the parties pending the outcome of OSMRE's program of regulatory reform. *In Re: Permanent (I),* Order (D.C. Cir., February 1, 1983).

Many of the regulations originally promulgated in 1979 were revised and repromulgated during 1983 as part of OSMRE's extensive program of regulatory reform. Citizen and environmental groups, as well as States and industry representatives, again challenged some of these new regulations in *In Re: Permanent Surface Mining Regulation Litigation (II),* No. 79–1144 (D.D.C. 1984 and 1985) (*In Re: Permanent (II)*). In that case the court divided its consideration of the challenged regulations into three rounds of briefing and oral argument, the last round of which was separated into two sets of briefings. Decisions were issued in *In Re: Permanent (II)* on July 6 and October 1, 1984, and on March 22 and July 15, 1985. This notice is issued to comply with the March 22, 1985 and July 15, 1985 Memorandum Opinions and orders.

An explanation of each of the regulations to be suspended, the basis upon which the court remanded them to the Secretary and the effect of the suspension of each regulation is provided below. Where necessary, OSMRE intends to propose revisions to the remanded rules consistent with the court's opinions.

Although affecting the Code of Federal Regulations, this suspension notice is an interpretative statement which describes how the Secretary is already implementing the court's decisions. Even in the absence of this notice, the Secretary's actions must be consistent with the court orders.

Most State programs were approved prior to the promulgation of the 1983 rules, and are generally based on OSMRE's 1979 rules. In a few instances, State program amendments were approved based on the 1983 revisions. State programs will remain in effect until the Director of OSMRE has examined the provisions of each State program to determine whether changes are necessary and has notified the State regulatory authority pursuant to 30 CFR 732.17 (c) and (d) that a State program amendment is required.

With respect to Federal lands, the Secretary is continually required to make programmatic decisions, such as whether and under what conditions to issue a Federal lands permit. Although 30 CFR 740.11 makes State programs applicable on Federal lands, the Secretary will not take any action which is inconsistent with the court's opinions. For Federal lands this kind of issue is likely to arise only in those instances where the District Court ruled that a particular provision is inconsistent with the Act rather than basing its decision solely on procedural grounds.

This suspension notice has a direct effect on States with Federal Programs and on Indian lands, the rules for which generally reference the remanded sections. In a few instances, a specific program will have an individually tailored provision rather than a cross-reference to a remanded section. Such provisions will not be affected by this notice.

This suspension notice is not intended to affect the Secretary's appeal of the court's decisions on any of these regulations. With regard to issues on appeal, this notice is intended to implement the court orders during the pendency of the appeals. Should the Secretary prevail in his appeal, today's suspensions are likely to be lifted as to the issues upon which he prevails.

II. Discussion of Rules Suspended

1. Section 701.5 Definition of "affected area"

OSMRE's March 1979 rules defined the term "affected area" so as to include, in relevant part, any land upon which surface mining activities or underground mining activities are conducted or located. The 1979 definition did not exclude "public roads."

On April 5, 1983, OSMRE adopted a revised definition of the term "affected area." 48 FR 14814. With respect to roads, the April 1983 definition of "affected area" was revised to include:

> every road used for purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road (a) was designated as a public road pursuant to the laws of the jurisdiction in which it is located; (b) is maintained with public funds, and constructed in a manner similar to other public roads of the same classification within the jurisdiction; and (c) *there is substantial (more than incidental) public use.* (Emphasis added).

The intent of the above quoted language was to exclude public roads from the definition of "affected area."

This rule was challenged insofar as it imposed the "more than incidental" public use test in determining whether a public road is part of the "affected area." The District Court determined that the rule improperly excluded from regulation some public roads which are included in the statutory definition of "surface coal mining operations." The rule was remanded because the coverage of the rule was related to use by the public rather than use for mining. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 143.

In compliance with the Order, OSMRE is suspending the definition of "affected area" to the extent that it excludes public roads which are included in the definition of "surface coal mining operations." The suspension will have the effect of including in the "affected area" all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of regulated activities or for haulage. The definition of "affected area" with regard to areas other than public roads is not suspended. OSMRE recognizes that this suspension provides imperfect guidance in a difficult area. Thus, OSMRE intends to develop and propose at a later date a new rule to clarify the relationship between public roads and the "affected area."

2. Section 701.5 Definition of "previously mined area"

OSMRE's 1979 rules did not have a definition of "previously mined area" nor did those rules provide special performance standards for the remining of previously mined areas. On September 16, 1983 (48 FR 41720), OSMRE promulgated a definition of the term "previously mined area" in 30 CFR 701.5. The definition is used in determining whether operators may be eligible for a certain limited exception from the requirement for total highwall elimination. The exception appears in 30 CFR 816.106 and 817.106.

Under OSMRE's 1983 definition, "previously mined areas" meant "land disturbed or affected by earlier coal mining operations that was not reclaimed in accordance with the requirements of [30 CFR Chapter VII]."

OSMRE's definition was challenged because it allowed areas to be treated as "previously mined" even if they were mined after the Act's reclamation standards took effect and reclamation was required. Challengers to the rule contended that the definition was inconsistent with the Act because it allowed less than complete highwall elimination in areas mined after the Act's reclamation standards took effect. The District Court agreed and remanded the regulation. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 118.

OSMRE is suspending the definition of "previously mined area" insofar as it applies to any area upon which operations were previously conducted which were required to comply with the Act's approximate original contour and highwall elimination requirements. Under this suspension, the remining of any area which was previously subject to a complete highwall elimination requirement will continue to be subject to such a requirement. OSMRE intends to solicit comments on this issue shortly in a proposed rule.

3. Section 761.5 Definition of "cemetery"

Section 522(e)(5) of the Act prohibits mining within 100 feet of cemeteries. OSMRE's 1979 definition of "cemetery" included all places where human bodies are interred.

On September 14, 1983 (48 FR 41312), OSMRE revised the definition of "cemetery" in 30 CFR 761.5. That definition was revised to reflect the August 6, 1981 decision of the United States Court of Appeals for the Sixth Circuit, *Holmes Limestone Co.* v. *Watt,* 655 F.2d 732 (6th Cir. 1981). In that case, the court ruled that the Act did not prohibit mining within 100 feet of private family burial grounds where the operator had obtained the owner's consent. The 1983 definition distinguished between cemeteries and private family burial grounds and expressly excluded private family burial grounds from the definition of "cemetery."

OSMRE's 1983 definition of "cemetery" was challenged for its exclusion of private family burial grounds. The District Court ruled that OSMRE had no basis for distinguishing between private family burial grounds and other cemeteries. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 83.

OSMRE is suspending the definition to the extent that it excludes private family burial grounds from the definition of "cemetery." As suspended, "cemetery" will be defined as any place where human bodies are interred and will include private family burial grounds. In this instance, a proposed rule has already been published. See 51 FR 8471. If finalized, it will supersede this suspension.

4. Section 761.5 Definition of "significant recreational, timber, economic, or other values incompatible with surface coal mining operations"

Generally, Section 522(e)(2) of the Act prohibits coal mining on Federal lands in national forests, subject to several exceptions. One exception permits mining on Federal lands in national forests where there are no "significant recreational, timber, economic, or other values incompatible with surface coal mining operations", and, impacts are either incident to an underground coal mine or, if west of the 100th meridian, are in compliance with the Multiple-Use Sustained Yield Act of 1960 and certain other requirements.

OSMRE's 1983 definition of "significant recreational, timber, economic, or other values incompatible with surface coal mining operations" in 30 CFR 761.5 included consideration of whether the protected values could be damaged "beyond an operator's ability to repair or restore." Such a consideration was considered reasonable because certain values which could be restored after mining could be temporarily disrupted without mining being incompatible with the listed national forest uses.

OSMRE's rule was challenged. The plaintiffs contended that OSMRE's definition equated the determination with regard to compatibility with the determination that reclamation could be achieved. A determination that reclamation can be achieved must be made for all mines.

The District Court ruled that the regulation was inconsistent with the Act and remanded the rule. The court found that the Secretary must look beyond reclaimability in making a compatibility determination. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 80–81.

In compliance with the Order, OSMRE is suspending the definition of "significant recreational, timber, economic, or other values incompatible with surface coal mining operations" insofar as the values listed in the definition are evaluated for compatability with mining solely in terms of reclaimability. This will mean that reclaimability is but one factor to be considered in determining whether an operation would be incompatible with forest values and that a showing of damage to those values during the term of the mining could make the operation incompatible. OSMRE will consider the duration of the damage only as part of the determination of compatibility.

5. Section 761.5(a) Definition of "valid existing rights"

Section 522(e)(3) of the Act prohibits or limits surface coal mining operations on or near certain private, Federal and other public lands, subject to valid existing rights and except for those operations which existed on August 3, 1977. The Act does not define "valid existing rights" (VER), but the legislative history of the Act indicates that the VER provision was included in Section 522(e) to avoid takings of property without just compensation in violation of the Fifth Amendment to the United States Constitution.

OSMRE's first attempt to define VER was an unsuccessful effort to limit the exemption to those property rights in existence on August 3, 1977, the owners of which either had obtained all necessary mining permits on or before August 3, 1977, or could demonstrate that the coal for which the exemption was sought was both needed for, and immediately adjacent to, a mining operation in existence prior to August 3, 1977. (30 CFR 761.5(a), 44 FR 15342, March 13, 1979).

On judicial review, the court remanded to the Secretary that portion of the definition requiring the property owner to have obtained all permits necessary to mine ("all permits" test, 30 CFR 761.5(a)(2)(i)). Specifically, the court indicated that "a good faith attempt to obtain all permits before the August 3, 1977 cut-off date should suffice for meeting the all permits test." *In Re: Permanent (I),* February 26, 1980 Mem. op. at 20. To comply with the court's 1980 opinion, OSMRE suspended the definition only insofar as it required that to establish VER all permits must have been obtained prior to August 3, 1977. (45 FR 51547, 51548, August 4, 1980). The notice of suspension stated that, pending further rulemaking, OSMRE would interpret the regulation as including the court's suggestion that a good faith effort to obtain all permits would establish VER.

On June 10, 1982, OSMRE proposed three major options for revising the definition of VER, including a "good faith/all permits" test, and three alternatives which were variations of the major options. All of the proposed options were attempts to identify the class or classes of circumstances which would operate to effect takings under section 522(e), while excluding all else. These tests are referred to as "mechanical" tests. Commenters on the proposed rule criticized each option as either too broad or too narrow and many raised the issue of taking without compensation on one or more of the proposed options. These comments led OSMRE to examine the case law applying the Just Compensation Clause of the Fifth Amendment. As a result of that examination, OSMRE stated that "because the courts refuse to prescribe set formulas for takings, OSMRE is convinced that it cannot specifically delineate a class of circumstances with the assurance that the class is neither overinclusive or underinclusive of all potential takings which might result from section 522(e) prohibitions." 48 FR 41314, September 14, 1983. Therefore, on September 14, 1983, OSMRE promulgated a broad definition which relies on a general "takings" standard (48 FR 41312). VER is defined in § 761.5(a) as:

> Except for haul roads, that a person possesses valid existing rights for an area protected under section 522(e) of the Act on August 3, 1977, if the application of any of the prohibitions contained in that section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution.
> 30 CFR 761.5(a) (1984).

In its March 22, 1985 decision, the court held that the broad takings standard represented such a significant departure from the mechanical tests of the proposed rule that a new notice and comment period was necessary. Accordingly, the court held that the promulgation of the VER definition in 30 CFR 761.5(a) violated the Administrative Procedure Act (APA), 5 U.S.C. 553, and remanded the definition to the Secretary for proper notice and comment. *In Re: Permanent (II),* March 22, 1985 Mem. op. at 11. Therefore, to comply with the court's order, OSMRE is suspending the definition of VER in 30 CFR 761.5(a) pending further rulemaking to define VER.

Effect of the VER Suspension

Federal Programs and Indian Lands Program. This suspension notice has a direct effect on Federal program States and on Indian lands, the rules for which directly reference the remanded section. The suspension of a section of the permanent regulatory program results in the suspension of the corresponding sections of each Federal program and the Indian lands program, unless a specific exception is provided.

The suspension of the VER definition has a particular impact in Federal program States (where OSMRE is the regulatory authority), because the suspension, without the substitution of some test, would leave such programs without regulatory criteria. This is especially important in Tennessee where a number of permit applications are pending and OSMRE will be called upon to make VER determinations before permits may be issued.

The suspension of the VER definition is of particular concern because of the possible effect the suspension could have on property rights. Creation of a regulatory vacuum would be unworkable in this instance because OSMRE does not wish to unduly delay the permitting process or be required to shut down ongoing operations merely because the agency lacks a regulatory definition of VER. However, during the period of the suspension, these problems will be avoided. Suspending the rule has the effect of undoing the improper promulgation and leaving in place the VER test in use before the 1983 definition was promulgated. That test was the 1979 test, including the "needed for and adjacent" test, as modified by the August 4, 1980 suspension notice which implemented the District Court's February 1980 opinion in *In Re: Permanent (I)* (the 1980 test). The suspension notice stated that pending further rulemaking OSMRE would interpret the regulation as including the court's suggestion that a good faith effort to obtain all permits would estabish VER. That interpretation remained in effect until October 14, 1983, when the 1983 VER definition became effective. Under the 1980 test, a demonstration of both property rights and that the person either had made a good faith effort to obtain all permits necessary to mine or that the coal is both needed for and adjacent to an

ongoing surface coal mining operation is sufficient to establish VER.

Accordingly, OSMRE will make VER determinations in Federal program States and on Indian lands using the 1980 test. OSMRE will make VER determinations on a case-by-case basis after examining the particular facts of each case, and will consider property rights in existence on August 3, 1977, the owner of which by that date had made a good faith effort to obtain all permits, as one class of circumstances which would invariably entitle the property owner to VER. VER would also exist when there are property rights in existence on August 3, 1977, the owner of which can demonstrate that the coal is both needed for and immediately adjacent to a mining operation in existence prior to August 3, 1977.

Federal Lands Program

The Federal regulations at 30 CFR 740.11(a) which were adopted on February 16, 1983, provide that upon approval or promulgation of a regulatory program for a State, that program and the Federal lands rules, 30 CFR Subchapter D, shall apply to surface coal mining and reclamation operations on Federal lands. However, under 30 CFR 740.4(a)(4) and 745.13(o), the Secretary is responsible for making VER determinations on Federal lands within the boundaries of any areas specified in section 522(e)(1) or (e)(2) of the Act, which includes national parks and forests. The Secretary may not delegate that responsibility to a State.

During the period of the suspension OSMRE has decided, consistent with 30 CFR 740.11(a), to make VER determinations on Federal lands, and on non-Federal lands within the boundaries of (e)(1) areas where operations would affect the Federal interest, using the VER definition contained in the appropriate State or Federal regulatory program. Where the State regulatory program contains a VER definition similar to OSMRE's 1979 "all permits" test, OSMRE will apply the test to include the District Court's suggestion that a good faith effort to obtain all permits would establish VER. In States where the State program provides for a "takings" test, OSMRE will not process VER applications within units of the National Park System until a Federal rule is finalized. This decision is based on National Park Service concerns over potential impacts on such units. To date, no such VER applications have been received.

In promulgating a new definition for VER, OSMRE plans to address whether the definition contained in a State program adopted pursuant to the Act should apply or whether one definition should be used nationwide for all Federal VER determinations. The VER rulemaking will clarify what standard will be used, in States with a "takings" test, to process any VER applications within the boundaries of units of the National Park System which may be received although not acted upon prior to the effective date of the Federal rule.

6. Section 761.5(c) "Needed for and adjacent" test

The September 14, 1983 permanent program regulations included as part of the VER definition a specific test, known as the "needed for and adjacent" test, for determining VER. 30 CFR 761.5(c), 48 FR 41315–41316, 41349. The test had been promulgated as part of OSMRE's permanent program rules in March 1979 (30 CFR 761.5(a)(2)(ii) (1979)). The 1983 rules amplified the "needed for" portion of the definition so that the existing test provides:

> A person possesses valid existing rights if the person proposing to conduct surface coal mining operations can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977. A determination that the coal is "needed for" will be based upon a finding that the extension of mining is essential to make the surface coal mining operation as a whole economically viable.
> 30 CFR 761.5(c) (1984).

The court concluded that the rule as promulgated did not have adequate notice and comment under the APA, because it was related to the overall VER definition remanded by the court and because nothing in the proposed rule suggested such an expansion of the "needed for and adjacent" test. The court therefore remanded the test to the Secretary for notice and comment in accordance with the APA. Therefore, OSMRE is suspending paragraph (c) of the VER definition to comply with the court's opinion.

7. Section 761.5(d) Continually created VER

On September 14, 1983, OSMRE added paragraph (d) to the definition of VER to provide for "continually created VER." The purpose of the provision is to avoid takings of property interests where areas come under the protection of section 522(e) of the Act after August 3, 1977. Paragraph (d) provides:

> Where an area comes under the protection of section 522(e) of the Act after August 3, 1977, valid existing rights shall be found if—
> (1) On the date the protection comes into existence, a validly authorized surface coal mining operation exists on that area; or
> (2) The prohibition caused by section 522(e) of the Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution.
> 30 CFR 761.5(d) (1984).

The court upheld the concept of "continually created VER" but remanded for further notice and comment that portion of the regulation (30 CFR 761.5(d)(2)) which incorporates the takings test of § 761.5(a). Therefore, to comply with the court's order, OSMRE is suspending subparagraph (d)(2) of the VER definition insofar as it incorporates the takings test of paragraph (a). However, the "continually created VER" test in subparagraph (d)(1) will remain in effect.

8. Section 761.11(c) Requirement that historic places be "publicly owned"

Section 522(e)(3) of the Act prohibits mining that would adversely affect any "publicly owned park or places included in the National Register of Historic Sites" with certain exceptions. On September 14, 1983, OSMRE revised its regulations at 30 CFR 761.11(c) and applied the term "publicly owned" to both "park" and "places included in the National Register of Historic Places." This limited the application of the prohibition of mining only to publicly owned places listed in the National Register of Historic Places, and publicly owned parks.

OSMRE's interpretation was challenged. Plaintiffs contended that the prohibition of mining should be afforded to any place listed in the National Register of Historic Places, without regard to ownership.

The District Court agreed. The court held that the term "publicly owned" does not apply to "places included in the National Register of Historic Places." *In Re: Permanent (II)*, July 15, 1985 Mem. Op. at 73–76.

OSMRE is suspending the words "publicly owned" the second time they appear in § 761.11(c). This will have the effect of extending the prohibition to mining which will adversely affect any places included in the National Register of Historic Places, without regard to ownership of the place.

A directly related provision is 30 CFR 761.12(f). This provision implements the exception in section 522(e)(3) of the Act which allows mining in historic places or parks when approved by the Federal, State, or local agency with jurisdiction over the place or park. Section 761.12(f) provides the mechanism for the approval. This notice will extend the

approval mechanism to historic places which are not publicly owned so as to conform with the extended prohibition. Thus, OSMRE is suspending the words "publicly owned" when they appear before "place," and "National Register place" in § 761.12(f).

9. Section 761.11(h) Areas where mining is prohibited

Section 761.11(h) provides:

> There will be no surface coal mining, permitting, licensing, or exploration of *Federal lands* in the National Park System, National Wildlife System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas unless called for by Acts of Congress. (Emphasis added.)
> 30 CFR 761.11(h) (1984).

OSMRE added § 761.11(h) in response to numerous comments from persons concerned that mining or drilling would occur in National Parks or other areas protected under section 522(e)(1) of the Act. The court held that there appeared to be no rational basis for distinguishing between Federal and non-Federal lands in this context, since section 522(e)(1) prohibits, subject to VER and except for operations existing on August 3, 1977, surface coal mining operations on *any lands* within the statutorily protected areas. The court remanded the rule for lack of adequate notice and comment. Therefore, OSMRE is suspending the rule to comply with the court order. Section 761.11(a), however, will continue to implement the section 522(e)(1) prohibition on mining within the protected areas.

10. Sections 764.15 and 769.14 Suspension of unsuitability petitions

OSMRE's rules governing unsuitability petitions, adopted on September 14, 1983, included provisions that authorized the suspension of the processing of petitions where consideration of the petition is premature because there is no real or foreseeable potential for mining. In adopting this rule OSMRE wanted to provide a mechanism to allow deferral of consideration of petitions for unsuitability determinations until mining was sufficiently likely that a decision on the petition would be meaningful. The petition suspension provisions apply to petitions for declaring Federal lands unsuitable, 30 CFR 769.14(b)(2), and to petitions to State regulatory authorities to declare non-Federal, non-Indian lands unsuitable, 30 CFR 764.15(a)(3). Should a petition be suspended, the rules require that it be processed as soon as it becomes ripe.

Plaintiffs challenged OSMRE's rules, contending that there was no basis in the Act for a ripeness determination. They also contended that it allowed OSMRE to waive the one-year statutory deadline in section 522(c) of the Act for petition decisions.

The District Court ruled that the regulations with regard to petition suspension were inconsistent with the Act and remanded the rules.

OSMRE is suspending the rules which authorize the suspension of petitions and all references in other portions of the rules to suspended petitions. Specifically, § 764.15(a)(3), which provides for petition suspensions by State regulatory authorities, is suspended. Section 764.15(a)(8), which provides for the resumption of processing of petitions where suspension has occurred and a permit application has since been filed, is also suspended.

With regard to petitions to designate Federal lands unsuitable, OSMRE is suspending all of paragraphs 769.14(a)(3), (b)(2), and (h). In addition, OSMRE is suspending the words "ripe for further processing" or "ripe" in §§ 769.14 (a)(1) and (c) respectively.

These suspensions mean that the regulatory authority may not suspend petitions to designate lands unsuitable. In the initial processing of petitions, the appropriate regulatory authority will make the completeness and other determinations required by the rules, but no ripeness or foreseeability of mining determination will be a prerequisite to petition processing.

11. Section 772.11(a) Coal exploration notices of intent

OSMRE's 1979 rules with regard to coal exploration required all persons who would conduct coal exploration and who would extract 250 tons or less of coal to file a notice of intent to explore. Those who would extract in excess of 250 tons were required to obtain a coal exploration permit.

OSMRE revised its rules with regard to coal exploration on September 8, 1983. The revised § 772.11(a) required that any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed *and which may substantially disturb the natural land surface* must file a notice of intent to explore with the regulatory authority. Thus a notice of intent was not required in every case, but only where coal exploration would substantially disturb the land surface.

The District Court ruled that OSMRE had failed to adequately explain its departure from the previous rules, and remanded § 772.11(a).

OSMRE is suspending § 772.11(a) insofar as it limits the responsibility to submit a notice of intent to explore to those persons who will substantially disturb the natural land surface. This means that all persons conducting coal exploration will be required to submit a notice of intent to explore whether or not they will substantially disturb the natural land surface.

The requirement to file a notice of intent in the Tennessee Federal program, 30 CFR 942.772, which differs from both the 1979 and 1983 national rules, remains unaffected by this suspension.

12. Sections 772.11(b)(3) and 772.12(b) Coal exploration narrative

OSMRE's rules at 30 CFR 772.11(b)(3) and 772.12(b)(3) identify information which must be submitted as part of a notice of intent to explore or as part of an application for a coal exploration permit, respectively. Paragraphs 772.11(b)(3) and 772.12(b) require "a narrative or map." This allows the submission of either a narrative or a map. OSMRE adopted this provision because the District Court for the District of Columbia, in its May 16, 1980 decision in *In Re: Permanent (I)* had ruled that OSMRE had erred in its 1979 rules by requiring *both* a narrative description and a map.

OSMRE's 1983 rule was challenged because it does not require a narrative description of the exploration area in all instances. The plaintiffs contended that a map alone is insufficient to describe a proposed exploration area.

The District Court remanded OSMRE's rules. *In Re: Permanent (II)*, July 15, 1985 Mem. op. at 139–140.

OSMRE is suspending §§ 772.11(b)(3) and 772.12(b)(3) insofar as they allow a coal exploration notice or application to be submitted which does not include a narrative describing the exploration area. This will mean that notices of intent and applications for coal exploration operations must include narratives.

13. Section 773.11 Continued operations under the initial regulatory program

Section 773.11(b)(2) permits an operator conducting operations under the initial regulatory program to continue to conduct such operation while the permanent program permit application is being processed, beyond eight months after the State program or Federal program has been approved. The regulation allows continued operations by operators who are operating with a valid initial program

permit and operators who are lawfully operating in areas where no such permit is required.

Section 773.11(b)(2) was challenged because it permits mining by initial program operators who do not have an initial permit from the State. Challengers relied on § 506(a) of the Act, which provides for continued operations by persons operating "under a permit from the State. . . ." The District Court held that continued operation could only be allowed where initial program permits had been issued. The court remanded the rule.

OSMRE is suspending the phrase "under the initial regulatory program or" in § 773.11(b)(2). This will have the effect of limiting the authority to continue operations after eight months after a program is implemented to those operators who had a permit from the State during the initial regulatory program.

14. Sections 785.16, 816.133(d), and 817.133(d) Variances from approximate original contour

Section 515(e) of the Act authorizes a limited variance from the requirement to return mined lands to approximate original contour (AOC). OSMRE's September 1, 1983 rulemaking provided for variances from AOC restoration requirements in both steep slope and in non-steep slope areas. 48 FR 39892.

OSMRE was challenged on its adoption of a variance procedure applicable in non-steep slope areas. The challengers contended that the Act and legislative history only authorize variances from AOC in steep slope areas. The Secretary pointed to both pre- and post-enactment Congressional statements which support a more general variance provision.

The District Court ruled that the Act does not permit a variance from AOC unless steep slope mining is involved. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 132. Accordingly, the District Court remanded §§ 785.16, 816.133(d) and 817.133(d).

OSMRE is therefore suspending §§785.16, 816.133(d) and 817.133(d) insofar as they permit the granting of variances from AOC for surface coal mining operations in non-steep slope areas.

15. Sections 780.21 and 784.14 Hydrologic information to be submitted

OSMRE's September 26, 1983 rulemaking concerned hydrologic resources information. 48 FR 43956. Sections 780.21(f) and 784.14(e) established the requirements for the probable hydrologic consequences (PHC) determination. This is the predictive estimate of the probable hydrologic consequences of the proposed operation upon the quantity and quality of ground water and surface water which must be submitted by the applicant.

Challengers to the regulations contended that OSMRE failed to require the information required by section 507(b)(11) of the Act. In particular, they contended that the rule should be remanded because it only requires operators to submit hydrologic information for operations conducted during the term of the permit, and not for the entire life of the mine.

The District Court ruled that section 507(b)(11) of the Act does permit a regulatory authority to require operators to submit hydrologic data for the life of the mine in the PHC determination. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 16. It also ruled that the Secretary had erred by failing to provide an adequate explanation for not requiring life of the mine analysis in the PHC. Thus, the Court remanded the rule.

OSMRE will conduct a rulemaking at a later date in order to determine whether and under what circumstances hydrologic information submitted in the permit application must cover the life of the mine. In the interim, OSMRE is suspending §§ 780.21(f) and 784.14(e) to the extent that those sections limit a regulatory authority from requiring a permit applicant to address life-of-the-mine hydrologic impacts in the probable hydrologic consequences determination.

In Federal program States and on Indian lands, where OSMRE is the regulatory authority, this suspension means that in evaluating the appropriate scope of a PHC determination, OSMRE will determine on a case-by-case basis whether and to what degree a permit applicant should include hydrologic information for operations conducted outside of the permit area during the entire life of the operation.

16. Sections 816.46(b)(2) and 817.46(b)(2) Siltation structures

OSMRE's September 26, 1983 rulemaking established new requirements for siltation structures. 48 FR 43956. At 30 CFR 816.46(a)(3) and 817.46(a)(3), OSMRE requires that all surface drainage from a disturbed area be passed through a siltation structure. In §§ 816.46 and 817.46, OSMRE defined a siltation structure to include a sedimentation pond, a series of sedimentation ponds and other treatment facilities. Other treatment facilities were defined in that section to include treatments with point source discharges used to prevent additional contribution of suspended solids to streamflow or runoff outside the permit area. This requirement was adopted in order to implement sections 515(b)(10)(B) and 516(b)(9)(B) of the Act, which mandate the use of "best technology currently available" (BTCA) to prevent additional contributions of suspended solids to streamflow or runoff outside the permit area.

Challengers to this provision asserted that in certain circumstances siltation structures can cause long term and short term adverse effects on the hydrologic balance. In particular they pointed to problems in the Western United States such as increased erosion, channel deepening and enlargement, and increased flooding in low lying areas, attributed to siltation structures.

The District Court ruled that the September 26, 1983 preamble fails to articulate a reason for requiring siltation structures in every instance. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 102–108. In particular the court noted that "the record evidence that pointed to potential negative impacts of siltation structures in the West was dismissed without reasoned analysis. 'OSMRE's recognition that the use of sedimentation ponds and other siltation structures in the West presents some problems', 48 FR 44030 (1983) was not followed by any recognition of what those problems are and why, in the face of those problems, siltation ponds were still considered BTCA." *Id.* Thus, the court remanded §§ 816.46(b)(2) and 817.46(b)(2).

OSMRE is suspending §§ 816.46(b)(2) and 817.46(b)(2). This means that the regulatory authority must determine on a case-by-case basis what constitutes the "best technology currently available" as required by the Act and 30 CFR 701.5 which defines BTCA. In many instances, State programs have defined BTCA and such definitions are to be followed. OSMRE anticipates that sedimentation ponds or some other siltation structure will most likely be the best technology currently available; however, a case-by-case determination should be made. Moreover, OSMRE is not suspending its performance standards with regard to siltation structures or sedimentation ponds. Thus, in those instances where sedimentation ponds or other siltation structures are determined to be BTCA, the performance standards in §§ 816.46(b), (c), and (d), and 817.46(b), (c), and (d) will continue to apply. Where BTCA includes a discharge from a point source, effluent limits will continue to apply and a NPDES permit is needed. In situations where sediment control measures other than siltation structures are determined as BTCA, the

performance standards of §§ 816.45 and 817.45 will control.

17. Sections 816.49(a)(3), 816.49(a)(5)(i), 817.49(a)(3) and 817.49(a)(5(i) Impoundments

On September 26, 1983, OSMRE also imposed new performance standards on impoundments. 48 FR 43956. OSMRE's rules at §§ 816.49(a)(3) and 817.49(a)(3) impose a minimum static safety factor of 1.5 and a seismic safety factor of 1.2 for all impoundments used for surface and underground mines, respectively. OSMRE's rules at §§ 816.49(a)(5)(i) and 817.49(a)(5)(i) establish stability requirements for foundation abutments and require sufficient foundation investigation and laboratory testing to determine design requirements for foundation stability.

Challengers to the rules contended that OSMRE's proposed rule had not included a static safety factor of 1.5 for small sedimentation ponds. They claimed that factor had only been proposed for larger sedimentation ponds. Similarly, they contended that the requirements for foundation investigation and laboratory testing were not proposed for small sedimentation ponds.

The District Court determined that OSMRE's rule must be remanded for additional rulemaking procedures to the extent that it applies to small sedimentation ponds not previously required to meet the 1.5 static safety factor. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 108–113.

Accordingly, OSMRE is suspending §§ 816.49(a)(3), 816.49(a)(5)(i), 817.49(a)(3) and 817.49(a)(5)(i) insofar as they apply to small sedimentation ponds. Small sedimentation ponds are those ponds in which no embankment is more than 20 feet in height, measured from the upstream toe of the embankment to the crest of the emergency spillway and with a storage volume of less than 20 acre feet.

18. Sections 816.49(a)(9) and 817.49(a)(9) Underwater highwalls in impoundments

OSMRE's September 26, 1983 rulemaking included other regulations with regard to permanent impoundments. 48 FR 43956. Sections 816.49(a)(9) and 817.49(a)(9) allow the retention of segments of highwalls in certain impoundments if the segment is located underwater. OSMRE's rules allow the retention of such highwalls only where the vertical portion of the highwall is completely below the low-water line, and sufficiently so to provide adequate safety and access for the proposed water users.

Challengers to the rules contended that in all cases highwalls must be eliminated, and cited section 515(b)(3) of the Act. The District Court ruled that the Act did not authorize the retention of highwalls in impoundments, even if the highwall was under water. Thus, the Court remanded the regulations. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 117.

OSMRE is suspending §§ 816.49(a)(9) and 817.49(a)(9) insofar as they permit the retention of highwalls in permanent impoundments. This will mean that underwater highwalls may not be retained in permanent impoundments. The requirement to eliminate highwalls underwater does not mean that the approximate premining contour must be achieved within the impoundment. As was required by the initial program rules at 30 CFR 715.14(e), only appropriate contour will be required within an impoundment so long as highwalls are eliminated.

19. Sections 816.49, 817.49, 816.84(b)(2) and 817.84(b)(2) MSHA size distinctions

OSMRE's regulations at §§ 816.49 and 817.49 classify impoundments based on size. Large impoundments are subject to more stringent requirements than smaller impoundments. OSMRE's regulations reference regulations of the Mine Safety and Health Administration (MSHA) at 30 CFR 77.216 for the size distinctions. Challengers to the regulations contended that OSMRE's adoption of the size distinctions used by MSHA was improper. They contended that OSMRE should independently classify impoundment size.

The District Court ruled that it was improper to rely on MSHA's size distinctions, and accordingly remanded §§ 816.49 and 817.49. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 30–32.

OSMRE is not suspending those provisions. The effect of a suspension removing these distinctions would be either to require operators who have small impoundments to satisfy performance standards promulgated for large impoundments, or, in the alternative, to eliminate requirements for large impoundments to conform with the lesser standards imposed on small impoundments. The effect of either of these options would be to modify standards in a manner different than the rules in place before 1983. Thus, because it is impossible merely to undo the transaction, OSMRE will propose a new regulation on this subject to comply with the court order.

OSMRE's coal waste regulations also reference the MSHA size distinctions. Those regulations except small coal waste impounding structures from achieving the same combination spillway requirement as larger impounding structures. OSMRE is suspending §§ 816.84(b) and 817.84(b) to the extent that the combined spillway capacity of impounding structures consisting of or impounding coal waste, which do not meet the MSHA size criteria, are exempt from OSMRE's requirements. This means that any impounding structure, regardless of size, either made of or impounding coal mine waste must have a spillway or spillways able to safely pass the 100-year, 6-hour design precipitation event.

20. Sections 816.49(a)(8), 816.84(b), 817.49(a)(8), and 817.84(b) Numbers of spillways

OSMRE regulations at §§ 816.49(a)(8) and 816.84(b)(2) and 817.49(a)(8) and 817.84(b)(2) require that "the combination of principal and emergency spillways shall be able to safely pass the . . . design precipitation event."

OSMRE's regulation with regard to the necessity for having more than one spillway was challenged. In briefing the question, the Secretary determined that the challenge had merit and stated his intention to propose a rule specifying that one spillway capable of safely passing the design precipitation event may be used instead of separate principal and emergency spillways. *In Re: Permanent (II),* Federal Defendants' Memorandum in Support, filed December 17, 1984, p. 41 n. 26.

OSMRE is suspending §§ 816.49(a)(8), 816.84(b)(2), 817.49(a)(8), and 817.84(b)(2) to the extent that they require separate principal and emergency spillways where one spillway may safely pass the design storm event.

21. Sections 816.81(a) and 817.81(a) Coal waste gravity transport

OSMRE's September 26, 1983 rulemaking dealt with several coal waste issues. 48 FR 44006. In its 1979 rules OSMRE had required that coal mine waste be "hauled and conveyed and placed in a controlled manner." In revising the rules in 1983 OSMRE adopted a rule which required that coal mine waste be "placed in a controlled manner."

Challengers to the rule contended that the record did not support allowing end or side dumping of coal waste.

The District Court ruled that OSMRE's rule did not have sufficient explanation for deletion of the requirement that coal mine waste be "hauled and conveyed" and did not adequately justify the departure from the previous conclusion that end or side dumping were

inherently dangerous activities, even where the operator is then required to take some additional step, like spreading the piles in layers. Thus, the court remanded the rule. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 26–27.

Accordingly, OSMRE is suspending the rule to the extent that the end dumping or side dumping of coal waste is allowed.

22. Sections 816.81(c) and 817.81(c) Compaction of coal waste

OSMRE's 1979 regulations required coal waste banks to be "compacted to attain 90 percent of the maximum dry density to prevent spontaneous combustion . . . ." The regulations published on September 26, 1983 allow construction of coal waste banks without a specific compaction standard provided they achieve a minimum long term safety factor of 1.5. 30 CFR 816.81(c)(2); 817.81(c)(2). 48 FR 44006. This allows refuse piles to be constructed in some instances with less compaction than previously required.

Challengers to the 1983 rule contended that the Secretary erred by adopting a performance standard rather than a design standard.

The court ruled that the Secretary had failed to explain his removal of the design standard with regard to compaction, and failed to provide design standards for coal waste piles as required by section 515(f) of the Act. The court remanded the rule. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 27–29.

Thus, OSMRE is suspending §§ 816.81(c)(2) and 817.81(c)(2) to the extent that they permit coal waste refuse piles to be constructed or modified with less compaction than necessary to attain 90 percent of the maximum dry density determined in accordance with the standard Proctor method. Use of the previous standard will be required until OSMRE adopts a further rule change.

23. Sections 816.83 and 817.83 Disposal of coal waste in two foot lifts

OSMRE's coal waste rules establish requirements for lift thickness. OSMRE's 1979 rules required that coal refuse banks not be constructed in lifts of thickness in excess of two feet. In its September 26, 1983 rules at §§ 816.83 and 817.83, 48 FR 44028 (1983), OSMRE deleted that requirement, and instead required coal refuse piles be constructed in accordance with the Mine Safety and Health Administration's (MSHA) rules at 30 CFR 77.215. MSHA's rules allow refuse piles to be constructed with lifts in excess of two feet thick if a 1.5 safety factor is attained and if approved by the MSHA district manager.

Challengers to the rule contended that the Secretary had failed to promulgate design requirements, as required by section 515(f) and that the Secretary had improperly delegated his responsibilities to MSHA.

The court ruled that the regulation violates section 515(f) of the Act by relying on a performance standard. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 30.

Accordingly, OSMRE is suspending the rule to the extent that it allows coal waste refuse piles to be constructed in lifts larger than two feet in thickness. In Federal program States such as Tennessee, this means OSMRE will employ a maximum two foot lift standard in reviewing coal refuse pile designs until a new rule is promulgated.

24. Sections 816.89 and 817.89 Hazardous wastes

In its September 26, 1983 rulemaking with regard to coal waste, OSMRE adopted §§ 816.89(d) and 817.89(d). These provisions required coal operators to dispose of "hazardous" noncoal mine wastes consistent with the Resource Conservation and Recovery Act (RCRA), and 40 CFR Part 261.

The District Court ruled that §§ 816.89(d) and 817.89(d) were promulgated without notice and comment. Thus, OSMRE is suspending those provisions and will not enforce any requirements of RCRA regarding hazardous noncoal mine wastes. This suspension of OSMRE's rules is not intended to affect in any manner the applicability of the Environmental Protection Agency rules which implement RCRA.

25. Sections 816.116 and 817.116 Revegetation issues: Repair of rills and gullies and replanting of trees

Section 515(b)(20) of the Act establishes a five- or ten-year period of responsibility which begins after the last year of augmented seeding, fertilizing, irrigation or other work on reclaimed areas. OSMRE's rules governing revegetation, published on September 2, 1983, 48 FR 40153, raised two issues with regard to what postmining practices could be undertaken without restarting the five- or ten-year period of responsibility before which the operator's performance bond may not be fully released. These involve the concept of "normal conservation practices." OSMRE's rules at 30 CFR 816.116 and 817.116 allow normal conservation practices to occur without restarting the period of responsibility.

OSMRE's rules at §§ 816.116(c)(4) and 817.116(c)(4) permit the regulatory authority to "approve selective husbandry practices excluding augmented seeding, fertilization or irrigation without extending the period of responsibility for revegetation success and bond liability. . . ." OSMRE's preamble to that provision stated that "the repair of rills and gullies including reseeding can occur without extending the period of responsibility for revegetation success" only if it is approved by the regulatory authority after consideration of normal conservation practices in the region. 48 FR 40157.

Challengers to the rule contended that the repair of rills and gullies is never a "normal conservation practice." While the District Court did not find that the rule was unreasonable, it did not find support in the record for the proposition that repair of rills and gullies is a normal conservation practice.

Accordingly, the court determined that in the absence of such record support, OSMRE may not promulgate a rule that permits the repair of rills and gullies to be considered a normal conservation practice. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 92–94. Accordingly, OSMRE is suspending 30 CFR 816.116(c)(4) and 817.116(c)(4) insofar as they allow the repair of rills and gullies to occur without restarting the period of responsibility for the areas of repair.

A closely related issue involves the replanting of trees. OSMRE's rules, at §§ 816.116(b)(3)(ii) and 817.116(b)(3)(ii), permit the inclusion of trees and shrubs which have been in place for three growing seasons, or in areas with a ten-year period of responsibility, for eight growing seasons in the determination of the number of trees and shrubs for the purpose of determining revegetation success. Challengers to the rule contended that the inclusion of trees which have been in place less than the full responsibility period is improper.

The District Court ruled that the record did not demonstrate that the replanting of trees is a normal husbandry practice, and accordingly, remanded the rule. *In Re: Permanent (II),* July 15, 1985 Mem. op. at 93–95.

Thus, OSMRE is suspending §§ 816.116(b)(3)(ii) and 816.117(b)(3)(ii) to the extent that they authorize the inclusion of trees and shrubs which have been in place less than the full period of responsibility in determining the success of stocking.

This will mean that OSMRE will not approve the determination of reclamation success or authorize bond

release on the basis of trees or shrubs in place less than the applicable period of liability.

26. Sections 816.116(c)(2) and 817.116(c)(2) Period for measuring revegetation success

OSMRE's 1983 revegetation rules at §§ 816.116(c)(2) and 817.116(c)(2) provide that for areas which receive more than 26 inches of rainfall per year, "vegetation parameters identified in paragraph (b) of this section shall equal or exceed the approved success standard during the growing season of the last year of the responsibility period or, if required by the regulatory authority, during the growing seasons of the last two years of the responsibility period."

Challengers to the rule contended that the rule was inadequate, because revegetation success in areas with more than 26 inches of rainfall could not be demonstrated over less than the last two years of the responsibility period. They pointed to evidence in the rulemaking for OSMRE's 1979 rules which supported a two-year period for determining success.

The District Court ruled that OSMRE's change from a two-year to a one-year period for measuring attainment of revegetation success was not adequately supported in the record. The court remanded §§ 816.116(c)(2) and 817.116(c)(2). *In Re: Permanent (II),* July 15, 1985 Mem. op. at 96–99.

Thus, OSMRE is suspending §§ 816.116(c)(2) and 817.116(c)(2) to the extent that these sections permit the determination of revegetation success to be measured over less than the growing seasons of the last two years of the responsibility period in areas with 26 inches or more of rainfall per year.

III. Procedural Matters

Executive Order 12291

The DOI has examined this suspension notice according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. The promulgation in 1983 of the rules being suspended was not a major action and for the same reasons, neither is this suspension.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the suspension will not have a significant economic impact on a substantial number of small entities for the same reasons that the promulgation of the rules in 1983 did not have such an impact.

National Environmental Policy Act

The effect of the suspensions covered by this notice is covered in two environmental impact statements prepared by the Department of the Interior. These are the Final Environmental Impact Statement OSM–EIS–1 and the Final Environmental Impact Statement OSM–EIS–1: Supplement. These are on file at the OSMRE Administrative Record at 1100 L Street, NW., Washington, DC.

Paperwork Reduction Act

No new information collection requirements are imposed by the suspensions in Parts 701, 761, 764, 769, 773, 785, 816 and 817. Additional information requirements of Parts 772, 780 and 784 are imposed pursuant to court order in *In Re: Permanent Surface Mining Regulation Litigation (II),* No. 79–1144 (D.D.C. July 15, 1985), and are covered by OMB approvals for these parts having Approval Numbers 1029–0033, 1029–0036, and 1029–0039, respectively. The obligation to respond is mandatory.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 761

Coal mining, Historic preservation, Monuments and Memorials, National forests, National parks, Reporting requirements, Surface mining, Underground mining, Wildlife refuges.

30 CFR Part 764

Administrative practice and procedure, Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 769

Administrative practice and procedure, Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 772

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 773

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

For the foregoing reasons, Parts 701, 761, 764, 769, 772, 773, 780, 784, 785, 816, and 817 are amended as follows:

Dated: November 10, 1986.

J. Steven Griles,

Assistant Secretary Land and Minerals Management.

PART 701—PERMANENT REGULATORY PROGRAM

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

Authority: 30 U.S.C. 1201 *et seq.*

§ 701.5 [Amended]

2. In § 701.5, the definition of "affected area" is suspended insofar as it excludes roads which are included in the definition of "surface coal mining operations."

3. In § 701.5, the definition of "previously mined area" is suspended insofar as it applies to areas upon which surface coal mining operations were previously conducted that were or should have been subject to the Act.

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

4. The authority citation for Part 761 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 761.5 [Amended]

5. In § 761.5, in the definition of "cemetery," the phrase "except for private family burial grounds" is suspended.

6. In § 761.5, the definition of "significant recreational, timber, economic, or other values incompatible with surface coal mining operations" is suspended insofar as the listed values

are evaluated for compatibility solely in terms of reclaimability.

7. In § 761.5, paragraphs (a) and (c) of the definition of "valid existing rights" are suspended, and subparagraph (d)(2) is suspended insofar as it incorporates the takings test of paragraph (a).

§ 761.11 [Amended]

8. In § 761.11(c), the words "publicly owned" immediately preceding the word "places" are suspended.

9. In § 761.11, paragraph (h) is suspended.

§ 761.12 [Amended]

10. In § 761.12(f)(1), the words "publicly owned" immediately preceding the word "place" and immediately preceding the word "National" are suspended.

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

11. The authority citation for Part 764 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 764.15 [Amended]

12. Paragraphs (a)(3) and (a)(8) of § 764.15 are suspended.

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS

13. The authority citation for Part 769 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 769.14 [Amended]

14. In paragraph (a)(1) of § 769.14, the words "ripe for further processing" are suspended.

15. Paragraphs (a)(3) and (b)(2) of § 769.14 are suspended.

16. In paragraph (c) of § 769.14, the word "ripe" is suspended.

17. Paragraph (h) of § 769.14 is suspended.

PART 772—REQUIREMENTS FOR COAL EXPLORATION

18. The authority citation for Part 772 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 772.11 [Amended]

19. In paragraph (a) of § 772.11, the phrase "during which 250 tons or less of coal will be removed and which will substantially disturb the natural land surface," is suspended.

20. Paragraph (b)(3) of § 772.11 is suspended to the extent that it does not require the submission of a narrative describing the exploration area.

§ 772.12 [Amended]

21. Paragraph (b)(3) of § 772.12 is suspended to the extent that it does not require the submission of a narrative describing the proposed exploration area.

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

22. The authority citation for Part 773 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 773.11 [Amended]

23. In paragraph (b)(2) of § 773.11, the phrase "under the initial regulatory program, or" is suspended.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENT FOR RECLAMATION AND OPERATION PLAN

24. The authority citation for Part 780 continues to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257).

§ 780.21 [Amended]

25. Paragraph (f) of § 780.21 is suspended insofar as it limits a regulatory authority from requiring an applicant to address life-of-the-mine hydrologic impacts in the probable hydrologic consequences determination.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENT FOR RECLAMATION AND OPERATION PLAN

26. The authority citation for Part 784 continues as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

§ 784.14 [Amended]

27. Paragraph (e) of § 784.14 is suspended insofar as it limits a regulatory authority from requiring an applicant to address life-of-the-mine hydrologic impacts in the probable hydrologic consequences determination.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

28. The authority citation for Part 785 is revised as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 785.16 [Amended]

29. Section 785.16 is suspended insofar as it authorizes any variance from approximate original contour for surface coal mining operations in any area which is not a steep slope area.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

30. The authority citation for Part 816 continues as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

§ 816.46 [Amended]

31. Paragraph (b)(2) of § 816.46 is suspended.

§ 816.49 [Amended]

32. Paragraphs (a)(3) and (a)(5)(i) of § 816.49 are suspended insofar as they apply to sedimentation ponds in which no embankment is at least twenty feet in height as measured from the upstream toe of the embankment to the crest of the emergency spillway and which have a storage volume of less than 20 acre feet.

33. Paragraph (a)(8) of § 816.49 is suspended insofar as it requires separate principal and emergency spillways where one spillway may safely pass the design storm event.

34. Paragraph (a)(9) of § 816.49 is suspended insofar as it permits the retention of highwalls in permanent impoundments.

§ 816.81 [Amended]

35. Paragraph (a) of § 816.81 is suspended insofar as it allows end dumping or side dumping of coal mine waste.

36. Paragraph (c)(2) of § 816.81 is suspended insofar as it allows coal waste refuse piles to be constructed or modified with compaction which does not attain 90 percent of the maximum dry density determined in accordance with the standard Proctor method.

§ 816.83 [Amended]

37. Section 816.83 is suspended insofar as it permits the construction of coal refuse piles using lifts of greater than 2 feet thickness.

§ 816.84 [Amended]

38. Paragraph (b)(2) of § 816.84 is suspended insofar as it permits any impounding structure which is constructed of coal mine waste or intended to impound coal mine waste to have spillways, the combined capacity of which do not safely pass the 100-year

6-hour design precipitation event. It is also suspended insofar as it requires separate principal and emergency spillways where one will safely pass the 100-year 6-hour storm event.

§ 816.89 [Amended]

39. Paragraph (d) of § 816.89 is suspended.

§ 816.116 [Amended]

40. Paragraph (b)(3)(ii) of § 816.116 is suspended insofar as it permits the counting of trees and shrubs which have been in place less than the applicable period of responsibility in determining revegetation success.

41. Paragraph (c)(2) of § 816.116 is suspended insofar as it permits revegetation success to be measured over less than the growing seasons of the last two years of the responsibility period.

42. Paragraph (c)(4) of § 816.116 is suspended insofar as it permits the repair of rills and gullies without restarting the period of responsibility.

§ 816.133 [Amended]

43. Paragraph (d) of § 816.133 is suspended insofar as it authorizes any variance from approximate original contour for surface coal mining operations in any area which is not a steep slope area.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

44. The Authority citation for Part 817 continues as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

§ 817.46 [Amended]

45. Paragraph (b)(2) of § 827.46 is suspended.

§ 817.49 [Amended]

46. Paragraphs (a)(3) and (a)(5)(i) of § 817.49 are suspended insofar as they apply to sedimentation ponds in which no embankment is at least twenty feet in height as measured from the upstream toe of the embankment to the crest of the emergency spillway and which have a storage volume of less than 20 acre feet.

47. Paragraph (a)(8) of § 817.49 is suspended insofar as it requires separate principal and emergency spillways where one spillway may safely pass the design storm event.

48. Paragraph (a)(9) of § 817.49 is suspended insofar as it permits the retention of highwalls in permanent impoundments.

§ 817.81 [Amended]

49. Paragraph (a) of § 817.81 is suspended insofar as it allows end dumping or side dumping of coal mine waste.

50. Paragraph (c)(2) of § 817.81 is suspended insofar as it allows coal waste refuse piles to be constructed or modified with compaction which does not attain 90 percent of the maximum dry density determined in accordance with the standard Proctor method.

§ 817.83 [Amended]

51. Section 817.83 is suspended insofar as it permits the construction of coal waste refuse piles using lifts of greater than 2 feet thickness.

§ 817.84 [Amended]

52. Paragraph (b)(2) of § 816.84 is suspended insofar as it permits any impounding structure which is constructed of coal mine waste or intended to impound coal mine waste to have spillways, the combined capacity of which do not safely pass the 100-year 6-hour design precipitation event. It is also suspended insofar as it requires separate principal and emergency spillways where one will safely pass the 100-year 6-hour storm event.

§ 816.89 [Amended]

53. Paragraph (d) of § 817.89 is suspended.

§ 817.116 [Amended]

54. Paragraph (b)(3)(ii) of § 817.116 is suspended insofar as it permits the counting of trees and shrubs which have been in place less than the applicable period of responsibility in determining revegetation success.

55. Paragraph (c)(2) of § 817.116 is suspended insofar as it permits revegetation success to be measured over less than the growing seasons of the last two years of the responsibility period.

56. Paragraph (c)(4) of § 817.116 is suspended to the extent that it permits the repair of rills and gullies without restarting the period of responsibility.

§ 817.133 [Amended]

57. Paragraph (d) of § 817.133 is suspended insofar as it authorizes any variance from approximate original contour for surface coal mining operations in any area which is not a steep slope area.

[FR Doc. 86–26178 Filed 11–19–86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 289

Availability of DoD Directives, DoD Instructions, DoD Publications, and Changes

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule updates DoD procedures on the availability of DoD Directives, DoD Instructions, DoD publications, and changes. It covers revisions on the availability of DoD Directives and Instructions, and publications to the public and U.S. Government Agencies other than the Department of Defense and the increase in subscription cost.

EFFECTIVE DATE: September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Linda M. Lawson, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301–1155, telephone (202) 697–4111.

SUPPLEMENTARY INFORMATION: On August 16, 1967, there was published in the **Federal Register** (32 FR 117600) a final rule adoption, effective September 1, 1967, that announced a subscription service for DoD issuances. The following six amendments were published: December 27, 1968 (33 FR 19815), November 25, 1970 (35 FR 18047), September 21, 1977 (42 FR 47555), September 26, 1977 (42 FR 48885), April 19, 1978 (43 FR 16478), and July 6, 1983 (48 FR 31019). This revision amends the ordering and subscription services rendered by the Navy Publications and Printing Services and the availability of DoD publications.

List of Subjects in 32 CFR Part 289

DoD Directives System issuances, Availability to the public, Freedom of information.

Accordingly, Part 289 of Title 32 is revised to read as follows:

PART 289—AVAILABILITY OF DOD DIRECTIVES, DOD INSTRUCTIONS, DOD PUBLICATIONS, AND CHANGES

Sec.

289.1 Subscription services for DoD Directives and Instructions.
289.2 Ordering individual copies of DoD Directives and Instructions.
289.3 Ordering complete sets of DoD Directives and Instructions.
289.4 Ordering individual copies of DoD publications.

Authority: 10 U.S.C. 133, 31 U.S.C. 483a.

§ 289.1 Subscription services for DoD directives and instructions.

(a) DoD Directives, Instructions, and changes published in the Number Index section of DoD 5025.1–I, DoD Directives System Quarterly Index (except those issuances identified as classified) are available to the public and U.S. Government Agencies on a subscription basis for $16.00 a year. DoD Components must obtain DoD Directives and Instructions from their own publications channels.

(b) An annual subscription consists of one copy of each newly released and revised DoD Directive and Instruction published under the subject groups that are specified in a given subscription. Subscriptions are accepted for one or more subject groups. The subject groups are as follows:

1000 Manpower, Reserve Affairs, and Personnel
2000 International Programs and Security Assistance
3000 Planning, Research and Development, Intelligence, and Computer Technology
4000 Logistics, Acquisition, and Resources Management
5000 General Administration
5025.1–I DoD Directives System Quarterly Index
6000 Safety, Health, and Medical
7000 Comptrollership

(c) Subscription orders may be placed with the Director, Navy Publications and Printing Service, Building 4, Section D, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111. Orders must be in writing, accompanied by a certified check or money order for $16.00 payable to the Navy Publications and Printing Service.

§ 289.2 Ordering individual copies of DoD Directives and Instructions.

(a) DoD Directives, Instructions, and changes published in the Number Index section of DoD 5025.1–I, DoD Directives System Quarterly Index (except those issuances identified as classified) are available to the public and U.S. Government Agencies without charge. DoD Components must obtain DoD Directives and Instructions from their own publications channels.

(b) Orders for individual copies are limited to five copies per line item.

(1) Written requests for individual copies should be submitted to the Commanding Officer, ATTN: Code 301, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120–5099. Urgent requests may be submitted by TELEX and telegraph. The TELEX number is 834295 and the Western Union telegraph number is 710–670–1685. The commercial telephone number is (215) 697–3321 or –2179. All requests must include personal or organization name and complete mailing address (street address or P.O. Box number, city, state, zip code, and country, if applicable).

§ 289.3 Ordering complete sets of DoD Directives and Instructions.

(a) A complete set of DoD Directives and Instructions listed in the Number Index section of DoD 5025.1–I, DoD Directives System Quarterly Index (except those issuances identified as classified) are available to the public and U.S. Government Agencies for $70.00. Those orders are filled on an "as available" basis. DoD Components must obtain DoD Directives and Instructions from their own publications channels.

(b) Orders for a complete set of DoD Directives and Instructions should be submitted to the Director, Navy Publications and Printing Service, Building 4, Section D, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111. Orders must be in writing, accompanied by a certified check or money order for $70.00 payable to the Navy Publications and Printing Service.

§ 289.4 Ordering individual copies of DoD Publications.

(a) Requests for DoD publications and changes listed in the Number Index section of DoD 5025.1–I (except those publications identified as classified) should be forwarded to the various sources that are identified in the Availability Column of the DoD Publications subsection of DoD 5025.1–I. A fee will be charged for DoD Publications ordered from the National Technical Information Service, Springfield, Virginia.

(b) DoD 5025.1–I, DoD Directives System Quarterly Index, is available at cost from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. This publication also may be ordered from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120–5099.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 14, 1986.

[FR Doc. 86–26167 Filed 11–19–86; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3114–4]

Approval and Promulgation of Implementation Plans; Connecticut; Reasonably Available Control Technolgy for Connecticut Charcoal Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from Connecticut Charcoal Co. (Connecticut Charcoal) in Union, Connecticut. The required RACT control methods center or incineration of VOC emissions and recordkeeping. The intended effect of this action is to approve a source-specific RACT determination submitted by the State in accordance with commitments made in its Ozone Attainment Plan which was approved by EPA on March 21, 1984 (49 FR 10542). This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: December 22, 1986.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC; and Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David Conroy, (617) 565–3244; FTS 835–3244 or Lynne Naroian, (617) 565–3246; FTS 835–3246.

SUPPLEMENTARY INFORMATION: On July 14, 1986 (51 FR 25371), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed to approve State Order No. 943 as a revision to the Connecticut SIP. The provisions of Connecticut's State Order define and impose RACT for Connecticut Charcoal as required by section 22a–174–20, subsection (ee) of the Connecticut Ozone Attainment Plan.

A description of the revision and EPA's rationale for approving it were provided in the NPR and will not be

restated here. No public comments were received on the NPR.

Final Action

EPA is approving Connecticut State Order No. 943 as a revision to the Connecticut SIP. The Order was issued to Connecticut Charcoal on April 23, 1986, and it requires RACT on that facility to control VOCs.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Reporting and recordkeeping requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 7, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart H—Connecticut

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.370, is revised by adding paragraph (c)(36) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(36) Revision to the State Implementation Plan submitted on April 18, 1986, by the Commissioner of the Department of Environmental Protection.

(i) Incorporated by Reference:

(A) State Order No. 943 for Connecticut Charcoal Co., effective April 18, 1986, establishing and requiring reasonably available control technology for the control of volatile organic compounds from this facility.

[FR Doc. 86–26175 Filed 11–19–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

48 CFR Parts 1401, 1405, 1406, 1414, 1415, 1419, 1420, 1428, 1437, 1452, and 1453

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule amends the Department of the Interior Acquisition Regulation (DIAR) to implement the Competition in Contracting Act of 1984 (Pub. L. 98–369) and corresponding Federal Acquisition Circulars. The rule also makes changes to internal procedures regarding the Department's small and disadvantaged business program and labor surplus area program; revisions to procedures for acquiring appraisal services; changes in contract insurance requirements; and procedures for calculating profit and fee objectives. A proposed rule and request for comments was published on April 1, 1986 (51 FR 11075–11081).

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. William Opdyke, Chief, Branch of Policy and Regulations, Office of Acquisition and Property Management, Department of the Interior, Washington, DC 20240, telephone (202) 343–3433.

SUPPLEMENTARY INFORMATION: This rule primarily concerns agency procedures that are required for the implementation of Pub. L. 98–369 and corresponding changes to the Federal Acquisition Regulation (FAR) made by Federal Acquisition Circulars. Minor revisions have been made to internal procedures for accomplishing the Department's small and disadvantaged business program in response to recommendations received from the House Subcommittee on SBA and SBIC Authority, Minority Enterprise, and General Small Business Problems to amplify current regulatory provisions relating to subcontracting plans submitted by a small number of contractors. Procedures for internal establishment of labor surplus area goals have been revised. Changes have been made to procedures used by the Department for acquiring real property appraisal services to clarify required coordination with the appropriate Office of the Solicitor and the assigned Assistant U.S. Attorney. The Department's Indemnification clause has been revised to impose insurance requirements only. Procedural requirements for calculating profit or fee prenegotiation objectives have been revised to clarify use of facilities capital cost of money.

Public Comment

Comments were requested by May 1, 1986. Three responses were received, two after the deadline date. All comments, however, were considered in adopting the final rule. One comment recommended that DIAR 1405.207 be revised to reference actions under FAR Subpart 6.3 and include supplies as well as services. This suggestion was adopted. Another comment suggested that clarifying revisions be made to the class justifications contained in Appendices A and B of the proposed rule. Coverage on class justifications for other than full and open competition has been removed from the final rule since subsection 961(a) of Pub. L. 99–145 exempts from the justification and approval requirements of Pub. L. 98–369 noncompetitive purchases where a statute expressly requires that the procurement be made from a specified source. A comment was made suggesting an editorial change in the coverage on acquisition of real property appraisals. This recommendation was adopted. Another comment suggested that several DIAR revisions first be proposed for inclusion in the FAR. Due to the nature of these revisions, this suggestion was not adopted. However, it has been brought to the attention of the FAR Secretariat for further consideration. Minor editorial changes have also been made in the final rule.

Primary Author

The primary author of this rule is Mr. William Opdyke, Office of Acquisition and Property Management, telephone (202) 343–3433.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The Department has determined that this rule is not a major rule under Executive Order economic effect on a substantial number of small entities since no new requirements are being imposed on small entities or other parties eligible to contract with the Department. The information collection requirements referred to in this rule are prescribed by FAR 19.704(a) and are the responsibility of the FAR Secretariat, General Services Administration. This rule does not contain any new information collection requirements.

List of Subjects in 48 CFR Parts 1401, 1405, 1406, 1414, 1415, 1419, 1420, 1428, 1437, 1452, and 1453

Government procurement.

For the reasons set out in the preamble, Chapter 14 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Dated: October 28, 1986.

Gerald R. Riso,

Assistant Secretary of the Interior.

1. The authority citation for 48 CFR Parts 1401, 1405, 1406, 1414, 1415, 1419, 1420, 1428, 1437, 1452, and 1453 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c), and 5 U.S.C. 301.

PART 1401—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

1401.301 [Amended]

2. Section 1401.301(a) is amended by removing the reference to "FAR 1.301(a)" in the second sentence and inserting in its place the reference "FAR 1.301(a)(1)."

3. Section 1401.301(b) is amended by removing the reference to "FAR 1.301(b)" in the first sentence and inserting in its place the reference "FAR 1.301(a)(2)."

4. Section 1401.303 is amended by revising the title to read as follows:

1401.303 Publication and codification.

5. A new Part 1405 is added to read as follows:

PART 1405—PUBLICIZING CONTRACT ACTIONS

Subpart 1405.2—Synopses of Proposed Contract Actions

1405.202 Exceptions.
1405.207 Preparation and transmittal of synopses.

Subpart 1405.2—Synopses of Proposed Contract Actions

1405.202 Exceptions.

The Assistant Secretary—Policy, Budget and Administration is authorized to make the determination in FAR 5.202(b). A written determination documenting the reasons why advance notice is not appropriate or reasonable shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action including communication with the officials listed in FAR 5.202(b).

1405.207 Preparation and transmittal of synopses.

(a) In addition to the information required in FAR 5.207, each synopsis of a proposed contract action under FAR Subpart 6.3 shall include:

(1) A clear description of specific contractor qualifications or capabilities required for the product or service to meet the Government's minimum needs; and

(2) Information to be provided by prospective contractors and all factors to be used in evaluating this information, in order to determine whether other sources can meet the Government's needs.

(b) In the event the information in (a)(1) or (a)(2) above is too lengthy to be included in the synopsis, the synopsis shall identify the office where this information may be examined or obtained.

6. A new Part 1406 is added to read as follows:

PART 1406—COMPETITION REQUIREMENTS

Subpart 1406.5—Competition Advocates

1406.501 Requirement.
1406.502 Duties and responsibilities.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1406.5—Competition Advocates

1406.501 Requirement.

(a) The competition advocate for the Department of the Interior is the Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management.

(b) Competition advocates for each bureau and office shall be as designated by the Assistant Secretary—Policy, Budget and Administration.

1406.502 Duties and responsibilities.

(a) The Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management is responsible for preparing and submitting the annual report required by FAR 6.502(a)(3).

(b) The Director, Office of Acquisition and Property Management is responsible for preparing the annual report to Congress required by section 2732 of Pub. L. 98–369. The report shall be submitted to the Assistant Secretary—Policy, Budget and Administration for transmittal to each House of Congress. Bureau competition advocates shall furnish certain information, as may be required, to assist the Director, Office of Acquisition and Property Management in preparing the report.

PART 1414—SEALED BIDDING

7. The title of Part 1414 is revised to read as set forth above.

8. Sections 1414.404 and 1414.404–1 are added to Subpart 1414.4 to read as follows:

1414.404 Rejection of bids.

1414.404–1 Cancellation of invitations after opening.

The chief of the contracting office is authorized to make the written determination in FAR 14.404–1(c).

PART 1415—CONTRACTING BY NEGOTIATION

9. Section 1415.608 is added to Subpart 1415.6 to read as follows:

1415.608 Proposal evaluation.

The chief of the contracting office is authorized to make the determination in FAR 15.608(b).

10. Section 1415.902(d) is revised to read as follows:

1415.902 [Amended]

* * * * *

(d) When profit analysis is required, any prenegotiation cost objective established for the cost of money for facilities capital (see FAR 31.205–10) shall be subtracted from the overall cost objective established for the subfactor in 1415.905–1(a)(3) before calculation of the profit objective (see 1415.905–70(b)(1)).

* * * * *

1415.905 [Amended]

11. Section 1415.905(b) is amended by removing the reference "1415.905–1(a)(5)" and inserting in its place the reference "1415.905–1(a)(4)."

1415.905–1 [Amended]

12. Section 1415.905–1 is amended by removing the last sentence of paragraph (a); by adding the following sentence to the end of paragraph (a)(3): "Any cost objective for facilities capital cost of money and allowable under FAR 31.205–10 shall be subtracted from the cost objective established for this subfactor and shall not be considered in the cost base used for calculating the profit objective (see 1415.905–70(b)(1))."; by removing the last sentence of paragraph (a)(5); by redesignating paragraph (a)(4) as paragraph (a)(5); and by redesignating paragraph (a)(5) as paragraph (a)(4).

1415.905–70 [Amended]

13. Section 1415.905–70(b)(1) is amended by revising the third sentence to read as follows: "Any cost objective established for the cost of money for facilities capital shall be subtracted from the overall cost objective

established for the 'conversion-related indirect costs' subfactor."

PART 1419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

14. A new section 1419.705–6 is added to read as follows:

1419.705–6 Postaward responsibilities of the contracting officer.

In addition to the actions specified In FAR 19.705–6, the contracting officer shall also be responsible for the following:

(a) Forwarding a copy of each approved subcontracting plan to OSDBU within 10 working days after approval of the plan.

(b) Ensuring that the contractor is forwarding the original copy of the Standard Form 295, Summary Subcontracting Report, to the Department of the Interior, Director, OSDBU, 18th and C Streets NW., Washington, DC 20240, Room 2747.

(c) Forwarding a copy of the Standard Form 294, Subcontracting Report for Individual Contacts, received from individual contractors, within 10 working days, to OSDBU.

(d) Conducting on-site business and economic development program management reviews (see 504 DM 1) of a prime contractor's small and disadvantaged business subcontracting program. Reviews shall be conducted as required based on problems perceived such as insufficient progress in meeting subcontracting goals. The results of the review shall be documented in writing using the format shown at 1453.303–71. At the discretion of the contracting officer, the Business Utilization and Development Specialists (BUDS) may conduct the reviews. In addition to required bureau/office internal distribution, a copy of the review report shall be submitted to OSDBU within 25 working days after completion of the review.

PART 1420—LABOR SURPLUS AREA CONCERNS

15. Section 1420.102 is amended by adding an additional sentence to read as follows:

1420.102 General policy.

* * * Annual goals for contract awards to labor surplus area concerns on a set-aside basis shall be established by the heads of contracting activities using the procedures prescribed in 1419.202–70(b).

PART 1428—BONDS AND INSURANCE

1428.301 [Amended]

16. In section 1428.301 the third sentence is amended by removing "Indemnification" and inserting "Liability Insurance".

PART 1437—SERVICE CONTRACTING

17. Section 1437.7001 is amended by revising the first sentence to read as follows:

1437.7001 Policy.

Contracts for real property appraisal services shall be awarded in accordance with FAR 37.105. * * *

18. Section 1437.7002(a) is amended by revising the first sentence to read as follows:

1437.7002 Contractor qualification requirements.

(a) Prior to award of a contract for real property appraisal services when the services are required in support of court actions, the contracting officer shall coordinate with the appropriate Office of the Solicitor and obtain written concurrence from the Assistant U.S. Attorney assigned to represent the Government in the matter that the source to be selected possesses the necessary qualifications for adequate contract performance. * * *

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1452.228–70 [Amended]

19. Section 1452.228–70 is amended by revising its caption to read "Liability insurance"; revising the title of the clause to read "LIABILITY INSURANCE—DEPARTMENT OF THE INTERIOR (JUL 1985)," and amending paragraph (a) of the clause by removing the first two sentences and inserting in their place the following: "(a) The Contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer."

PART 1453—FORMS

20. Section 1453.219–73 is added to read as follows:

1453.219–73 Subcontracting plan review.

The format shown in 1453.303–71 shall be used in documenting the results of the management review required in 1419.705–6.

21. Sections 1453.303—DI–1920, and 1453.303–70 are revised to read as follows:

1453.303—DI–1920 Department of the Interior, Form DI–1920, Structured Approach for Profit/Fee Objective.

BILLING CODE 4310–RF–M

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANUAL

STRUCTURED APPROACH FOR PROFIT/FEE OBJECTIVE

DEPARTMENT OF THE INTERIOR

CONTRACTOR	RFP/CONTRACT NO.	MOD. NO.

FACTOR/SUBFACTOR	WEIGHT RANGE	Column A(%) WEIGHT ASSIGNED		Column B($) PRENEGOTIATION COST OBJECTIVE		Column C($) PROFIT/FEE OBJECTIVE (COLUMN A × COLUMN B)
CONTRACTOR EFFORT						
Material Acquisition	1% to 4%		×		=	
			×		=	
			×		=	
			×		=	
			×		=	
Conversion of Direct Labor	4% to 12%					
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
Conversion-Related Indirect Costs (Subtract	3% to 8%					
Facilities Capital Cost of Money)						
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
Other Costs	1% to 3%					
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
General Mangement	4% to 8%					
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
			×		=	
1 Total Contractor Effort (Add Columns)				$		$
OTHER FACTORS	WEIGHT RANGE	WEIGHT ASSIGNED		TOTAL COST OBJECTIVE (FROM LINE 1, COLUMN B)		PROFIT/FEE OBJECTIVE (COLUMN A × COLUMN B)
2 Contract Cost Risk	0% to 7%		×		=	
3 Federal Socioeconomic Programs	+ − 0.5%		×		=	
4 Capital Investments	+ − 2%		×		=	
5 Cost Control and Other Past Accomplishments	+ − 1%		×		=	
6 Independent Development			×		=	
TOTAL PROFIT/FEE OBJECTIVE (ADD LINES 1-6, COLUMN C)						$

DIAR (48 CFR) 1453 215-71

DI-1920
Revised August 1985)

BILLING CODE 4310-RF-C

1453.303–70 Sample subcontracting plan outline format.

Small Business and Small Disadvantaged Business Subcontracting Plan Outline Format

Date:
Contractor:
Address:
Solicitation or Contract Number:
Item/Service:

The following, together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Public Law 95–507.

1. (a) The following goals will be applicable to any contract awarded as a result of this solicitation.

(i) Total dollars planned to be subcontracted to both large and small business under this contract $_____.

Goals	*Percent*	*Dollars*
(ii) Small Business [1]	_____	_____
(iii) Small Disadv. Business [2]	_____	_____

[1] Small business (SB): Percent of total planned subcontracting dollars (i) under this contract which will go to subcontractors which are small business concerns. Total dollars planned to be subcontracted to small business.

[2] Small and disadvantaged business (SADB): Percent of total planned subcontracting dollars (i) under this contract which will go to subcontractors which are small business concerns owned and controlled by socially and economically disadvantaged individuals. Total dollars planned to be subcontracted to small disadvantaged businesses.

(b) The principal products and services that (name of bidder/offeror) anticipates to be subcontracted under this contract and the identification of the type of business concern planned to be utilized are as follows:

List products and services	Type of business to be utilized (check block)	
	Small bus.	Small disadv. bus.
.....	( )	( )
.....	( )	( )
.....	( )	( )
.....	( )	( )

(c) The following method was used in developing subcontract goals (e.g., what source lists were used and what organizations were or will be contacted to obtain SB of SDB sources)

(d) Indirect and overhead costs (check one): ( ) have been ( ) have not been included in the goals specified in 1(a)(ii) and 1(a)(iii).

If "have been" is checked, explain the method used in determining the proportionate share of indirect and overhead costs to be incurred with small business and small disadvantaged business subcontractors. If "have not been" is checked, explain why products or services included in the overhead and indirect cost base cannot be subcontracted to small business or small disadvantaged business.

2. The following individual will administer the subcontracting program:

Name:
Title:
Address:
Telephone:

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows: General overall responsibility for review, monitoring and execution of the plan including but not limited to:

(a) Obtaining small and small disadvantaged business sources from all applicable agencies such as SBA and MBDA.

(b) Assuring inclusion of SB and SADB firms in all solicitations where appropriate.

(c) Attending or arranging for attendance at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.

(d) Conducting or arranging for the conduct of motivational training for purchasing personnel pursuant to the intent of Pub. L. 95–507.

(e) Monitoring attainment of proposed goals.

(f) Reviewing solicitations to delete statements, clauses, and other provisions which may tend to prohibit SB and SDB participation.

3. The bidder (offeror) agrees to initiate the following actions to assure that small and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts:

(a) Outreach efforts shall be established as follows:

(i) Contacts with minority and small business trade associations. Name at least three (3).

(ii) Contacts with business development organizations. Name at least two (2).

(iii) Attendance at small and minority business procurement conferences and trade fairs. Provide examples.

(b) The following internal efforts shall be conducted so as to guide and encourage buyers:

(i) Periodic workshops, seminars, and training programs.

(ii) Activities shall be monitored so as to evaluate compliance with this subcontracting plan.

(c) Small and disadvantaged business source lists, guides, and other relevant data identifying small and disadvantaged business vendors shall be maintained and utilized by the buyer in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

4. The bidder (offeror) agrees that the clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors, except small business concerns, which receive subcontracts in excess of $500,000 or in the case of a contract for the construction of any public facility, $1,000,000, will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Pub. L. 95–507, and assuring that all minimum requirements of an acceptable subcontracting plan shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small and disadvantaged subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to the subcontractor facilities or reviews of applicable records and subcontracting program progress.

5. The bidder (offeror) agrees to cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder (offeror) with the subcontracting plan. Additionally, the bidder (offeror) agrees to assure that its subcontractors agree to submit Standard Forms 294 and 295.

6. The bidder (offeror) agrees to maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small and disadvantaged business source lists, guides and other data identifying SB and SADB vendors.

(b) Organizations contacted for small and disadvantaged business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation (1) whether small businesses were solicited, and if not, why not; (2) whether small disadvantaged businesses were solicited, and if not, why not; and (3) reasons for the failure of solicited small businesses or small disadvantaged businesses to receive the subcontract award.

(d) Records to support other outreach efforts: Contacts with Minority and Small Business Trade Associations, Business Development Organizations, and attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: Workshops, seminars, training programs, and monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor.

7. The bidder (offeror) agrees to:

(a) Assist small and small disadvantaged business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the bidder's (offeror's) lists of potential small business and small disadvantaged subcontractors are excessively long, reasonable effort shall be made to give all such concerns an opportunity to compete over a period of time.

(b) Provide adequate and timely consideration of the potentialities of small and small disadvantaged business concerns in all "make-or-buy" decisions.

(c) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.

Signed:
Typed Name:
Title:
Date:

22. Section 1453.303–71 is added to read as follows:

1453.303–71 Format for review of contractor's subcontracting program.

Format for Review of Contractor's Subcontracting Program

Part I—General Information

1. Contractor's name and address (include zip code).
2. Contractor's subcontracting plan administrator (Small Business Liaison Officer—SBLO).
3. Business Utilization and Development Specialist (BUDS).
4. Contracting Officer (CO) or Administrative Contracting Officer (ACO).
5. Small Business Administration Subcontracting Specialist.
6. Date of (a) Last review; (b) This review;
7. Period covered by this review (a) From; (b) To.
8. Total active DOI contracts (a) Number; (b) Face Value.
9. Total subcontracting potential estimated to be: (a) Substantial (over 50%); (b) Moderate (30–50%); (c) Minimal (less than 30%); (d) Unknown.
10. Active contracts over $500,000 ($1 million if construction) that do not contain approved plans. (a) Number; (b) Face value (Identify and explain rationale for absence of plan.)
11. Active Contracts with Individual Subcontracting Plans. (a) Number; (b) Face value.

Part II—Contractor's Overall Performance Under Individual Subcontracting Plans

(Explain any negative findings, using Part III if additional space is required. Identify any exceptions that do not apply to all contracts detailed in Part I. This Part is to be reviewed in depth at least annually, and updated as required during interim reviews.)

1. Has a company wide policy statement been issued? Yes/No. If yes, by whom and date? How was it promulgated throughout the company?
2. Is the SBLO identified in Part I above responsible for all individual subcontracting plans detailed in Part I? Yes/No. Does the SBLO have adequate authority and responsibility to administer programs effectively? Yes/No. To whom does SBLO report?
3. Is there also a corporate SBLO? Yes/No. If yes, describe relationship between this division and the corporate SBLO.
4. Does contractor have an effective training program, particularly for buyers? Yes/No. Describe any incentive programs established for buyers or technicians to assist small and disadvantaged business (SADB) firms.
5. Does the contractor arrange solicitations, provide adequate bid preparation time, and adjust quantities, delivery schedules and specifications to enhance participation of SADB firms in the bidding process? Yes/No.
6. Does the contractor provide counseling assistance to SADB firms referred to it by the BUDS and by the SBA representative? Yes/No. Is such counseling effective? Yes/No.
7. Does the contractor provide technical, financial or other assistance to SADB firms? Yes/No. If yes, describe.
8. Does contractor counsel SADB firms as to why they may have failed to receive an award? Yes/No.
9. Does the contractor use DOI, SBA and other source lists to increase bidding opportunities? Yes/No. If yes, are listings being used effectively? Yes/No.
10. Does the contractor describe the method used in establishing individual contract goals? Yes/No. Is the method satisfactory? Yes/No. Is it detailed in the master plan? Yes/No. Is it detailed in subcontracting plans? Yes/No.
11. Are overhead items included in individual contract goals? Yes/No. If yes, does the contractor have a written procedure as to how these goals are to be allocated to individual contracts? Yes/No.
12. Does the contractor submit SF 294's and SF 295's in a timely manner? Yes/No. Are they accurate? Yes/No.
13. Describe the method used by BUDS in verifying accuracy of data reported on SF 294 and SF 295.
14. Does SF 295 contain allocable portions of overhead items as well as performance on individual contracts that do not require plans? Yes/No.
15. Describe methods used by contractor to monitor performance in meeting goals, including feedback mechanisms.
16. Are there written procedures to implement the program. Yes/ No. If yes, are they adequate to assure effective performance? Yes/No.
17. Is the contractor making satisfactory progress towards meeting all individual plan subcontracting goals? Yes/No. If no, explain in detail.
18. Check the appropriate box to indicate the records maintained by contractor.

( ) Small and disadvantaged business source lists, guides and other data identifying SADB vendors.

( ) Organizations contacted for small and disadvantaged business sources.

( ) Subcontract solicitations over $100,000, indicating on each solicitation:

(1) Whether small business was solicited, and if not why not.

(2) Whether small disadvantaged business was solicited, and if not why not.

(3) The reasons for the failure of solicited small businesses or small disadvantaged businesses to receive the subcontract award.

( ) Outreach Efforts:

(1) Contacts with Minority and Small Business Trade Associations, etc.

(2) Contacts with business development organizations, etc.

(3) Attendance at small and minority business procurement conferences and trade fairs.

( ) Internal activities to guide and encourage buyers: (1) Workshops; (2) Seminars; (3) Training programs; (4) Monitoring activities to evaluate compliance.

( ) Award data to include name and address of subcontractor.

( ) Certifications from small, small disadvantaged, women-owned, and labor surplus area business concerns.

19. Does the contractor use flow-down subcontracting plan clauses as required by its prime contract clauses? Yes/No. If yes, does the contractor obtain and review subcontractor plans to assure that a subcontractor's plan is in consonance with its own plan? Yes/No.
20. Does the contractor monitor subcontractor's performance against plan? Yes/No. If yes, how?
21. Do any of the individual subcontracting plans contain special features such as an incentive clause to which the above questions do not particularly apply? Yes/No. If yes, describe the special features and contractor's performance in detail.
22. Does the contractor have an acceptable Labor Surplus Area program, including records and reports? Yes/No.
23. Does the contractor recognize its obligation to use its best efforts in awarding subcontracts to women-owned business concerns, as required by FAR 52.219–13? Yes/No.

Part III—Remarks

(Cross reference all remarks to appropriate section in this report)

Part IV—Summary and Recommendation

1. Exit interview conducted with the following contractor representatives:_____, on

(date).

2. SBA representative did/did not participate in this review.
3. Contractor's performance in complying with subcontracting program and individual subcontracting plan requirements is: Outstanding; Acceptable; Marginal; Unsatisfactory.

(a) If performance is outstanding or acceptable, summarize basis for this rating;

(b) If performance is marginal or unsatisfactory, detail reason as appropriate and:

(i) Summarize program or plan deficiencies.

(ii) Identify recommendations made to the contractor to correct deficiencies.

[FR Doc. 86–26055 Filed 11–19–86; 8:45 am]
BILLING CODE 4310–RF–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 60854–6154]

Pacific Coast Groundfish Fishery

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

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce (Secretary) extends an emergency interim rule which changed regulations promulgated under the Pacific Coast Groundfish Fishery Management Plan for the sablefish fishery off Washington, Oregon, and California. It is necessary

to extend the emergency interim rule through December 31, 1986, because the conditions requiring the emergency measure still exist. This action is intended to delay attainment of the sablefish quota to the end of the fishing year.

EFFECTIVE DATE: From November 20, 1986, through December 31, 1986.

ADDRESSES: Comments on this rule may be submitted to Rolland A. Schmitten, Director, Northwest Region National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150; or E. Charles Fullerton, 213–514–6196.

SUPPLEMENTARY INFORMATION: Under section 305(e)(2) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency interim rule effective August 22, 1986 (51 FR 29933, August 21, 1986) for sablefish caught off Washington, Oregon, and California. This rule allocated the amount of the 13 600-metric ton (mt) optimum yield (OY) quota for sablefish remaining on August 22, 1986, at 55 percent for trawl landings and 45 percent for fixed gear landings. The rule also imposed a trip limit on trawl landings of sablefish, with a provision for revising the allocations and the trawl trip limit in October. The reasons for the allocations and the trawl trip limit, which are discussed in the preamble to the emergency rule, still continue and are not repeated here.

The amount of OY remaining on August 22 (5,300 mt) and the allocations (2,915 mt for trawl landings and 2,385 mt for fixed gear landings) were announced on August 26, 1986 (51 FR 30365). As provided in the emergency rule, these amounts as well as the trawl trip limit were redetermined in October, using the best information then available. Effective October 23, 1986 (51 FR 37912, October 27, 1986), the allocations changed to 2,800 mt for trawl landings and 2,300 mt for fixed gear landings based on 5,100 mt of OY remaining on August 22, and the trawl trip limit increased from 8,000 pounds to 12,000 pounds to provide a reasonable opportunity for the trawl allocation to be taken.

The emergency rule states that further landings of sablefish will be prohibited by either gear type if the allocation for that gear type is reached, or by all gear types if the overall OY is reached. The fixed gear fishery for sablefish closed at 0001 hours Pacific Daylight time, October 23, 1986, when the fixed gear allocation of 2,300 mt was reached (51 FR 37913, October 27, 1986).

Classification

Recognizing that conditions within the fishery requiring the original emergency rule would exist until the end of the year, the Pacific Fishery Management Council announced its intent to extend this emergency rule when it recommended by majority vote that the Secretary take emergency action at its July 1986 meeting. This action is authorized by section 305(e)(3) of the Magnuson Act. The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided for in section 8(a)(1) of the order. This rule is being reported to the Office of Management and Budget with an explanation of why is is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

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

Dated: November 18, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86–26241 Filed 11–18–86; 10:42 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 51, No. 224
Thursday, November 20, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

United States Standards for Barley

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action supplements the proposed rule on the Official U.S. Standards for Grain published on October 2, 1986 at 51 FR 35224. It would further revise Subpart B—U.S. Standards for Barley by changing these standards to remove the special grades Tough, Stained, Bleached, and Bright; revise the definition of Sample grade, damaged kernels and the classes of malting barley; remove black barley as a grade determining factor, and revise certain names of terms relating to damaged or injured kernels. These changes and other miscellaneous nonsubstantive changes are proposed to simplify the barley standards, conform certain provisions and language to present trading practices and to other grain standards. In addition, comments are requested on the changes to the FGIS Instructions that would add protein content as an official criteria and make determination of plump barley available only upon request.

DATE: Comments must be submitted on or before December 22, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, USDA, FIGS, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

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

Review of Standards

On October 2, 1986, a proposal was published in the **Federal Register** (51 FR 35224) which would reformat and make certain other changes to attain uniformity among all official grain standards. The proposed changes in that publication that affect the barley standards include: (1) Redesignating the special grade "weevily" to the more appropriate term "infested;" (2) Revising the definition of barley to restrict mixtures of other grains to 10.0 percent as currently stated in other grain standards; (3) Revising FGIS rounding procedures as stated in the section on Percentages to reflect rounding procedures performed by calculators and in computer applications; and (4) Further revise procedures for stating percentages so that all figures are reported to the nearest tenth percent, except for ergot which is reported to the nearest hundredth percent.

An Advance Notice of Rulemaking requesting public comment on the U.S. Standards for Barley was published in the September 12, 1980, **Federal Register** (45 FR 60848). Changes to the barley standards suggested by industry members during the comment period included: (1) A return to the previously used terminology of "injured-by-mold" and "injured-by-frost"; (2) a tightening of factors that would be applicable to 6-rowed as well as 2-rowed barley; (3) grading barley as malting barley only upon request of the applicant; and (4) showing the percentage of plump barley in terms of a whole percent instead of a range of 5 percent increments.

To gather additional information, discussions were held with industry representatives. These Organizations included the American Malting Barley Association; National Malting Barley Growers Association; National Feed Grains Council; Montana Elevator Operators Association; producer organizations in the states of Washington, Oregon, Montana, North Dakota, and Idaho; and individual grain handlers and producers. Also, four meetings were held with interested parties to discuss the issues concerning revising the barley standards.

Accordingly, the following changes to the barley standards are proposed which supplement those proposed changes that appear at 51 FR 35224:

1. Remove the requirement, "semisteely in mass," from the definition of malting barley and remove the special grades "Tough," "Stained," "Bleached, "and "Bright;"

2. Remove the terms "frost-damaged kernels (minor)," "mold-damaged kernels (minor)," and "heat-damaged kernels (minor)," and substitute the terms "injured-by-frost kernels," "injured-by-mold kernels," and "injured by-heat kernels," respectively and deletion of such terms, except for injured-by-heat, from the definition of damage;

3. Remove the term "black barley" as a grade-determining factor and include black barley under the definition of "other grains;"

4. Remove the requirement that barley containing smut in excessive amounts to be graded Sample grade;

5. Remove the requirement for wild bromegrass seeds in the definition of Sample grade; and

6. Include changes in language, format, and definitions to further update and conform the barley standards to other grain standards.

The current definitions for the three classes of malting barley provide that the barley be "not semisteely in mass." This quality evaluation is subjective, and not commonly used as a separate quality evaluation by the brewing industry because maltsters have their own objective tests available to indicate suitability for brewing purposes. Accordingly, FGIS proposes that the requirement "not semisteely in mass" be

removed from the definition of malting barley as no longer necessary.

Currently, the special grade "Tough" is defined as barley that contains more than 14.5 percent moisture. Moisture content and as such "Tough" is not descriptive of grain quality. Moisture content is a condition of grain rather than a quality factor. Pursuant to current trade practices, discounts for moisture generally are assessed on the actual content rather than the Special grade to account for weight loss and drying costs to handlers. In addition, moisture content is required by regulation (7 CFR 800.162(a)) to be shown on all official certificates when an official grade determination is made. FGIS therefore proposes that the special grade "Tough" be removed. This proposed change would conform the barley standards to other grain standards.

The special grades "Stained," "Bleached," and "Bright" have not been applied in several years according to inspection information available to FGIS. Consequently these special grades appear to have little value in the barley standards. Present commercial practices have made their use no longer necessary. FGIS therefore proposes that the special grades "Stained," "Bleached," and "Bright' be removed. While not a special grade, stained would remain a criteria in determining numerical grades.

During meetings with the trade, several members suggested deletion of the current descriptive terms "frost-damaged kernels (minor)," "mold-damaged kernels (minor)," and "heat-damaged kernels (minor)" and substitution of the terms "injured-by-frost kernels," "injured-by-mold kernels," and "injured-by-heat kernels," respectively. The terms "injured-by-frost kernels" and "injured-by-mold kernels" include kernels which are slightly affected by adverse environmental factors and are not acceptable to maltsters because of unsatisfactory germination or other reasons. These kernels, however, are affected to such a slight degree that they are not considered damaged kernels in the inspection procedure. While kernels that are "injured-by-heat" are considered damaged kernels it was suggested that the term "injured by heat" was the descriptive term preferred by the trade. The terms "injured-by-frost kernels" and "injured-by-mold kernels" better describe and differentiate the condition of the kernels than the terms "frost-damaged kernels (minor)" and "mold-damaged kernels (minor)", especially when used in conjunction with the terms "frost-damaged kernels (major)" and "mold-damaged kernels (major)." The term "injured-by-heat kernels" is considered more descriptive than the term "heat-damaged kernels (minor)." FGIS therefore proposes that the terms "injured-by-frost kernels," "injured-by-mold kernels," and "injured-by-heat kernels" be substituted for the currently used "frost-damaged kernels (minor)," "mold-damaged kernels (minor)," and "heat-damaged kernels (minor)," respectively. Concurrently, the terms "frost-damaged kernels," "mold-damaged kernels," and "heat-damaged kernels" would be substituted for the currently used "frost-damaged kernels (major)," "mold-damaged kernels (major)," and "heat-damaged kernels (major)," respectively. In addition, the definition of damaged kernels would be revised to delete references to "frost-damaged kernels (minor)" and "mold-damaged kernels (minor)". However, in that definition, the term "heat-damaged (minor)" would be deleted and "injured-by-heat" substituted in its place. Further, all of the grading tables for barley would be revised to reflect proper use of the proposed terminology.

Barley with black colored hulls, referred to as black barley, is not used by brewers because of poor brewing characteristics. Black barley currently is a grading factor with specific grade limits for malting and nonmalting barley. For many years black barley has not been grown, and therefore has not been seen in commercial channels. FGIS therefore proposes that black barley be removed as a grade-determining factor and that black-colored barley kernels be included under the definition and limits for "other grains".

The requirement that six-rowed barley, two-rowed barley, and the class barley be graded U.S. Sample grade when the presence of smut is so great that one or more of the grade factors cannot be determined accurately has not been applied for many years because the presence of smut has been reduced due to seed treatment and other improvements. However, the special grade "Smutty" is retained to identify those samples which show the presence of smut.

Accordingly, FGIS proposes that the requirement regarding the presence of smut be removed from the definition of U.S. Sample grade for six-rowed barley, two-rowed barley, and the class barley.

Currently, when 8 or more unhulled wild bromegrass seeds are found, barley is graded Sample grade. The factor was included because the harsh awns of wild bromegrass were thought to stick in the mouths of livestock and cause distress. University animal specialists contacted by FGIS indicate that there has been no record of complaints about animals becoming adversely affected from ingesting wild bromegrass seeds. Accordingly, its proposed that wild bromegrasses be removed from the definition of U.S. Sample grade for six-rowed barley, two-rowed barley, and the class barley. The definition for "wild bromegrassess" would be removed as unnecessary.

In the inspection of barley, a threshold determination is made by official inspection personnel as to whether a sample represents barley of a malting or nonmalting variety or quality. The determination is based primarily on whether or not the barley is of a suitable malting type. The barely is then graded according to various factors for malting and nonmalting barley provided for in the standards. Some producers have asked that grading procedures be changed to allow an applicant for inspection to request that a sample be graded as a nonmalting barley without regard to barley variety or quality. It has been stated that in certain production areas, this provision would aid in the marketing of barley of malting quality for feed purposes.

In the normal marketing of grain, a lot of barley may be inspected several times from the time of delivery at the country elevator to final inspection at export. FGIS believes that permitting an applicant to choose between grading barley as malting or nonmalting would confuse the marketing of this grain. Therefore, this action does not include a proposal that would permit an applicant to request a sample of barley be graded as a malting or nonmalting barley. Furthermore, the barley standards provide for an optional grade designation which we believe addresses this concern.

The redesignation of the class Barley as Feed Barley was discussed in meetings with the industry as possibly enhancing the export of barley for feed purposes. However, because of the lack of a clear consensus among industry representatives, the change will not be proposed.

Other miscellaneous changes in language, format, and definitions are made to simplify, update and conform the barley standards to other grain standards, where appropriate.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the Act, upon request, such information may be orally presented in an informal manner. Also, pursuant to section 4(b) of the United States Grain Standards Act, no standard or amendments or

revocations of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator the public health, interest, or safety require that they become effective sooner. FGIS intends that, if adopted, these changes will become effective on May 1, 1987 to coincide, as nearly as practicable, with the beginning of the crop year for barley and other grains, as stated in the proposed rule published on October 2, 1986. In addition, a 30 day comment period is determined to be adequate because this proposed rule is a supplement to the proposed rule published on October 2, 1986.

In addition to the recommended changes to the barley standards, industry representatives also suggested the following changes to the inspection procedures contained in FGIS Instructions:

1. Make information on the percentage of plump barley available upon request in place of the current procedure of showing the percentages on all samples of malting barley, and

2. Determine the protein content of barley upon request and show results on a moisture-free basis.

It was recommended that the determination of plump kernels be made only upon request instead of upon every sample grading malting barley because this determination is used primarily by maltsters for in-house quality. FGIS therefore requests views and comments on whether the FGIS Instructions should be revised to provide that the determination for plump kernels be made only upon request of the applicant for inspection.

Protein content may be useful information to a buyer. Methodology has been developed to determine protein content in barley using near infrared reflectance (NIR) instruments. Information on the protein content of barley is important in brewing. Brewers do not want a high level of protein in barley because of the undesirable effect on brewing characteristics. Livestock feeders like a high level of protein and find information on protein content valuable in the formulation of feeding rations.

Presently an inspection service providing information on protein content has not been available on an official basis. Protein is an official criteria under the U.S. Grain Standards Act for wheat. The percentage of protein would not be a grading factor, but would be additional information offered upon request, similar to protein in wheat. However, unlike wheat, barley is marketed on a moisture free basis when protein content is determined. FGIS therefore requests views and comments on whether the FGIS Instructions should be revised to provide that the protein content of barley be determined upon request of an applicant, and stated on a moisture-free basis.

List of Subjects in 7 CFR Part 810

Export, grain.

Accordingly, it is proposed that 7 CFR Part 810, Subpart B as proposed at 51 FR 35224 be further amended as follows:

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

1. The authority citation for 7 CFR Part 810 continues to read as set forth below:

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

Subpart B—United States Standards for Barley

2. Section 810.201 is revised to read as follows:

§ 810.201 Definition of barley.

Grain that, before the removal of dockage, consists of 50.0 percent or more of whole kernels of cultivated barley (*Hordeum vulgare* L. and *H. distichum* L.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act. The term "barley" as used in these standards does not include hull-less barley or black barley.

3. Section 810.202 is amended by revising paragraphs (c)(1)–(3) and (d) to read as follows:

§ 810.202 Definition of other terms.

* * * * *

(c) *Classes.* * * *

(1) *Six-rowed Barley.* Barley of the six-rowed type with white hulls that contain not more than 10.0 percent of two-rowed barley. This class is divided into the following three subclasses:

(i) *Six-rowed Malting Barley.* Six-rowed barley of a suitable malting type that has 90.0 percent or more of kernels with white aleurone layers; that does not contain barley injured by frost or heat; that is not badly stained or materially weathered, blighted, ergoty, garlicky, infested, or smutty; and that otherwise meets the grade requirements of the subclass Six-rowed Malting Barley.

(ii) *Six-rowed Blue Malting Barley.* Six-rowed barley of a suitable malting type that has 90.0 percent or more of kernels with blue aleurone layers; that does not contain barley injured by frost or heat; that is not badly stained or materially weathered, blighted, ergoty, garlicky, infested, or smutty; and that otherwise meets the grade requirements for the subclass Six-rowed Malting Barley.

(iii) *Six-rowed Barley.* Any barley of the class Six-rowed Barley that does not meet the requirements of the subclass Six-rowed Malting Barley or Six-rowed Blue Malting Barley.

(2) *Two-rowed Barley.* Barley of the two-rowed type with white hulls that contain not more than 10.0 percent of six-rowed barley. This class is divided into the following two subclasses:

(i) *Two-rowed Malting Barley.* Two-rowed barley of a suitable malting type; that does not contain barley injured by mold, frost, or heat; that is not badly stained or materially weathered, blighted, ergoty, garlicky, infested, or smutty; and that otherwise meets the grade requirements for the subclass Two-rowed Malting Barley.

(ii) *Two-rowed Barley.* Two-rowed barley that does not meet the requirements of the subclass Two-rowed Malting Barley.

(3) *Barley.* Barley that does not meet the requirements for the classes Six-rowed Barley or Two-rowed Barley.

(d) *Damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, injured-by-heat, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

* * * * *

4. Section 810.202 (g) and (h) are revised to read as follows:

* * * * *

(g) *Frost-damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are badly shrunken and distinctly discolored black or brown by frost.

(h) *Injured-by-frost kernels.* Kernels and pieces of kernels of barley that are distinctly indented, immature or shrunken in appearance, or that are light green in color as a result of frost before maturity.

* * * * *

5. Section 810.202 (j), (k), (l), (m), and (n), are revised to read as follows:

* * * * *

(j) *Heat-damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are materially discolored and damaged by heat.

(k) *Injured-by-heat kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are slightly discolored as a result of heat.

(l) *Mold-damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are weathered and contain considerable evidence of mold.

(m) *Injured-by-mold kernels.* Kernels and pieces of kernels of barley containing slight evidence of mold.

(n) *Other grains.* Black barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, and wheat.

* * * * *

6. Section 810.202 is amended by removing paragraph (u); redesignating pargraphs (s) and (t) as (t) and (u); and by adding a new paragraph (s) to read as follows:

* * * * *

(s) *Stained barley.* Barley that is badly stained or materially weathered.

* * * * *

7. Section 810.203 and the undesignated center heading preceding it are revised to read as follows:

Principles Governing Application of Standards

§ 810.203 Basis of determination

All other determinations. Each determination of heat-damaged kernels, injured-by-heat kernels, and white are blue aleurone layers in Six-rowed barley is made on pearled, dockage-free barley. Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

8. Sections 810.204, 810.205, 810.206 and the undesigned center heading preceding them are revised to read as follows:

Grades and Grade Requirements

§ 810.204 Grades and grade requirements for the subclasses Six-rowed Malting Barley and Six-Rowed Blue Malting Barley.

Grade [1]	Minimum limits of—			Maximum limits of—				
	Test weight per bushel (pounds)	Suitable malting type (percent)	Sound barley [2] (percent)	Damaged kernels [2] (percent)	Foreign material (percent)	Other grains (percent)	Skinned and broken kernels (percent)	Thin barley (percent)
U.S. No. 1	47.0	95.0	97.0	2.0	1.0	2.0	4.0	7.0
U.S. No. 2	45.0	95.0	94.0	3.0	2.0	3.0	6.0	10.0
U.S. No. 3	43.0	95.0	90.0	4.0	3.0	5.0	8.0	15.0

[1] Six-rowed Malting Barley and Six-rowed Blue Malting Barley may contain: not more than 1.9 percent of injured-by-frost kernels that may include not more than 0.4 percent of frost-damaged kernels; not more than 0.2 percent of injured-by-heat kernels that may include not more than 0.1 percent of heat-damaged kernels; and may contain unlimited amounts of injured-by-mold kernels; however, mold-damaged kernels are scored as damaged kernels and against sound barley limits.

[2] Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels or scored against sound barley.

NOTE: Six-rowed barley that meets the requirements of U.S. No. 1 to U.S. No. 3, inclusive, for the subclasses Six-rowed Malting Barley and Six-rowed Blue Malting Barley is classified and graded according to the requirements in this section. Otherwise, it will be graded according to the requirements in § 810.206.

§ 810.205 Grades and grade requirements for the subclass Two-rowed Malting Barley.

Grade [1]	Minimum limits of—		Maximum limits of—				
	Test weight per bushel (pounds)	Suitable malting types (percents)	Sound barley [2] (percent)	Wild oats (percents)	Foreign material (percent)	Skinned and broken kernels (percent)	Thin barley (percent)
U.S. No. 1 choice	50.0	97.0	98.0	1.0	0.5	5.0	5.0
U.S. No. 1	48.0	97.0	98.0	1.0	0.5	7.0	7.0
U.S. No. 2	48.0	95.0	96.0	2.0	1.0	10.0	10.0
U.S. No. 3	48.0	95.0	93.0	3.0	2.0	10.0	10.0

[1] Two-rowed Malting Barley may contain: not more than 1.9 percent of injured-by-frost kernels that may include not more than 0.4 percent frost-damaged kernels; not more than 0.2 percent of injured-by-heat kernels that may include not more than 0.1 percent of heat-damaged kernels; and not more than 1.9 percent of injured-by-mold kernels that may include not more than 0.4 percent of mold-damaged kernels.

[2] Injured-by-frost kernels and injured-by-mold kernels are not scored against sound barley.

NOTE: Two-rowed barley that meets the requirements of U.S. No. 1 Choice to U.S. No. 3, inclusive, for the subclass Two-rowed Malting Barley is classified and graded according to the requirements in this section. Otherwise, it will be graded according to the requirements in § 810.206.

§ 810.206 Grades and grade requirements for the subclasses Six-rowed Barley, Two-rowed Barley and the class Barley.

Grade	Minimum limits of—		Maximum limits of—	Damaged kernels [1] (percent)			
	Test weight per bushel (pounds)	Sound barley (percent)		Heat-damaged kernels (percents)	Foreign material (percent)	Broken kernels (percent)	Thin barley (percent)
U.S. No. 1	47.0	97.0	2.0	0.2	1.0	4.0	10.0
U.S. No. 2	45.0	94.0	4.0	0.3	2.0	8.0	15.0
U.S. No. 3	43.0	90.0	6.0	0.5	3.0	12.0	25.0
U.S. No. 4 [2]	40.0	85.0	8.0	1.0	4.0	18.0	35.0
U.S. No. 5	36.0	75.0	10.0	3.0	5.0	28.0	75.0

U.S. Sample grade—U.S. Sample grade shall be barley that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(b) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria spp.*), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 8 or more cocklebur (*Xanthuim* spp.) or similar seeds singly or in combination, 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of barley; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Is heating or otherwise or distinctly low quality.

[1] Includes heat-damaged kernels. Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels.

[2] Barley that is badly stained or materially weathered shall be graded not higher than U.S. No. 4.

9. Section 810.207 and the undesignated center heading preceding it are revised to read as follows:

Special Grades and Special Grade Requirements

§ 810.207 Special grades and special grade requirements.

(a) *Blighted barley.* Barley that contains more than 4.0 percent of blight-damaged and/or mold-damaged kernels.

(b) *Ergoty barley.* Barley that contains more than 0.10 percent ergot.

(c) *Garlicky barley.* Barley that contains three or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets in 500 grams of barley.

(d) *Infested barley.* Barley that is infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(e) *Smutty barley.* Barley that has kernels covered with smut spores to give a smutty appearance in mass, or which contains more than 0.2 percent smut balls.

Dated: November 3, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86-26164 Filed 11-19-86; 8:45 am]

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Animal and Plant Health Inspection Service

9 CFR Parts 101, 102, 103, 104, 107, and 114

[Docket No. 86-024]

Viruses, Serums, Toxins, and Analogous Products; Experimental Products and Exempted Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Security Act of 1985 amended the Virus-Serum-Toxin Act of 1913 (VST Act) to give the Secretary of Agriculture jurisdiction over intrastate as well as interstate shipments of animal biologics, subject to certain exemptions. Products which are exported are now also subject to the Act. Under the VST Act, it is unlawful to import or to ship in or from the United States animal biologics that are worthless, contaminated, dangerous, or harmful. It is also unlawful to ship animal biologics which are manufactured within the United States and intended for use in the treatment of animals unless they are prepared in compliance with regulations prescribed by the Secretary in a properly licensed establishment.

The purpose of this proposed rule is to amend the regulations in several respects so that they conform to the 1985 amendments of the Act. It prescribes regulations exempting products prepared by a person for administration to that person's own animals, and products prepared by a veterinarian solely for administration to animals under that veterinarian's client-patient relationship. It also prescribes criteria for exempting from the requirement of preparation pursuant to a license those products which are prepared solely for distribution within the State of production pursuant to an approved State licensing program, and makes other conforming changes.

In order to assure that public concern for the environment, and the health and safety of both humans and animals are properly addressed, this proposed amendment also addresses environmental aspects of the use of biological products, especially those containing live organisms.

DATE: Comments must be received on or before January 5, 1987.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Steven R. Poore, Acting Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6332.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1, and has been classified as a "Nonmajor Rule."

The proposed action would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It would also not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Its purpose is to prescribe procedures and criteria with respect to exemptions and other provisions mandated by the Virus-Serum-Toxin Act, as amended.

Background

In amending the Virus-Serum-Toxin Act of 1913 (VST Act) the Food Security Act of 1985 expanded the Department's authority over veterinary biologics in several respects. Under the amended statute, it is unlawful to ship or deliver for shipment any worthless, contaminated, dangerous, or harmful veterinary biologic intended for use in the treatment of animals anywhere in or from the United States. The preparation

of such products in the District of Columbia, the Territories, or in any place under the jurisdiction of the United States is also prohibited. Previously, intrastate shipments and exports were not subject to the VST Act. It is also unlawful (subject to certain exemptions) to ship veterinary biologics, manufactured within the United States and intended for use in the treatment of animals, in or from the United States, unless they were prepared in compliance with regulations prescribed by the Secretary of Agriculture in an establishment licensed by the Secretary. Products prepared in the District of Columbia, in the Territories, or in any place under the jurisdiction of the United States must be prepared pursuant to a license. The amendment expands the Secretary's rulemaking authority by authorizing the promulgation of any rules and regulations deemed necessary to carry out the purposes of the Act (the main purpose being to prevent the distribution of worthless, contaminated, dangerous or harmful veterinary biologics for use in the treatment of animals, *i.e.*, diagnosis, prevention, and cure of disease). The Secretary is also authorized to inspect any establishment preparing animal biologics at any hour, day or night. Previously, only licensed establishments were subject to such inspection. Additionally, the amended statute contains provisions for detention, seizure, and condemnation of products. It also provides for injunctive relief and penalties for assaulting or resisting Department officials during their performance of official duties under the Act.

The current regulations in 9 CFR 103.3 contain widely used provisions for the interstate shipment of unlicensed biological products for experimental use in domestic animals for the purpose of evaluating such products. These products have been shipped for a variety of reasons, but mainly for field safety studies prior to licensing and release of the products for use in the general treatment of animals. Because of the expanded jurisdiction under the 1985 amendment to the VST Act, this proposed revision would amend § 103.3 of the regulations by deleting the reference to interstate shipments and by adding a provision for exports. This would have the effect of making the provisions of the section applicable to all shipments subject to the Act. The shipment of unlicensed biological products for experimental treatment of animals anywhere in or from the United States would be prohibited without prior authorization by the Deputy Administrator. Requests for authorization would need to be accompanied by information specified in the regulations, including information relevant to the product's effect on the environment. Additional safeguards and tests may be required in the case of products which contain live organisms and which are prepared either through conventional means or through the use of new biotechnology. For the purposes of the VST Act, the term "ship" shall be used in its broadest sense. It shall mean transportation by any means from one place to another and shall be synonymous with delivering for shipment.

Part 104 would be amended by revising § 104.4 pertaining to biological products imported for research and evaluation. Section 104.4(a) would be revised by stating that a permittee may be required to provide any information needed to properly assess an imported product's impact on the environment. Section 104.4(b) would be amended to prohibit any permittee or research investigator from shipping a product, imported under § 104.4, in or from the United States unless authorization to do so is obtained pursuant to the provisions of § 103.3 of the regulations.

The 1985 amendment of the VST Act provides that the Secretary shall exempt by regulation from the requirement of preparation pursuant to a license any animal biologics prepared by a person, firm, or corporation: (1) Solely for administration to animals of such person, firm, or corporation; (2) solely for administration to animals under a veterinarian-client-patient relationship in the course of such person's, firm's, or corporation's practice of veterinary medicine; and (3) solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Secretary to meet certain specified criteria. Certain provisions of the Act would still be applicable to such animal biologics, regardless of whether or not they are exempted from the licensing provisions. Anyone shipping products which are worthless, contaminated, dangerous, or harmful would be subject to the sanctions under the Act, including detention, seizure, and condemnation. A new Part 107 would provide for the exemptions specified in the amendment to the Act. The proposed regulations would include conditions to be met in order to establish a valid veterinarian-client-patient relationship. Such conditions have been established under the Federal Food, Drug, and Cosmetic Act for the purpose of applying the prescription drug restraints and have been accepted by the American Veterinary Medical Association. Veterinarians preparing products subject to the exemption under the Act would be required to maintain and make available for inspection such records as are necessary to establish that a valid veterinarian-client-patient relationship exists. Prior to the shipment of products which contain live organisms and which are prepared either through conventional means or through the use of new biotechnology, persons exempt from licensure would be required to provide any information necessary to determine the products' safety and effect on the environment.

Proposed § 107.2 of the regulations would address the criteria to be met by State licensing programs in order that State licensed products may be eligible for the statutory exemption. This provision of the regulations would specify that appropriate State officials would be responsible for providing the Agency with information to assure compliance with the provisions of the Act. The State officials would be required to identify each manufacturer and each product to be considered for exemption. Provisions for review of procedures used by State regulatory officials and on-site evaluation of facilities and products to be exempted would also be included in the proposed regulations.

The current regulations in 9 CFR 114.2(c) provide that, except for experimental products prepared in compliance with Part 103, no biological products may be prepared in a licensed establishment unless the person holding the establishment license also holds an unexpired, unsuspended, and unrevoked product license for each product. Section 114.2(b) provides that when an establishment license is issued for an interim period not to exceed 4 years, the establishment may continue preparing certain specified unlicensed products provided, that: (a) Such products were prepared in the establishment within the 12-month period prior to issuance of the establishment license; (b) the unlicensed products are not distributed interstate; (c) no new unlicensed products are prepared after issuance of the establishment license; and (d) other specified requirements are satisfied. By the end of the interim licensure period, all products in the establishment must be licensed. The purpose of § 114.2(b) is to give intrastate producers an opportunity to become licensed without being required to immediately remove all intrastate products from their premises.

The VST Act, as amended, requires that all veterinary biologics, except those exempted from licensure by regulation, shipped in or from the United States be produced pursuant to a license. However, the Act provides that products prepared for intrastate distribution or exportation during the 12-month period prior to the enactment of the Act (December 23, 1985) may continue to be produced and sold until January 1, 1990, *Provided,* that, an exemption is claimed by Janury 1, 1987. That exemption may then be extended by the Deputy Administrator for up to 12 months. In light of this provision, § 114.2(b) would continue in effect until January 1, 1990 (or where an exemption is extended, until the exemption expires). Under this proposal, interim licenses would be issued only until that time, and persons wishing to continue producing unlicensed products for intrastate distribution or for export would be required to claim the exemption provided for an § 114.2(d). Only licensed products may be shipped interstate.

Therefore, it is proposed that §§ 114.2(b) and 102.4(h) be amended to provide for interim licensure until January 1, 1990, unless the exemption granted for the unlicensed products produced in the establishment under § 114.2(d) is extended by the Deputy Administrator. In such case, the interim license shall continue until the exemption expires. Also, it would provide that an exemption must be claimed for all unlicensed products by January 1, 1987. Other conforming amendments would also be made.

The definition of research investigator or research sponsor in § 101.2 of the regulations would be amended to conform to the new authority under the Act by deleting reference to "interstate" movement.

List of Subjects in 9 CFR Parts 101, 102, 103, 104, 107, and 114

Animal biologics.

PART 101—DEFINITIONS

Accordingly, 9 CFR Part 101 would be amended as follows:

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

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 101.2 would be amended by revising paragraph (o) to read as follows:

§ 101.2 Administrative terminology.

* * * * *

(o) *Research investigator or research sponsor.* A person who has requested authorization to ship an experimental biological product for the purpose of evaluating such product, or has been granted such authorization.

* * * * *

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

Accordingly, 9 CFR Part 102 would be amended as follows:

1. The authority citation for Part 102 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 102.4 would be amended by revising paragraphs (h)(1) and (h)(2) to read as follows:

§ 102.4 U.S. Veterinary Biologics Establishment License.

* * * * *

(h) * * *

(1) The U.S. Biologics Establishment License issued for an interim period shall expire January 1, 1990, unless an extension for exemption from licensing under the Act of products prepared solely for intrastate shipment or export is granted by the Deputy Administrator pursuant to § 114.2(d)(3). In such case, the licensee may retain the interim license until the exemption period ends.

(2) Prior to the expiration of the interim license, the licensee may request issuance of a license for an indefinite period by application as provided in § 102.3.

* * * * *

PART 103—EXPERIMENTAL PRODUCTION, DISTRIBUTION, AND EVALUATION OF BIOLOGICAL PRODUCTS PRIOR TO LICENSING

Accordingly, 9 CFR Part 103 would be amended as follows:

1. The authority citation for Part 103 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. The title, introductory paragraph, and paragraphs (a) and (c) of § 103.3 would be revised and a new paragraph (h) would be added as follows:

§ 103.3 Shipment of experimental biological products.

Except as provided in this section, no person shall ship or deliver for shipment in or from the United States, the District of Columbia, or any Territory of the United States any unlicensed biological product for experimental use in animals. For the benefit of license applicants and to permit and encourage research, a person may be authorized by the Deputy Administrator to ship unlicensed biological products for the purpose of evaluating experimental products by treating limited numbers of animals, *Provided,* that, the Deputy Administrator determines that the conditions under which the experiment is to be conducted are adequate to prevent the spread of disease and approves the procedures set forth in the request for such authorization. Special restrictions or tests may be imposed when they are deemed necessary or advisable by the Deputy Administrator. A request for authorization to ship an unlicensed biological product for experimental study and evaluation shall be accompanied by the following:

(a) One copy of permit or letter of permission from the proper State or foreign animal health authorities of each State or foreign country involved.

(b) * * *

(c) Two copies of a description of the product, recommendations for use, and results of preliminary research work.

* * * * *

(h) Any information the Deputy Administrator may require in order to assess the product's impact on the environment.

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

1. The authority citation for Part 104 continues to read as follows:

Authority: 21 U.S.C. 151–159; 37 Stat. 832–833.

2. Section 104.4 would be amended by revising paragraphs (a) and (b) to read as follows:

§ 104.4 Products for research and evaluation.

(a) An application for a U.S. Veterinary Biological Product Permit to import a biological product for research and evaluation shall be accompanied by a brief description of such product, methods of propagating antigens including composition of medium, species of animals or cell cultures involved, degree of inactivation or attenuation, recommendations for use, and the proposed plan of evaluation. The applicant shall also provide any information the Deputy Administrator may require in order to assess the product's impact on the environment.

(b)(1) A permit to import a biological product for research and evaluation shall not be issued unless the scientific capabilities of the investigator are determined to be adequate to safeguard domestic animals and protect public health, interest, or safety from any deleterious effects which might result from use of such product. Special restrictions or tests may be specified as

part of the permit when they are deemed necessary or advisable by the Deputy Administrator.

(2) No person shall ship a product imported under this section for research and evaluation anywhere in or from the United States unless authorized by the Deputy Administrator in accordance with the provisions of § 103.3.

* * * * *

Accordingly, Chapter I, Subchapter E, of 9 CFR is amended by adding a new Part 107 to read as follows:

PART 107—EXEMPTIONS FROM PREPARATION PURSUANT TO AN UNSUSPENDED AND UNREVOKED LICENSE

Sec.

107.1 Veterinary practitioners and animal owners.

107.2 Products under State license.

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

§ 107.1 Veterinary practitioners and animal owners.

Products prepared as provided in paragraphs (a) and (b) of this section shall be exempt from preparation pursuant to an unsuspended and unrevoked license. The shipment of any such exempted products which are worthless, contaminated, dangerous, or harmful is prohibited, and any person shipping such products shall be subject to sanctions under the Act. Persons exempt from licensure under this part shipping products which contain live organisms shall provide any information the Deputy Administrator may require in order to assess the products' safety and effect on the environment. Such products shall not be shipped or delivered for shipment anywhere in or from the United States if they are worthless, contaminated, dangerous, or harmful.

(a)(1) Products prepared by a veterinary practitioner (veterinarian) solely for administration to animals in the course of a State licensed professional practice of veterinary medicine by such veterinarian under a veterinarian-client-patient relationship shall be exempt from licensing under the Act and regulations. Such a relationship is considered to exist when:

(i) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and the client (owner or other caretaker) has agreed to follow the instructions of the veterinarian; and when

(ii) There is sufficient knowledge of the animal(s) by the veterinarian to initate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept; and when

(iii) The practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen.

(2) veterinarians preparing products subject to the exemption for products under this section shall maintain and make available for inspection by Veterinary Services representatives or other Federal employees designated by the Secretary such records as are necessary to establish that a valid veterinarian-client-patient relationship exists and that there is a valid basis for the exemption under this section.

(b) Products prepared by a person solely for administration to animals owned by that person shall be exempt from the requirement that preparation be pursuant to an unsuspended and unrevoked license.

§ 107.2 Products under State license.

(a) The Deputy Administrator shall exempt from the requirement of preparation pursuant to an unsuspended and unrevoked license, any biological product prepared solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Deputy Administrator to be consistent with the intent of the Act to prohibit the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful biological products.

(b) A request for exemption under this section must be made by the appropriate State authority and shall include information demonstrating that:

(1) The State has the authority to license viruses, serums, toxins, and analogous products and establishments that produce such products; and

(2) The State has the authority to review the purity, safety, potency, and efficacy of such products prior to release to the market; and

(3) The State has the authority to review product tests results to assure compliance with applicable standards of purity, safety, and potency prior to release to the market; and

(4) The State has the authority to deal effectively with violations of State law regulating viruses, serums, toxins, and analogous products; and

(5) The State effectively exercises the authority specified in paragraphs (b) (1) through (4) of this section consistent with the intent of the Act prohibiting the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful viruses, serums, toxins, or analogous products.

(c) Each product to be exempted and each establishment preparing such product shall be identified by the State and the State shall give written notification to the Deputy Administrator of each such product and establishment. The State shall also give written notice to the Deputy Administrator of each new license issued and of each license terminated.

(d) In order to determine whether a State exercises its authority with respect to biological products and establishments and whether its laws and regulations are being achieved, the Deputy Administrator, in cooperation with proper State authorities, may conduct an on-site evaluation of the State's program which may include inspection of establishments and/or products to be included under the exemptions in this section.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Accordingly, Part 114 would be amended as follows:

1. The authority citation for Part 114 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 114.2 paragraphs (b) introductory text, (b)(1) and (c) would be revised and paragraph (b)(9) would be added to read as follows:

§ 114.2 Products not prepared under license.

* * * * *

(b) An establishment license may be issued for an interim period not to extend longer than January 1, 1990. The establishment may continue preparing certain specified unlicensed biological products with the permission of the Deputy Administrator; *Provided,* that:

(1) Such unlicensed products had been prepared in the establishment within the 12 months prior to December 23, 1985.

* * * * *

(9) An exemption has been claimed for the unlicensed products produced in the establishment pursuant to § 114.2(d) of this subchapter.

(c) Except as provided in Part 103 and § 114.2(b), a biological product shall not be prepared in a licensed establishment unless the person to whom the establishment license is issued holds an unexpired, unsuspended, and unrevoked product license issued by the Deputy

Administrator to prepare such biological product, or unless the products prepared are subject to the provisions of § 107.2 of this subchapter.

Done at Washington, DC, this 17th day of November 1986.

John K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-26166 Filed 11-19-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-214-AD]

Airworthiness Directives: Boeing Model 737 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require modification of the aft airstair operating handle detent plate on certain Boeing Model 737 airplanes to reduce the aft airstair operating handle loads. A previous modification of these airplanes can cause handle operating forces to become excessive, thereby jeopardizing successful evacuation of the airplane.

DATES: Comments must be received on or before January 12, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-214-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-1932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-214-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Boeing Service Bulletin 737-52-1083, dated June 4, 1982, describes a modification to the aft airstair deployment handle mechanism to increase the force required to move the handle from the normal open to the emergency open position. The modification was developed to reduce inadvertent emergency mode operation. However, during certification testing, it was discovered that the modification may result in handle forces exceeding 100 pounds. Since the handle motion is downward, persons weighing less than 100 pounds would have difficulty operating the handle. In addition, the force required might mislead others, who could otherwise open the door, to believe the handle was jammed and to abandon the exit. In either case, the successful evacuation of the airplane could be jeopardized. A maximum force of 78 pounds, measured in accordance with Figure 7. of Boeing Service Bulletin 737-52-1083, Revision 1, November 12, 1982, has been found acceptable by the FAA.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require further modification of the aft airstair deployment handle to reduce operating forces which might be unacceptably high and might jeopardize the success of an emergency evacuation.

It is estimated that approximately 35 airplanes of U.S. operators would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Modification parts are estimated at $200 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $12,600.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.15 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737 airplanes, equipped with an aft airstair on which the detent plate modification described in Boeing Service Bulletin 737-52-1083, dated June 4, 1982, or later revisions, has been incorporated; certificated in any category. Compliance is required within one year after the effective date of this AD.

To ensure usability of the aft airstair exit in the event of an emergency evacuation,

accomplish the following, unless previously accomplished:

A. Remove the aft airstair operating handle detent plate which has been modified in accordance with Boeing Service Bulletin 737-52-1083, and install an unmodified Boeing P/N 65-60510-1 aft airstair operating handle detent plate.

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

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

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

Issued in Seattle, Washington, on November 13, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-26137 Filed 11-19-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-200-AD]

Airworthiness Directives: British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require periodic inspection, and repair or replacement, as necessary, of the keel beam lateral diaphragm assembly on all Model BAC 1-11 200 and 400 series airplanes. This action is prompted by reports of cracks in the radii of the flanges of the keel beam lateral diaphragms attached to the keel beam structure immediately below the saddle bracket. This condition, if left uncorrected, could result in a situation where the keel structure cannot carry design loads.

DATES: Comments must be received no later than January 12, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-200-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-200-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on Model BAC 1-11 200 and 400 series airplanes. There have been reports of cracks in the radii of the flanges of the keel beam lateral diaphragms attached to the keel beam structure immediately below the saddle bracket. This condition, if not detected and corrected, could lead to significant damage to the saddle bracket and the inability of the keel structure to carry design loads.

British Aerospace has issued BAC 1-11 Alert Service Bulletin 53-A-PM5918, dated May 6, 1986, which describes procedures for repetitive inspections for cracks in the saddle bracket diaphragms, closing plate, and web angles, and replacement or repair, as necessary, if cracks are found. The CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection and repair or replacement, as necessary, in accordance with British Aerospace BAC 1-11 Alert Service Bulletin, 53-A-PM5918, dated May 6, 1986.

It is estimated that 60 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required inspection, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,800.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(9) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1–11 200 and 400 series airplanes, certificated in any category. Compliance is required prior to the accumulation of 12,000 landings, or within the next 1,500 landings after the effective date of this AD, whichever occurs later.

To prevent failure of the keel structure to carry design loads due to structural crack propagation in the keel beam lateral diaphragm, accomplish the following, unless previously accomplished:

A. Inspect, and repair or replace, as necessary, the keel beam lateral diaphragm assembly in accordance with BAC 1–11 Alert Service Bulletin 53–A–PM5918, dated May 6, 1986.

B. Repeat the requirements of paragraph A., above, at intervals not to exceed 3,600 landings.

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

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 13, 1986.

Wayne T. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86–26136 Filed 11–19–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–NM–208–AD]

Airworthiness Directives: McDonnell Douglas Model DC–9–10, –20, –30, –40, –50, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and C–9 (Military) series airplanes, which requires ultrasonic inspections of the wing flap hinge fitting attachment studs in accordance with a referenced service bulletin. This proposal would revise the AD to permit the use of later FAA-approved revisions to the applicable service bulletin.

DATE: Comments must be received no later than January 8, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (ATTN: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–208–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. John Cecil, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–208–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The FAA issued AD 79–03–01, Amendment 39–3403 (44 FR 5644), on January 17, 1979, to require repetitive ultrasonic inspections for cracking of wing flap hinge fitting studs at wing station X=333.148 on McDonnell Douglas DC–9 series airplanes, and replacement of cracked attachment studs. The AD was prompted by reports of cracked studs, attributed to fatigue. AD 79–03–01 specifically indicates that McDonnell Douglas Service Bulletin 57–118, dated November 4, 1977, is the only version of the service bulletin to be used for the accomplishment of the inspection and replacement procedures required by the AD.

FAA has reviewed and approved Revision 1 to McDonnell Douglas Service Bulletin 57–118, dated August 19, 1986, which provides additional procedures for inspecting certain wing flap hinge fitting attachment studs.

An amendment to AD 79–03–01 is being proposed to permit the use of both the original issue of McDonnell Douglas Service Bulletin 57–118 and later FAA-approved revisions to accomplish the requirements of AD 79–03–01.

This proposed AD would not increase the economic burden for any operator, since neither the applicability, the time intervals between inspections, the number of manhours to accomplish the modification, nor the parts used to accomplish the inspection, would be

changed from that required by the existing AD.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–9 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By amending AD 79–03–01, Amendment 39–3403 (44 FR 5644) as follows:

A. Change the words ". . . Douglas DC–9 Service Bulletin 57–118 dated November 4, 1977," found in paragraphs (a), (b)2, and (b)4, to read: ". . . McDonnell Douglas DC–9 Service Bulletin 57–118, Revision N.C., dated November 4, 1977, or later FAA-approved revision."

B. Delete the note found in section (a), which reads: "*NOTE:* Service Bulletin 57–118, dated November 4, 1977, is the only version of this Service Bulletin suitable for compliance with paragraphs (a) and (b) of this AD."

C. Change the words ". . . Chief, Aircraft Engineering Division, FAA Western Region," found in paragraphs (d) and (e), to read: ". . . Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

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

Issued in Seattle, Washington, on November 12, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–26139 Filed 11–19–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 271

[Docket No. RM87–5–000]

Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines

Issued: November 14, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission is issuing a notice of inquiry to investigate allegations of anticompetitive activity related to the relationship between interstate pipelines and their marketing affiliates. The notice of inquiry is intended to elicit constructive discussion on how to ensure competitive business practices by pipelines and their marketing affiliates in the natural gas sales and transportation markets. The notice of inquiry solicits comments on the Commission's legal authority to regulate pipeline-affiliated marketers, and the relevance of antitrust law toward this end. The notice also seeks comment on any evidence of unduly discriminatory transportation rates and conditions, capacity preferences, cross-subsidization, use of insider information, and the assignment of a pipeline's merchant function to an affiliated marketer. Commenters are also asked to discuss possible remedies, if the evidence ultimately discloses the actual existence of undue discrimination by interstate pipelines and their marketing affiliates. The notice invites all interested persons to participate in the inquiry and to bring to the Commission's attention any other matter which they believe will be useful to this inquiry.

DATES: Written comments must be received on or before December 29, 1986; an original and 14 copies should be filed.

ADDRESS: All comments should refer to Docket No. RM87–5–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8224.

SUPPLEMENTARY INFORMATION:

[Docket No. RM87–5–000][1]

Notice of Inquiry

November 14, 1986.

I. Introduction

The Federal Energy Regulatory Commission is initiating an inquiry into the effects on competition in natural gas markets of certain pipeline business practices involving marketing affiliate relationships that have been alleged to have an anticompetitive impact.

The Notice of Inquiry (NOI) will focus on potential anticompetitive activity related to the alleged abuse of a pipeline's relationship with marketing affiliates.[2] It is intended as a broad inquiry into pipeline marketing affiliate practices, and the potential anticompetitive activities related to preferential advantages granted to the pipeline's marketing affiliate in transactions involving the natural gas sales and transportation markets.

II. Background

A. Changes in Industry Structure

The maturing of the natural gas industry and the phased removal of wellhead pricing under the Natural Gas Policy Act of 1978 (NGPA) have brought major changes to the natural gas

[1] This notice of inquiry is being initiated in Docket No. RM87–5–000, and subsumes the interstate pipeline-marketing affiliate issues raised in the existing docketed petitions for rulemaking on these issues of Hadson Gas Systems, Inc. in Docket No. RM86–19–000, the Minnesota Department of Public Service in Docket No. RM87–1–000, and Shell Gas Trading Company in Docket No. RM87–2–000; those petitions are noticed herein. Answers already filed in the previously assigned dockets and related to interstate pipeline-marketing affiliate issues will be considered under Docket No. RM87–5–000. The Commission wishes to make clear that all interstate pipeline-marketing affiliate issues raised by Hadson, Minnesota, and Shell, even if not specifically referred to in the NOI text, are open for comment by any interested person.

[2] This is intended to include affiliated marketers of interstate pipelines only. It is not an inquiry into the affiliated entities limitation under section 601(b)(1)(E) (1982). The Commission states, however, that pending "affiliated entities test" cases (e.g., Tennessee Gas Pipeline Co., Docket No. TA82–2–9–000 *et al.*) will go forward and be dealt with by separate orders in those cases. In other words, no delay will be caused for those cases by the NOI.

industry over the past decade. The primary change has been the evolution of natural gas into a distinct economic commodity, separate from transportation, storage, and other related services. This change was in large part engendered by the decision of Congress in the NGPA to remove both price and non-price regulation from most first sales of natural gas (*see* NGPA sections 121 and 601(a)(1)). The result has been the evolution of a competitive spot market for gas, with brokers, marketers and producers competing for sales, often without the requirement of prior regulatory approval as to market entry, exit, or price. In addition, the development of a nationwide pipeline grid provides nationwide access to gas supplies, so long as there is non-discriminatory access to transportation facilities.

Order Nos. 380,[3] 436,[4] and 451 [5] responded to these changed conditions in the natural gas industry. These orders were intended to remove certain barriers to competition, to further access to non-discriminatory transportation and to enhance the environment for market-responsive pricing.

Within this new environment, there has been increasing attention to the fact that many major pipelines are part of an integrated matrix of vertically and/or horizontally integrated companies. More specifically, attention has been directed by segments of the natural gas industry in claims filed with the Commission to potentials for abuse by interstate pipeline companies and their marketing affiliates, given the monopolistic nature of the transportation network in many areas.

The Commission has previously considered that possibility. In Order No. 436, for example, the Commission found that preference for affiliates was undue discrimination.[6] It indicated that "transportation tariffs, terms and conditions, including but not limited to prices, minimum volume or operational requirements, or schedules that are designed to favor pipeline affiliates over non-affiliated shippers are preferential or unduly discriminatory practices".[7] Also, in regard to selective discounting, the Commission established reporting requirements designed to limit the potential for affiliate transaction abuse, and required identification of the spread between chargeable and actually charged rates for shippers, and identification of any corporate affiliation with the shipper. *See* 18 CFR 284.7(d)(5). Broadly construed, these guidelines were intended to define the prohibited conduct, and to determine that the abuse of market power to influence the gas markets would not be tolerated.

Allegations of discrimination too subtle to be prevented even by these guidelines, however, have been made in the specific cases listed in section II.B below, as well as in petitions for rulemaking filed by Hadson Gas Systems, Inc., in Docket No. RM86–19–000, the Minnesota Department of Public Service, Energy Issues Intervention Office (EIIO), in Docket No. RM87–1–000, and Shell Gas Trading Company, (Shell), in Docket No. RM87–2–000. In light of these allegations and the further changes impending as a result of Order No. 451, the Commission has determined to issue this Notice Docket No. RM87–5–000 of Inquiry to ascertain whether the potentials for abuse reflected in the petitions and existing cases are actual anticompetitive barriers that should be remedied in a generic rule.

The Commission wishes to emphasize that its decision to issue this Notice is not intended and should not be construed as any retreat from its current commitment to pursue promptly and vigorously allegations of undue discrimination involving affiliated companies as it has done in the existing cases described in the next section. The Commission will continue to have several options for responding to affiliate discrimination issues, such as those raised by EIIO, Hadson, Shell and others, as well as the Commission on its own motion. These options include individual cases, enforcement investigation and rulemaking in addition to this Notice of Inquiry.

B. Some Cases With Marketing Affiliate Issues

The potential for pipeline affiliate abuse has already been alleged in actual disputes that have arisen in several cases. Some examples include *Northern Natural Gas Company*, Docket No. RP82–71–000 *et al.*, 20 DERC ¶ 61,040 (1982), where affiliate Enron allegedly required Northern Natural to modify its gas acquisition guidelines in order to maximize parent-company profits, which meant Northern could not pursue a least-cost gas acquisition policy for its customers; *Mountain Fuel Resources, Inc.*, Docket No. RP86–87, 36 FERC ¶ 61,150 (1986), and *ANR Pipeline Company*, Docket No. RP86–105, 35 FERC ¶ 61,400 (1986), where technical conferences were convened to Docket No. RM87–5–000 examine assertions of discriminatory transportation in favor of affiliates; and *Independent Petroleum Association of Mountain States (IPAMS)* v. *Panhandle Eastern Pipe Line Company*, Docket No. CP86–584, 36 DERC ¶ 61,282 (1986), where a hearing was ordered on allegations that Panhandle Eastern gave insider information to its marketing affiliate. Other cases include the *Southern Natural Gas Company* (SONAT) NGA section 7(c) case in Docket Nos. CP86–277–001 *et al.*, 36 FERC ¶ 61,275 (1986), related to its transportation policy and whether it was discriminatory, and *Texas Gas Transmission Corporation*, Docket No. CP86–349–001, 36 FERC ¶ 61,274 (1986), in which the Commission also required a log be kept of requests for transportation and their disposition as it did in the SONAT case. There are also several pipeline limited term abandonment (LTA) cases, with non-discriminatory requirements required by the Commission for released gas and program operation.[8] Although the Commission does not intend generally to defer action on pending cases or enforcement matters simply on the basis of the NOI, it has decided, by separate order, to stay the proceedings in *Tenngasco Corporation, et al.*, Docket No. CI86–168–000. As stated in that order, in light of the conflicting interpretations surrounding the intended scope of that proceeding the Commission has stayed that proceeding pending further consideration of the matter and its ruling on the motions of Tenngasco and Nagasco for reconsideration and rehearing.

III. Discussion

The Commission's objective in this Notice is to elicit constructive discussion on how to ensure competitive business practices in the natural gas sales and transportation markets by pipelines and their marketing affiliates. The Commission solicits general comments related to the issues already outlined and discussed further below, as

[3] 49 FR 22778 (1984), FERC Stats. & Regs. [Regs. Preambles 1982–1985] ¶ 30,571.

[4] 50 FR 42408 (1985), FERC Stats. & Regs. [Regs. Preambles 1982–1985] ¶ 30,665.

[5] 51 FR 22168 (1986), FERC Stats. & Regs. ¶ 30,700.

[6] *See* 50 FR 42425 (Oct. 18, 1985).

[7] *Id.* at 42,434.

[8] *See e.g., Arkla Exploration Co.*, Docket No. CI86–376–000 *et al.*, 37 FERC ¶ 61,011 (1986), which stresses that as the Commission indicated in previous "LTA" orders, such certificates are conditioned on releasing program gas equally for all producer-suppliers and administering such LTA programs in a non-discriminatory manner. *See also Southern Natural Gas Company*, Docket No. CI86–371 *et al.* ("Southern shall offer to enter into releases and administer the program with all its producer-suppliers in a non-discriminatory manner. . . .") 36 DERC ¶ 61,401 at 62,014 (1986); *Tennecon Oil Co., et al.*, Docket No. CI86–254–000 *et al.* ("Under the Natural Gas Act Tennessee is required to release gas in a non-discriminatory manner. . . .") 36 FERC ¶ 61,399 at 62,006 (1986).

well as answers to specific questions which the Commission believes will assist it in providing a generic solution, if needed, for these alleged problems. In addition, commenters are encouraged to bring to the Commission's attention any other matter which they believe will be useful to this Inquiry.

A. General Subjects on Which Comments are Solicited

1. The Commission's Legal Authority

The Natural Gas Act [9] and related case law prohibit any "undue discrimination." When similarly situated customers are accorded significantly different treatment, the regulated company must demonstrate the basis for discrimination. *Public Service Co. of Indiana* v. *FERC*, 575, F.2d 1204, 1213 (7th Cir. 1978)). In examining allegedly anticompetitive restrictions, the Commission has also adopted the "least competitively restrictive alternative test" which requires consideration of (1) any negative restrictions on competition and (2) the scope and duration of the restrictions, (3) whether an advantage to the public interest exists, (4) whether any alternative courses of action are available, and (5) if there are no alternatives, whether the offending provision is severable. *City of Huntingburg* v. *FPC*, 498 F.2d 778 (D.C. Cir. 1974). The Commission solicits comments on the application of these legal principles to this inquiry.

Shell raises the issue of whether a pipeline marketing affiliate's sales are "first sales" under section 2(21) of the NGPA. Section 601 of the NGPA provides that the Commission's jurisdiction under the NGA will not apply to "first sales" which occur after December 1, 1978 which were not "committed or dedicated to interstate commerce" prior to November 9, 1978, or to NGPA sections 102(c), 103(c) or 107(c)(1–4) gas. Section 2(21) provides that a first sale is generally "any sale of any volume of natural gas—(i) to any interstate pipeline or intrastate pipeline; (ii) to any local distribution company; (iii) to any person for use by such person;" and (iv) any sale which precedes any of these sales, or which follows such sales, were defined as such by the Commission to avoid circumvention of maximum lawful prices. Section 2(21)(B) provides that the sales just described do not include "the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes . . . produced by such . . . pipeline, or local distribution company, or any affiliate thereof." 15 U.S.C. 3301(21). The Commission seeks comments on the proper construction of section 2(21) and 601 of the NGPA with respect to the regulation of pipeline affiliate marketers.

The Commission also seeks comments on whether the definition of "affiliate" in NGPA section 2(27) should be used in these proceedings, or whether other criteria for affiliation should be adopted. (*E.g.* an analogy from securities law could be used, where a 10% ownership interest in an entity is conclusive as to an affiliate relationship.) Lacking any special definition for "affiliate" for this proceeding, the NGPA definition would provide that "[T]he term 'affiliate', when used in relation to any person, means another person which controls, is controlled by, or is under common control with, such person." 15 U.S.C. 3301(27) (1982).

2. Relevance of Antitrust Law

Legal precedent indicates that antitrust concepts are involved in determining whether an action is in the public interest and that the Commission, though not bound by antitrust laws, "is obliged to weigh antitrust policy." *Northern Natural Gas Co.* v. *FPC*, 399 F.2d 953, 958 (1968). Specifically, petitioner Hadson has suggested that the following antitrust principles may be relevant to this Notice of Inquiry:

(1) Section 2 of the Sherman Act prohibits monopolization, which consists of the *power* to fix prices or to exclude competition. *Attempts* to monopolize are also proscribed by section 2 of the Sherman Act.

(2) Refusals to deal by one possessing monopoly power in one market in order to obtain monopoly "leverage" in *another* market are also forbidden. *See Otter Tail Power Co.* v. *United States*, 410 U.S. 366 (1973). The "essential facilities doctrine" relates to a type of refusal to deal where access is denied to an essential facility, creating a "bottleneck." Liability arises if the following elements are present: (a) Control of the essential facility by a monopolist, (b) a competitor's inability practically or reasonably to duplicate the essential facility, (c) the denial of the use of the facility to a competitor, and (d) the feasibility of providing access to the facility.

(3) Contracts, combinations, and conspiracies in restraint of trade are *per se* violations of section 1 of the Sherman Act, even without any specific intent to do so.

(4) Another *per se* violation is the "tying" arrangement, whereby a seller conditions the sale of a product or service on the buyer's purchase of a separate product or service (the "tied" product) from the seller. Such tie-ins are prohibited by section 1 of the Sherman Act and section 3 of the Clayton Act.

(5) Other *per se* violations include joint refusals to deal or group boycott, and territorial and customer market allocations.

(6) Even if not *per se* illegal, other agreements can violate section 1 of the Sherman Act if they are *unreasonable* restraints of trade. Thus, dealing arrangements which create unreasonable conditions for entry into the market in which the affiliated purchaser deals would violate section 1 of the Sherman Act. A rule of reason analysis is used in such cases. To evaluate activities under the rule of reason standard it must be determined whether the activities are intended to effect some legitimate business purpose of whether the primary thrust of the agreement is to produce an adverse effect upon competition. Commenters are encouraged to indicate the proper application of these (or other) antitrust principles to the subject of the inquiry.

3. Discriminatory Transportation Rates and Conditions

Undue discrimination allegedly may arise if the pipeline abuses its ability to provide flexible transportation rates under Order No. 436. By selectively "flexing" a higher or lower rate to an affiliated shipper, both EIIO and Hadson allege that a pipeline may be able to assure a sales market or ascertain capacity for the pipeline's marketing affiliate. Although Order No. 436 requires data on selectively discounted transportation rates, as described *supra*, it has been argued that this data may need to be supplemented with new regulatory requirements in order to prevent certain anticompetitive actions under all circumstances.

For example, EIIO argues that the Order No. 436 reporting data may not reach the situation where a pipeline imposes excessive balancing penalties that unaffiliated shippers cannot risk paying. An affiliated shipper would arguably run no real risk of paying the identical penalty, however, because any balancing penalty would only cause an "in-house" transfer of funds from the broker to the pipeline to the holding company.

Another possibility that has been brought to the Commission's attention by EIIO is that pipelines may report identical discount rates for affiliates and non-affiliates but attach different conditions (for example, a longer term) for affiliates. Such more favorable

[9] 15 U.S.C. 717c(b) (1982).

conditions need not be reported under the current regulations. (Or, alternatively, the pipeline could charge high rates that it is no burden for the affiliate to pay "in-house".) Another transaction EIIO asserts may evade detection would occur where a shipper purchases gas from an affiliated broker or producer, and then arranges its own transportation with the pipeline. In turn, it is intimated that the pipeline, knowing the shipper's gas source, may preferentially offer the shipper a flexed discount rate as an inducement to continue purchasing from the affiliate.

4. Capacity Preferences

The affiliated pipeline/marketer relationship also presents the potential for abuse of the Commission's first-come, first serve principle of capacity allocation for both firm and interruptible transporation.

The reservation charge is designed to allocate firm transportation service to those willing to pay the charge on a first-come, first-serve basis. This reservation fee is intended to deter overbooking of unneeded capacity. Overbooking, however, may not be deterred in the case of affiliated marketers. In effect, these marketers may costlessly overbook firm transportation capacity because any reservation fee would only cause an "in-house" transfer of funds from the marketer to the pipeline. Overbooking in this fashion may prevent other parties from obtaining firm transportation service although they place greater value on this service than the marketing affiliate.

Another potential abuse is the potential reselling of the overbooked firm transportation service or capacity by the marketer. Should a marketing affiliate hold title to a significant portion of unneeded capacity, it may seek to resell this capacity. It is unclear whether the price it obtains for this capacity would be regulated. If this were unregulated, the monopoly profits pipeline regulation is intended to prevent would then simply be shifted to the unregulated marketing affiliate.

The marketing affiliate may also be given undue preference in the allocation of interruptible service. This would occur as the pipeline's queue is stacked in favor of the marketing affiliate, giving it a higher value of service than others lower in line, especially if a last-on, first-off policy is also employed.

5. Release Preferences

The potential for marketing affiliate abuse can also be extended to the treatment of released gas. By controlling release of the gas to affiliated marketers only, a holding company may obtain these economic benefits to the exclusion of other marketers at the cost of increased prices for the pipelines' firm customers.

6. Cross-Subsidization

Where affiliated firms have centralized operating systems, and share common use of facilities and personnel, these common costs must be allocated among the separate firms. To the extent more of these operating costs can be allocated to the regulated firm, the unregulated firm (in this case, the marketing affiliate) can reduce its price, increase its sales, and increase the overall rate of return to the parent company. Comments are sought on whether this ordinarily beneficial centralization and efficient use of resources should be limited because of possible monopolistic misuse.

7. Insider Information

The use of "insider information" can result in discrimination against non-affiliated marketers. For example, where an affiliated marketer assertedly knows the available capacity levels at various locations within a pipeline system, petitioners Hadson and EIIO have argued that it can then determine a viable transportation route acceptable to the pipeline, while a competitor without this "inside information" may be unable to do so.

The pipeline's marketing affiliate unavoidable may have information on availability or nonavailability of pipline receipt points. This information may make it easier for the marketing affiliate to arrange a sale and successfully route the gas to its customer, according to petitioners Hadson and EIIO.

One possible means of alleviating the insider information problem, if it exists, is to prohibit the sharing of employees and offices between the pipline and its gas marketing affiliate, and to make equally available to all potential shippers simultaneously all information, including operational and localized capacity constraints, required to obtain transportation from the pipeline. Other remedies suggested by petitioners include further refined regulation or possibly requiring total divestiture of the marketing affiliate.

Petitioner Hadson also describes a scenario where pipelines require a marketer-shipper to disclose the entire upstream route of the gas proposed for transportation. This may limit the flexibility of the shipper to make alternative arrangements in the face of pipeline operational problems, to which only an affiliated marketing company would be privy. In the hands of a pipeline with a monopoly over transportation, Hadson argues that such requirements, while ostensibly innocent, can be used to exclude competition. Comments are sought on these issues.

8. Marketing Affiliate Assumption of Pipeline Merchant Role

Shell is concerned that there is a potential that a pipeline could transfer all of its gas purchase and sales operations, including all existing purchase and sales contracts, to a marketing affiliate. If this happens, there is a potential that the pipeline could become an open-access transporter under Order No. 436 without the overall corporate organization being subject to the contract demand conversion/reduction requirements of the Order. This would occur because the pipeline itself no longer has sales contracts with customers. Comments are requested on the extent to which this potential evasion of an Order No. 436 requirement is likely to occur in practice. Also, giving up capacity allocation responsibility to a marketer may offer other opportunities for evasion by a pipeline of its statutory and regulatory obligations. The Commission solicits comments on whether there are legal, economic, or other realities that would either prevent or promote such action by pipelines. What options does the Commission have to prevent, limit, or condition such action by pipelines? Are there other ways that affiliates can be used to avoid the requirements of Order No. 436? What are the Commission's options for dealing with these actions?

9. Remedies

The Commission also seeks comments on what the remedies should be once a finding of undue discrimination or anticompetitive behavior is made. Particularly in the market at the very least need certain information to be made public by the pipeline or its marketing affiliate so they know when they have been discriminated against and so they will have data available to make out a *prima facie* case. Exactly what additional data should be made public is one of the subjects of this Notice of Inquiry. Furthermore, there must be a threat of strong penalties to restrain anticompetitive behavior, if, in fact, barriers to competition are being created by pipelines and their affiliated marketing companies. The Commission seeks comment on remedial options under the NGA, NGPA, antitrust law, or other authority.

Commenters are encouraged to offer discussions of a range of possible remedies to the potential marketing

affiliate problems discussed above. The scope of these remedies could range from a "no-action" alternative that would rely entirely on the operation of the market, to a combination of market forces aided by minimum reporting requirements, to a "cost-based" monitoring of marketing affiliates, to divestiture of marketing affiliates as contrary to the public interest, or a requirement that they merge into the pipeline entity, or be deemed part of the pipeline entity, for NGA and other purposes.

Discussions of possible solutions should consider whether the proposed remedy reasonably assures the elimination of the abuse or tendency towards the alleged anticompetitive behavior in furtherance of the public interest. In other words, the Commission solicits proposed remedies to alleged problems that effectively promote competition while not attempting to punish. *See U.S.* v. *E.I. DuPont de Nemours & Co.*, 366 U.S. 316, 326–28 (1961).

B. Specific Questions for Response by All Commenters

The Commission believes responses to the following specific questions will be helpful in assessing the extent of the alleged anticompetitive barriers that are the subject of the Notice of Inquiry. These questions are asked *in addition to* comments solicited on the issues raised in the preceding discussion. In other words, interested persons are being asked to respond to *both* the preceding issues discussion and the questions posed for comment therein, *and* the questions listed below.

1. Which, if any, of the above-mentioned anticompetitive and discrimination concerns can be reduced to insignificance by increased competition among pipelines? Which ones will not be ameliorated by increased competition? Which ones will be worsened by competition?

2. What measures should the Commission develop to gauge the intensity of competition for gas and for transportation in particular markets?

3. What measures of economic performance should the Commission develop to gauge the efficiency of the natural gas pipeline industry, of individual pipelines, and of the system of regulation of pipelines?

4. Should the Commission impose jurisdiction over marketing affiliates of pipelines? If so, for determining accounting standards only, for determining accounting standards and information reporting requirements as needed from time to time, or for any other purpose?

5. Should the Commission develop and make extensive use of per se rules in regulating pipeline market structure and/or pipeline conduct, or should it rely primarily on case-by-case adjudication and rules of reason?

6. In particular, should the Commission adopt a per se rule that:

(a) Marketing affiliates of pipelines and pipelines must be separately incorporated.

(b) No person shall hold a position as employee and/or board member of both the pipeline and its marketing affiliate organizations.

(c) Marketing affiliates not be permitted access to the affiliated pipeline.

7. What definition of "anticompetitive behavior," "preferential treatment," "undue discrimination," and "affiliate" should be adopted for the purposes of this NOI?

8. What instances can be documented of actual or suggested preferential treatment to producers or customers who utilized an affiliated marketer?

9. Are there instances of pipelines and marketing affiliates lending natural gas to each other and other actions which relieve the affiliate of the same balancing requirements applicable to non-affiliated marketers or which provide the affiliate with gas on a preferential basis?

10. Have pipelines provided discounts through affiliated marketing entities to avoid application of the Commission's regulations regarding undue discrimination in transportation rates?

11. Should an expedited complaint procedure be established to facilitate redress for non-affiliated marketers of anticompetitive injury at the hands of pipelines and their marketing affiliates? How should such a procedure be structured?

12. What standards could the Commission impose in its regulations to promote arm's-length transactions between pipelines and their marketing affiliates?

13. What are the discriminatory, antitrust, or other implications of a pipeline assigning its sales contracts to its non-jurisdictional marketing affiliate prior to becoming an Order No. 436 open-access transporter, thus avoiding the contract demand reduction/conversion requirements mandated in that rule?

14. When is a sale for resale in interstate commerce by an affiliate of an interstate pipeline a "first sale" under section 2(21) of the NGPA?

15. Should a distinction be made between such a sale by a marketing affiliate of an interstate pipeline which seeks to transport the gas which is purchased and sold *through the affiliate pipeline*, as opposed to other transactions by such affiliates?

16. Should a distinction be made between affiliates of former Class A interstate pipelines on the one hand, and Class B or C interstate pipelines, on the other?

17. Should a distinction be made for pipelines in the Outer Continental Shelf, on the grounds that the provisions of the Outer Continental Shelf Lands Act are adequate protection against undue discrimination in that area?

18. Assuming that the Commission finds that all marketing affiliates of interstate pipelines are subject to its NGA jurisdiction when they make sales for resale in interstate commerce, should the Commission divide such groups into classes, and authorize minimum NGA regulation (*e.g.*, blanket certificates with pregranted abandonment) for these affiliates not transporting gas from the sales in question through affiliated pipeline systems?

19. Does the Commission have jurisdiction over the margins to be charged by affiliated marketing companies, and if so, how should this jurisdiction be exercised?

20. Should notices of rate change as provided in section 4(d) of the NGA be waived by the Commission for spot sales by marketing companies?

21. What other measures should the Commission take to prevent undue discrimination by interstate pipelines in favor of their marketing affiliates through the granting of preferences, including but not limited to:

a. Allowing the affiliate marketing company early access to and knowledge of availability of gas released by the pipeline from its contracts.

b. Allowing preferred access to markets by recommending that potential customers contact the marketing affiliate.

c. Officially receiving pipeline affiliates requests for transportation under the first-Come, First-served rule ahead of other requests.

d. Processing transportation agreements more rapidly for affiliates than for others.

e. Expediting transportation certificates more rapidly where the shipper is an affiliate of the pipeline.

f. Permitting greater flexibility of receipt and redelivery points for affiliates than for others.

g. Placing pipeline affiliates lower on the list for interruption of interruptible capacity than non-affiliates.

h. Selective discounting in transportation rates in favor of affiliates over others.

i. Imposing stricter penalties for over and under deliveries for non-affiliates, either through the tariff or selective waivers thereof.

j. Lending or borrowing gas from affiliates to correct imbalances in affiliate transportation.

k. Installation of facilities to accept or deliver affiliates' gas, but refusing to do so for non-affiliates.

l. Transporting liquid or liquefiable hydrocarbons for affiliates at rates or conditions not offered to others.

m. Allowing processing opportunities to affiliates not available to others.

Commenters are asked to bring instances of what they believe to be undue discrimination as outlined above in 21(a–m) to the Commission's attention.

C. Specific Questions for Response by Pipelines

The following questions are addressed to interstate pipelines only, and are intended to gather information to help the Commission determine, on the basis of objective data, whether the allegations that have been made by Shell, Hadson, EIIO, and others have any basis.

22. Pipelines are asked to detail the organizational Structure of the pipeline and its corporate relationship to all corporate affiliates or subsidiaries including common employees.

23. Pipelines are asked to indicate, for 1985 and 1986, which producer/shippers, if any, have received transportation service from the pipeline without using the services provided by any marketing affiliate of the pipeline.

24. Pipelines are asked to provide what percentage and actual quantities of the pipeline's transportation involved a marketing affiliate in 1985 and 1986. How does this compare with the percentage of transportation provided for non-affiliates in 1985 and 1986?

25. Pipelines are asked to describe their policy with respect to requests for transportation service made by or on behalf of affiliated marketers, including but not limited to:

a. the basis of the transportation rate or applicable transportation tariff.

b. the average length of time it takes to arrange such transportation.

c. the average contract term (duration).

d. whether "released" gas is involved.

e. any and all other terms and conditions which are typically included in contracts with affiliates that would not typically be found in contracts with non-affiliates. (N.B. If this information is already on file, a pipeline may respond by referencing the location of the responsive information. The intent of the question is to identify under which specific tariffs or grandfathered authorizations the pipelines operate for affiliates, and for non-affiliates.)

26. Pipelines are asked to describe their policy with respect to requests for transportation service made by or on behalf of non-affiliated marketers, including but not limited to:

a. the basis of the transportation rate or applicable transportation tariff.

b. the average length of time it takes to arrange such transportation.

c. the average contract term (duration).

d. whether "released gas" is involved.

e. any and all terms and conditions which are typically included in contracts with non-affiliates that typically would not be found in contracts with affiliates, to the extent not already included in your answer to Question No. 25(e), above.

IV. Procedures For Comments

A. Written Comments

The Commission invites interested persons to submit comments, data, views, and other information concerning the matters set out in this notice.

To facilitate the Commission's review of the comments, commenters are requested to provide a 2–4 page executive summary of their position on the issues raised in this NOI. Commenters are requested to identify the page or section of the NOI that their discussion addresses and to use as many headings as possible. Additionally, commenters should double-space their comments, and only use white, 8½" by 11" paper.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m., Monday, December 29, 1986. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426 and should refer to Docket No. RM87–5–000.

All written comments will be placed in the Commission's public files and will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, DC 20426 during regular business hours.

B. Public Hearing

The Commission has not determined to convene a public conference for an oral presentation of views at this time. If any such conference is ultimately convened, the time, location and format will be published in the **Federal Register** at a later date.

(Natural Gas Act, as amended, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

List of Subjects in 18 CFR Parts 154 and 271

Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–26207 Filed 11–19–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 86N–0175]

Canned Dry Peas; Termination of Consideration of the Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of amending the U.S. standards for canned dry peas based on the Codex Standard for Canned Mature Processed Peas (Codex Standard 81–1981) (Codex standard) because there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standards for canned dry peas.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0118.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 30, 1986 (51 FR 19566), FDA published an advance notice of proposed rulemaking offering interested persons an opportunity to review the Codex Standard for Canned Mature Processed Peas and to comment on the desirability of, and need for, amendment of the U.S. standards of identity, quality, and fill of container for canned dry peas in 21 CFR 155.172. FDA requested comments by July 29, 1986, and stated that it would not propose to amend the standards for canned dry peas if the comments it received did not support this action.

One letter of comment from a trade association was received in response to the advance notice of proposed rulemaking. The comment did not support amendment of the U.S.

standards of identity, quality, and fill of container for canned dry peas based on the Codex standard.

Having considered this comment, FDA has concluded that, at this time, there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standards for canned dry peas under authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

List of Subjects in 21 CFR Part 155

Food standards, Vegetables.

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of amending the U.S. standards of identity, quality, and fill of container for canned dry peas based on the Codex standard. This action is without prejudice to further consideration of amending the U.S. standards of identity, quality, and fill of container for canned dry peas upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country, provided that it complies with applicable U.S. laws and regulations.

Dated: November 10, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-26155 Filed 11-19-86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

42 CFR Part 58

Grants for Graduate Programs in Health Administration

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulation would amend the existing regulations governing the program "Grants for Graduate Programs in Health Administration" to include a definition of "minority". This proposal also would revise the regulations to conform with the amendment to section 791 of the Act, as enacted on October 22, 1985, as part of Pub. L. 99-129, the Health Professions Training Assistance Act of 1985.

DATE: Comments must be received not later than January 20, 1987.

ADDRESSES: Send comments to: Public Health Professions Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8-95, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301 443-6896.

FOR FURTHER INFORMATION CONTACT: Ronald B. Merrill, M.A., Senior Program Consultant; telephone number 301 443-6896.

SUPPLEMENTARY INFORMATION: Section 791 of the Public Health Service Act (the Act) authorizes the award of grants to public or nonprofit educational entities (including schools of social work and excluding schools of public health) to support graduate educational programs in health administration, hospital administration, and health planning.

Public Law 99-129 amended section 791(c)(2), which formerly required an applicant to provide an assurance that at least 25 individuals would complete the educational program. The amended provision allows an accredited graduate program in health administration to graduate 20 students, rather than 25, if more than 45% of the total enrollment of the program will be minority students in the school year beginning in the fiscal year for which funds are requested.

In accordance with this new assurance provision, the Department is proposing to include the following definition of "minority" in the regulations for this program.

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

The term "minority" as used in Pub. L. 99-129 was not defined. Since "minority" can be defined in various terms, e.g., economic, ethnic, language, racial, religious, sexual, etc., it is necessary to include a definition in the regulations to avoid confusion among the educational entities eligible to receive support under section 791.

The proposed definition was selected since it is consistent with the definition used in other Federal educational assistance programs, e.g., the Department of Education regulations for the Magnet School Assistance Program codified at 34 CFR Part 280.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern a financial assistance program in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

The information collection requirement in § 58.4 has been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (OMB Approval Numbers 0915-0060 and 0915-0061).

List of Subjects in 42 CFR Part 58

Educational study programs, Grant programs—health, Health professions, Public health, Student aid.

Accordingly, Subpart A of 42 CFR Part 58 is proposed to be amended as set forth below.

(*Catalog of Federal Domestic Assistance*, No. 13.963, Grants for Graduate Programs in Health Administration)

Dated: September 30, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: November 6, 1986.

Otis R. Bowen,

Secretary.

PART 215—[AMENDED]

Subpart A—Grants for Graduate Programs in Health Administration

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

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 67 Stat. 631 (42 U.S.C. 216); sec. 791 of the PHS Act; 90 Stat. 2303-2304, 96 Stat. 2061, and 99 Stat. 543 (42 U.S.C. 295h).

2. Section 58.2 is amended by adding the following definition after the definition of "Graduate educational program" to read as follows:

§ 58.2 Definitions.

* * * * *

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

* * * * *

3. In § 58.4, paragraph (a) is revised to read as follows:

§ 58.4 What assurances must be provided in an application?

* * * * *

(a) At least 25 individuals will complete the graduate educational

programs of the applicant for which the application was made in the school year beginning in the fiscal year for which an applicant receives a grant. However, if the number of minority students enrolled in the graduate health administration program in such school year will exceed a number equal to 45% of the number of all students that will be enrolled in the program, then the applicant must provide assurance that at least 20 individuals will complete the program; and

* * * * *

[FR Doc. 86-26162 Filed 11-19-86; 8:45 am]
BILLING CODE 4160-15-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 685

[Docket No. 60964-6164]

Foreign Fishing; Pelagic Fisheries of the Western Pacific Region

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

ACTION: Notice of withdrawal of proposed rulemaking and availability of amended fishery management plan and request for comments.

SUMMARY: NOAA withdraws a proposed rule to implement the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP) that appeared in the **Federal Register** on Tuesday, September 16, 1986 (51 FR 32808). The FMP has been amended by the Western Pacific Fishery Management Council (Council) in response to public comments; therefore, NOAA issues notice that the Council has submitted an amended FMP for review by the Secretary of Commerce (Secretary) which supersedes the FMP originally submitted by the Council. Copies of the resubmitted plan may be obtained from the Council at the address below.

DATE: Comments on the resubmitted plan should be submitted on or before January 23, 1987.

ADDRESS: Send comments to E. Charles Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the plan and its environmental assessment are available upon request from the Council at 1164 Bishop Street, Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds (Executive Director, Western Pacific Fishery Management Council), 808-523-1368.

SUPPLEMENTARY INFORMATION: The Management Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*), requires that each fishery management council submit any fishery management plan it prepares to the Secretary for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan, must immediately publish a notice that the plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan.

Secretarial review of the Council-submitted FMP began August 11, 1986, and proposed implementing regulations were published in the **Federal Register** on September 16, 1986 (51 FR 32808). Public comment was requested on or before October 24, 1986. In response to public comments and comments from the Department of State, the Council amended the FMP on November 9, 1986. The Administrator of NOAA has determined that the amended FMP is a resubmission of the FMP requiring full Secretarial review under the Magnuson Act and has withdrawn the proposed rule published September 16, 1986. Proposed regulations to implement the resubmitted plan will be published within 30 days of receipt. The receipt date of the resubmitted FMP was November 10, 1986.

The resubmitted plan proposes: (1) To establish a review and implementation process for implementing area closures for foreign longline vessels in the FCZ, (2) to eliminate existing quotas on foreign longline catch in the open areas of the FCZ, (3) to require foreign longline vessels to submit effort plans and report catch data and fishery interactions with protected species in the FCZ, (4) to prohibit the use of drift gill nets in the FCZ, and (5) to establish a process to obtain data on the incidental catch of pelagic fishes in the FCZ by tuna pole-and-line and purse seine vessels. This FMP will replace most of the Preliminary Fishery Management Plan for Pacific Billfish and Oceanic Sharks implemented in 1980 at 50 CFR 611.81 and will regulate fishing in America Samoa, Guam, Hawaii, and U.S. possessions.

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

Dated: November 17, 1986.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

NOAA by this document withdraws the proposed rule that appeared at page 32808 in the **Federal Register** of Tuesday, September 16, 1986 (51 FR 32808).

[FR Doc. 86-26220 Filed 11-17-86; 4:24 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 224
Thursday, November 20, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Poundage Quota for 1987—Crop Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture proposes that the national poundage quota for the 1987 crop of peanuts shall be 1,287,500 pounds.

The determination of the national quota is necessary to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as "the Act").

DATE: Written comments must be received by December 5, 1986, in order to be assured of consideration.

ADDRESS: Send comments to Dr. Howard C. Williams, Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-3391. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks,. Agricultural Economist, Agricultural Stabilization Service, USDA, Room 3732-South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-5953. The preliminary regulatory impact analysis describing the impact of implementing this determination will be available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, industries, Federal, State, or local governments or geographical regions, or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to are: Title—Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

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

Section 358(q)(1) of the Act requires that the national poundage quota for peanuts for each of the 1986 through 1990 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts in tons that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. Section 358 further provides that the national poundage quota for any such marketing year shall not be less than 1,100,000 tons. The marketing year for the 1987 crop of peanuts runs from August 1, 1987 through July 31, 1988.

It is proposed that the national quota for the marketing year for the 1987 crop shall be 1,287,500 tons based on the following data:

Estimated Domestic Edible Use for the 1987-88 Marketing Year

	Tons
Domestic food	1,032,500
Seed	100,500
Related use:	
Crushing residual	128,750
Shrinkage	25,750
Total	1,287,500

In the *Oil Crops Situation and Outlook Yearbook*, July 1986, the Department published a revised peanut data series based upon a revised procedure for estimating domestic edible use. The revised procedure estimates domestic food use as the sum of: (1) Shelled peanuts used in primary products (less exports of prepared or preserved peanuts) and (2) domestic disappearance of roasting stock peanuts. Because these data do not include farm use, local sales and shrinkage, estimates of these uses have been included in the calculation of domestic edible requirements for the 1987-88 marketing year. This estimate was derived by comparing historical data showing the difference between total production and quantities of peanuts that were inspected. The estimate so derived was further refined by estimating, based on historical data, actual household use of peanuts on the producing farm. Seed use measures the quantity of peanuts expected to be needed to plant the succeeding (1988) crop. The seeding rate for this estimate was derived from survey data. The crushing residual is the inedible portion of farmer stock peanuts separated from the edible kernels during milling. Shrinkage is the weight loss occurring between harvest and production of the product. Both the shrinkage and crushing residual estimates were derived from inspection data.

Prior to the development of the revised procedure, domestic food use was estimated by applying the annual percentage change in the sum of shelled peanuts used in all primary products and apparent disappearance of roasting stock (reported in *Peanut Stocks and Processing*, National Agricultural Statistical Service, USDA) to the previous year's estimated domestic food use. Using the unrevised procedure, the 1986 national poundage quota was

estimated to be 1,355,500 tons based on the following data:

Estimated Domestic Edible Use for the 1986–87 Marketing Year

	Tons
Domestic food	1,121,000
Seed	99,000
Related use (crushing residual)	135,500
Total	1,355,500

Had the revised procedure been used to determine the 1986 national poundage quota, it is estimated that the quota would have been 1,285,227 tons, about 5 percent less than the national poundage quota for the 1986 crop.

The revised data series eliminates the influence of trend growth of exports of inshell peanuts and peanut products from the domestic food use estimate. In addition, the revised procedure reflects more accurately survey data provided to the Department by peanuts handlers. This provides an improved measure of domestic food use.

Section 358(g)(2) of the Act requires the national poundage quota for a marketing year to be announced not later than December 15 preceding such marketing year.

Poundage quotas for the 1986–1990 crops of peanuts were approved by producers in a mail ballot held January 27–31, 1986.

Proposed Determination

A. Accordingly:

The national poundage quota for 1987-crop peanuts is hereby proposed to be 1,287,500 tons.

B. The statutory authority for this determination is: Sec. 358, 55 Stat. 88, as amended (7 U.S.C. 1358).

Signed at Washington, DC, on November 18, 1986.

Milton J. Hertz,

Administrator.

[FR Doc. 86–26300 Filed 11–18–86; 3:14 pm]

BILLING CODE 3410-05-M

Farmers Home Administration

Housing Preservation Grant Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. FmHA hereby announces that it will receive preapplications from December 2, 1986, and for ninety days thereafter until March 2, 1987.

DATE: The closing date for preapplications is March 2, 1987. Preapplications must be received by or postmarked on or before this date.

ADDRESS: Submission of preapplications will be to FmHA field offices; interested applicants must contact their State FmHA Office for this information.

FOR FURTHER INFORMATION CONTACT: John H. Pentecost, Senior Loan Officer, Multifamily Housing Processing Division, FmHA, USDA, Room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 382–8983 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The regulations contained in 7 CFR Part 1944, Subpart N provide details on what information must be contained in the preapplication package. See 51 FR 17443, May 13, 1986. Entities wishing to apply for assistance should contact their FmHA State Office to receive further information and copies of the application package. Eligible entities for these competitively awarded grants include state and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible applicants.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.433—Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V; 48 FR 29112, June 24, 1983). Applicants are also referred to 7 CFR Part 1944.674 and 1944.676 (d) and (e) for specific guidance on these requirements relative to the HPG program.

For FY 1987, HPG activities will continue to be limited to the homeowner aspect of the program. The Agency anticipates a proposed rule on the rental and cooperative portion of the preservation program within six months. Final rule and implementation of this aspect can be expected in time for use in the FY 1988 HPG program.

The funding instrument for the housing preservation grant program will be a grant agreement. The term of the grants can vary from one to two years, depending on available funds and demand. No maximum or minimum grant levels have been set, although, based on FY 1986 experience, the Agency anticipates that the average grant will be between $100,000 and $150,000 for a one-year proposal. For FY 1987, $19,140,000 is available and has been distributed under a formula allocation to States pursuant to 7 CFR Part 1940, Subpart L, Methodology and Formulas for Allocation of Loan and Grant Funds. Since the funding levels for FY 1987 is the same as FY 1986, States will receive the same initial allocation as last year.

Applications will be reviewed and rated on the project selection criteria contained in the regulations for the program. No additional points under the selection criteria will be awarded to current grantees as none will have been in operation long enough to achieve or nearly achieve the goals established for their current grant.

Decisions on funding will be based on the preapplications and notices of action on the preapplications should be made within 60 days of the closing date.

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Dated: November 14, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86–26215 Filed 11–19–86; 8:45 am]

BILLING CODE 3410-07-M

Soil Conservation Service

Allis Sinkholes Critical Area Treatment RC&D Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Allis Sinkholes RC&D Measure, Presque Isle County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on

the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for critical area treatment. The planned works of improvement include the following items: 3,300 feet of rustic fence, 400 feet of stairway and 4 acres of seeding. Total construction cost is estimated to be $37,000, of which RC&D funds will pay 64% and local funds 36%.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: November 7, 1986.

Homer R. Hilner,

State Conservationist.

[FR Doc. 86–26151 Filed 11–19–86; 8:45 am]

BILLING CODE 3410–16–M

Village of Berrien Springs—Flood Prevention RC&D Measure, Michigan

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Village of Berrien Springs RC&D Measure, Berrien County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for flood prevention. The planned works of improvement include the following items: 2,050 linear feet of levee and a pumping plant for internal drainage. Total construction cost is estimated to be $90,000, of which RC&D funds will pay 78% and local funds 22%.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: November 7, 1986.

Homer R. Hilner,

State Conservationist.

[FR Doc. 86–26152 Filed 11–19–86; 8:45 am]

BILLING CODE 3410–16–M

Big Sandy Salinity Control Plan, Colorado River Salinity Control Program, Wyoming; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Big Sandy River Salinity USDA Salinity Control Plan in Sweetwater County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3124, 100 East B Street, Casper, Wyoming 82601, telephone 307–261–5201.

SUPPLEMENTARY INFORMATION: The Soil Conservation Service had published a Findings of No Significant Impact (FONSI) for this project in the **Federal Register,** Vol. 51, No. 123, Thursday, June 26, 1986. As a result of comments relating to irrigation induced wetlands and an irrigation induced perennial stream, Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The Selected Plan calls for the following structures to be installed on a maximum of 15,700 acres of irrigated land to reduce salinity in the Colorado River Basin.

Distribution Pipeline and Risers
Motor, Pumps, and Valves
Low Pressure Sprinkler Irrigation Systems
Automated Border Irrigation Systems
Irrigation Wasteway System
Voluntary Wildlife Habitat Development and Enhancement (Wetland and Upland)

Actual acreage would vary depending on individual participation in the program. Participation would be voluntary and implemented through

long-term contracts administered by the USDA Agricultural Stabilization and Conservation Service. Technical assistance for conservation planning, implementation of planned practices, assistance to realize irrigation water management objectives, and installation of wildlife practices would be provided by the Soil Conservation Service. A project team would consist of soil conservationists, an irrigation water management specialist, engineers, a biologist, civil engineering technicians, and soil conservation technicians. Additional irrigation water management assistance would be provided by the Cooperative Extension Service.

Other alternatives were investigated and included the following:

No action
Improved Water Management and Minimal Structural Improvements
High Pressure Sprinkler
Combination Sprinkler—Automated Border Systems
Land Retirement
Irrigation Retirement
Irrigation Water Reduction
Pump Saline Well Water to Evaporation Ponds

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement.

No additional scoping meetings are proposed. The written comments and subsequent meetings with commentors on the FONSI have scoped the issues that will be addressed in the environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.902, Conservation Operations Program. Executive Order No. 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 10, 1986.

Frank S. Dickson,

State Conservationist.

[FR Doc. 86-26180 Filed 11-19-86; 8:45 am]

BILLING CODE 3410-16-M

Dry Creek Watershed, Oklahoma; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Roland R. Willis, responsible federal official for projects administered under the provisons of Pub. L. 83-566 16, U.S.C. 1001-1008, in the State of Oklahoma, is hereby providing notification that a record of decision to proceed with the installation of the Dry Creek watershed project is available. Single copies of this record of decision may be obtained from Roland R. Willis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: November 12, 1986.

Donald R. Vandersypen,

Asst. State Conservationist (WR).

[FR Doc. 86-2681 Filed 11-19-86; 8:45 am]

BILLING CODE 3410-16-M

High Sierra RC&D Measures, California; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Critical Area Treatment Measures, in the High Sierra RC&D area, California.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2121-C 2nd Street, Davis, California 95616-5475, telephone (916) 449-2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for these measures.

These measures concern a plan for critical area treatment. The planned works of improvement include erosion control practices such as drop inlet pipe structures, diversion trenches, minor grading and shaping, and revegetation of exposed and critically eroding areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Eugene E. Andreuccetti.

No administrative action or implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program-Pub. L. 87-703, 16 U.S.C. 590 a-f, q)

Dated: November 12, 1986.

Eugene E. Andreuccetti,

State Conservationist.

[FR Doc. 86-26182 Filed 11-19-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 34-86]

Proposed Foreign-Trade Zone—Brunswick, GA; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Brunswick Foreign-Trade Zone, Inc., a Georgia private corporation, requesting authority to establish a general-purpose foreign-trade zone in Brunswick, Georgia, within the Brunswick Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 7, 1986. The applicant is authorized to make this proposal under section 52-10-4 of the Code of Georgia Annotated.

The proposed foreign-trade zone involves 3 sites totalling 158 acres in Brunswick, Glynn County. Site 1, located on Bay Street adjacent to the Georgia Ports Authority East River Terminal, is a 16-acre manufacturing facility for Concrete Products Corporation (CPC), an affiliate of the applicant. Site 2 is a 32-acre parcel on

Lanier Blvd. at 4th Avenue, and Site 3 is a 110-acre parcel on the Brunswick River at Main Street. The facilities are owned and operated by either CPC or the applicant.

The application contains evidence of the need for zone services in the Brunswick area for the warehousing/distribution of chemicals, wood/paper products, insulation materials, computer supplies, and food products. No approvals for manufacturing are being sought at this time. Such requests would be made to the Board on a case-by-case basis.

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; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 S.E. 5th St., Miami, FL 33131; and Colonel Stanley G. Genega, District Engineer, U.S. Army Engineer District Savannah, P.O. Box 889, Savannah, GA 31402.

As part of its investigation, the examiners committee will hold a public hearing December 10, 1986, beginning at 9:00 a.m., in the conference room of the Brunswick Chamber of Commerce, 4 Glynn Ave., Brunswick.

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 December 2. 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 January 15, 1987.

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, 1609 Gloucester St., Brunswick, GA 31521

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: November 13, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-26188 Filed 11-19-86; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Certain Cotton Textile Products Produced or Manufactured in Guatemala Effective on January 1, 1987; Import Restraint Limit

November 14, 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 January 1, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Textile Agreement, effected by exchange of notes dated April 3, 1985, between the Governments of the United States and Guatemala establishes a specific restraint limit of 5,674,180 square yards for cotton yarn-dyed fabrics in Category 310/318, produced or manufactured in Guatemala and exported during the agreement year beginning on January 1, 1987 and extending through December 31, 1987. The letter which follows this notice directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 310/318, produced or manufactured in Guatemala and exported during the year beginning on January 1, 1987 and extending through December 31, 1987, in excess of the designated restraint limit.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 14, 1986.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated April 3, 1985, between the Governments of the United States and Guatemala; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 310/318, produced or manufactured in Guatemala and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of 5,674,180 square yards.

This limit is subject to adjustment in the future according to the provisions of the bilateral agreement, which provide, in part, that: (1) The specific limits may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the 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 Customs should construe entry into the United States for consumpton to include entry for consumption into the Commonwealth of Pureto 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. 86-26183 Filed 11-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Certain Cotton Textile Products Produced or Manufactured in Peru; Adjustment of Import Limits

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 November 20, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated April 11, 1986 (51 FR 12907) established limits for certain specified categories of cotton and wool textile products, including Categories 313, 317, 319 and 320, produced or manufactured in Peru and exported during the twelve-month period which began on May 1, 1986 and extends through April 30, 1987. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1985, as amended, under the terms of which these limits were established, also includes provision for the carryover of shortfalls from the previous agreement year in certain categories (carryover) and for percentage increases in certain designated categories (swing), provided that a corresponding reduction in equivalent square yards is made in another specific limit. Under the foregoing provisions of the bilateral agreement and at the request of the Government of Peru, the limits established for Categories 313 and 317 are being increased by carryover and swing for goods exported during the twelve-month period which began on May 1, 1986 and extends through April 30, 1987. The limits for Categories 319 and 320 are being reduced to account for the amount of swing applied to Categories 313 and 317.

Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to adjust the restraint limits previously established for Categories 313, 317, 319 and 320.

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).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 14, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on April 11, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and wool textile products, produced or manufactured in Peru and exported during the twelve-month period which began on May 1, 1986 and extends through April 30, 1987.

Effective on November 20, 1986, the directive of April 11, 1986 is hereby further amended to adjust the previously established limits for cotton textile products in Categories 313, 317, 319 and 320, as provided under the terms of the bilateral agreement of January 3, 1985, as amended: [1]

Category	Adjusted 12-mo restraint limit [1]
313	21,648,340 square yards.
317	18,647,315 square yards of which not more than 5,512,694 square yards shall be in Category 317-S.[2]
319	21,587,250 square yards.
320	15,398,905 square yards.

[1] The limits have not been adjusted to reflect any imports exported after April 30, 1986.
[2] In Category 317, only T.S.U.S. items 320.—through 331.—with statistical suffixes 50, 87 and 93.

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 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–26184 Filed 11–19–86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period, provided that a corresponding reduction in equivalent square yards is made in another specific limit; (2) these limits may be adjusted for carryforward and carryover up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Certain Cotton, Wool and Man-Made Fiber; Textile Products From Singapore; Adjustment of Import Restraint Limits

November 14, 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 November 14, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31 and June 5, 1986, between the Government of the United States and Singapore provides, among other things, for percentage increases in certain categories during and agreement year for carryforward and swing, provided corresponding reductions in equivalent square yards are made in other specific limits or sublimits during the same year to account for the application of swing. Pursuant to the terms of the agreement, the import restraint limits established for Categories 340, 342, 604, 635, 638, 639 and 648, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, are being increased.

The limits for Categories 331, 334, 335, 337, 338, 339, 435, 634, 640 and 659 pt. (infants' sets in TSUSA numbers 384.2105, .2115, .2120, .2125, .2646, .2647, .2648, .2649, .2652, .8651, .8652, .8653, .8654, .9356, .9357, .9358, .9359 and .9365) are being reduced to account for swing applied to the other categories.

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 17, 1983 (48 FR 15175), May 3, 1983 (48 FR 119924), 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 47782), 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 Textiles Agreements.

November 14, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: On June 12, 1986, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986, in excess of designated restraint limits. The Chairman further advised you that the restraint limits are subject to adjustment.[1]

Effective on November 14, 1986, the directive of June 12, 1986 is hereby amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo. restraint limit [2]
331	271,520 dozen pairs.
334	35,472 dozen.
335	133,459 dozen.
337	47,718 dozen.
338	375,382 dozen.
339	464,923 dozen.

[2] The limits have not been adjusted to account for any imports exported after December 31, 1985.

	12-mo. limit [3]
340	584,210 dozen.
342	85,600 dozen.
435	1,027 dozen.
604	1,498,100 pounds.
634	124,000 dozen.
635	251,450 dozen.
638	450,500 dozen.
639	3,263,500 dozen.
640	89,780 dozen.
648	1,533,000 dozen.
659-I [4]	146,452 pounds

[3] See footnote 1.
[4] In Category 659, only TSUSA numbers 384.2105, .2115, .2120, .2125, .2646, .2647, .2648, .2649, .2652, .8652, .8651, .8653, .8654, .9356, .9357, .9358, .9359 and .9365.

The Committee for the Implemenation 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. 86-26185 Filed 11-19-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement of May 31 and June 5, 1986 concerning cotton, wool and man-made fiber textile products from Singapore provides, in part, that: (1) Specific limits may be increased by not more than seven percent during an agreement year, provided that an equal quantity in square yards equivalent is deducted from another specific limit; (2) specific limits may be exceeded for carryover and carryforward up to 11 percent of the applicable category limit except that no carryover will be available in the first year of the agreement and no carryforward in the final agreement year; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementations of the agreement.

Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey; Adjustment of Import Restraint Limits

November 14, 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 November 21, 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 December 27, 1985, a notice was published in the **Federal Register** (50 FR 52985) which established specific limits for cotton sheeting in Categories 313 and plied acrylic yarn in Category 604-A (only T.S.U.S.A. number 310.5049), produced or manufactured in Turkey and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 18, 1985, also includes provision for the carryover of shortfalls from the previous agreement year in certain categories. Under the foregoing provisions of the bilateral agreement and at the request of the Government of the Republic of Turkey, the limits established for Categories 313 and 604-A are being increased by carryover for goods exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to adjust the restraint limits previously established for these categories.

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).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 14, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 20, 1985 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during 1986.

Effective on November 21, 1986, the directive of December 20, 1985 is hereby amended to adjust the previously established limits for cotton and man-made fiber textile products in Categories 313 and 604-A [1], as provided under the terms of the bilateral agreement of October 18, 1985:[2]

Category	Adjusted 1986 limit [1]
313	17,649,000 square yards
604-A	693,949 pounds

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

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(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-26186 Filed 11-19-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] In category 604, only T.S.U.S.A. number 310.5049.

[2] The agreement provides, in part, that specific limits may be increased by designated percentages for swing, carryover and carryforward; however, carryforward will not be available in the final twelve-month agreement period.

Change in Officials Authorized To Issue Certifications for Exempt Cotton Textile Products Exported from Pakistan

November 14, 1986.

The Government of Pakistan has notified the United States Government under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, that Mr. M. E. Jalbani is now authorized to issue certifications for exempt cotton textile

products from Pakistan. The purpose of this notice is to advise the public of this change.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-26187 Filed 11-19-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 2, 1986; Tuesday, December 9, 1986; Tuesday, December 16, 1986; Tuesday, December 23, 1986; and Tuesday, December 30, 1986; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 17, 1986.

[FR Doc. 86-26208 Filed 11-19-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Martin Marietta Energy Systems, Inc. (MMES) of Oak Ridge, Tennessee, an exclusive license, with the right to sublicense, under U.S. Patent No. 4,200,801, entitled "Portable Spotter for Fluorescent Contaminants on Surfaces." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on November 13, 1986.

J. Michael Farrell,

General Counsel.

[FR Doc. 86-26224 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to general license issued by the U.S. Nuclear Regulatory Commission.

The subsequent arrangement to be carried out under the above-mentioned authority involves approval of the following sale: Contract No. S-CA-397, for the sale of 1.001 grams of uranium enriched to 49.38 percent in the isotope uranium-235, for use as standard reference material by the University du Quebec A Montreal, Canada.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that his subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 17, 1986.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-26222 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Government of the United States of America and Australia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 85 kilograms of U.S. origin irradiated research reactor fuel from the

HIFAR reactor in Australia for reprocessing and storage in U.S. Department of Energy Facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice .

For the Department of Energy.

Dated: November 17, 1986.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-26221 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; International Atomic Energy Agency and the United States of America Government

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency (IAEA) concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned-agreement involves approval of the following sale:

Contract No. S-IA-144, for the sale of 0.001 grams of plutonium-239, 9.481 grams of uranium, containing 0.5 percent uranium-235, 1.001 grams of uranium enriched to 34.9 percent in uranium-235, and 6.004 grams of uranium enriched to 10.1 percent in uranium-235, for use as standard reference materials by the IAEA, Vienna, Austria.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 17, 1986.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-26223 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA C&E-87-02; OFP Case No. 62022-9329-20-24]

Acceptance of Petition for Exemption and Availability of Certification by Florida Energy Partners Limited Partnership and Metropolitan Dade County

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On October 30, 1986, Florida Energy Partners Limited Partnership and Metropolitan Dade County (petitioners) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed cogeneration facility of approximately 27.9 MWs which will be constructed and owned by the petitioners but operated by South Florida Cogeneration Associates located in Miami, Florida, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503.

Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The facility for which the petitioners are requesting a permanent exemption is to be comprised of one gas turbine generator having the capability of burning natural gas or #2 oil. The facility will also contain one waste heat recovery boiler and extraction/condensing steam turbine. The steam turbine will accept high pressure steam from the boiler and deliver low pressure steam and/or generate additional electricity. The facility will provide all the current and future electrical and air conditioning requirements for the Downtown Government Center. Florida Power & Light (FP&L) will purchase over 50 percent of electricity produced.

The gas and oil required to operate the system will be less than the sum of the gas and oil to be consumed by the cogeneration facility which would be consumed in the absence of the cogeneration facility. The facility's design output will be 27,900 kw and 53.2 MM BTU/hr as thermal energy output.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before January 5, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA C&E-87-02 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 252-6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), the petitioners have certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

On May 22, 1986, DOE published in the **Federal Register** (51 FR 18866) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of a cogeneration FUA permanent exemption, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. The petitioners have certified that they will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of General Counsel, will review the completed environmental checklist submitted by the petitioners pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on the petitioners' petition that the grant or denial of exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

The acceptance of the petition by ERA does not constitute a determination that the petitioners are entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on November 13, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-26226 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-53; OFP Case No. 61056-9296-01, 02-12]

Order Granting to Basic American Foods Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Basic American Foods (Basic or "the petitioner"). The permanent exemption is based on lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on January 20, 1987.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-076, Washington, DC 20585, Telephone (202) 252-9506.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On August 12, 1986, Basic petitioned ERA under section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas or No. 2 fuel oil as the primary energy source for two 85.5 MW (net, approximate) auxillary boiler steam systems designed to produce electricity and process steam at its American I cogeneration project in King City, California. The units for which the exemption is sought will be operated less than 1500 hours annually.

Procedural requirements: In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 5, 1986 (51 FR 31798), commencing a 45-day public comment period. A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on October 20, 1986; no comments were received and no hearing was requested.

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined Basic American Foods has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent exemption to Basic American Foods, to permit the use of oil or natural gas as the primary energy source for its proposed auxillary boilers located at their American I Cogeneration Project in King City, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC on November 13, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-26225 Filed 11-19-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-74-000 et al.]

Electric Rate and Corporate Regulation Filings; Central Illinois Light Co. et al.

November 14, 1986.

Take notice that the following filings have been made with the Commission:

1. Central Illinois Light Company

[Docket No. ER87-74-000]

Take notice that on October 31, 1986, Central Illinois Light Company (CILCO) tendered for filing an executed power coordination agreement with the Illinois Municipal Electric Agency (IMEA) providing for specified transmission service for the City of Rock Falls, Illinois (Rock Falls). Transmission service will be provided for power and energy supplied by City Water, Light and Power (CWLP) in Springfield, Illinois and delivered to Commonwealth Edison Company (CECO) of Chicago, Illinois. CILCO, with the support of IMEA, requests waiver of the Commission's notice requirements to permit an effective date of December 1, 1986.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket No. ER87-63-000]

Take notice that New England Power Company ("NEP") on October 31, 1986 filed two notices of termination relative to the following rate schedules:

Rate schedule No.	Other party	Term
309	Public Service Company of New Hampshire.	Nov. 1, 1979 to Oct. 31, 1986.
320	Bangor Hydro-Electric Company.	Nov. 1, 1984 to Oct. 31, 1986.

NEP states that these rate schedules have terminated in accordance with their own terms.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. The Cincinnati Gas & Electric Company

[Doc. No. ER87-62-000]

Take notice that The Cincinnati Gas & Electric Company (CG&E) on October 31, 1986, tendered for filing a proposed change in its FERC Electric Tariff, First Revised Volume No. 1, Rider F, Fuel Cost Adjustment which would cancel and supersede the current rate schedule in said tariff. The proposed change would allow for the recovery of purchased power capacity charges through the Fuel Cost Adjustment Clause provided the energy purchased meets the criteria established by the FERC in Order No. 352.

The reason stated by CG&E for the change in rate schedule is:

To update the fuel cost adjustment clause in accordance with FERC Order No. 352 in Docket No. RM83-62-000.

Copies of the filing were served upon the Villages of Bethel, Blanchester, Georgetown, Hamersville and Ripley, municipalities in the State of Ohio; and The Union Light, Heat and Power Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers and one wholesale custoemr within the Commonwealth of Kentucky; and the West Harrison Gas and Electric Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers within the State of Indiana; the Public Utilities Commission of Ohio; the Kentucky Public Service Commission and the Public Service Commission of Indiana.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corporation

[Docket No. ER87-68-000]

Take notice that on October 31, 1986, Florida Power Corporation (Florida Power) tendered for filing a Letter of Commitment dated October 21, 1986 providing for firm interchange service between Florida Power and the Sebring Utilities Commission. Florida Power states that the Letter of Commitment is executed pursuant to Service Schedule D of the Contract for Interchange Service dated February 1, 1980 between Florida Power and the Sebring Utilities Commission which contract is designated as Florida Power's Rate Schedule FERC No. 90. The Letter of Commitment is submitted for inclusion as a supplement of Service Schedule D.

Florida Power requests that the Letter of Commitment be permitted to become effective November 1, 1986, and therefore, requests waiver of the sixty day notice requirement. Copies of this filing have been served upon the Sebring Utilities Commission and the Florida Public Service Commission.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa Public Service Company

[Docket No. EC87-2-000]

Take notice that on October 31, 1986, Iowa Public Service Company ("Public Service"), an Iowa corporation with its principal office at 401 Douglas Street, P.O. Box 778, Sioux City, Iowa 51102, filed a proposal to sell to the Municipal Electric Facilities of Cedar Falls, Iowa ("Cedar Falls") a certain ownership interest in 345 kV electric transmission facilities located in Woodbury and Plymouth Counties, Iowa. Application for the proposed sale of a certain ownership interest in said facilities is filed pursuant to section 203 of the Federal Power Act and Part 33 of the Commission's Regulations thereunder.

Applicant states that it is engaged in the generation, interstate transmission and sale, and distribution and sale at retail of electric energy.

Public Service states that it desires to sell to Cedar Falls desires to purchase an ownership interest in capacity of 15 MW in the George Neal Unit 4 Transmission Facilities located in Plymouth and Woodbury Counties, Iowa.

Said interest in transmission facilities proposed to be sold by Public Service and purchased by Cedar Falls concerns a transmission line operated at 345 kV and located in Woodbury and Plymouth Counties, Iowa: Beginning at the Neal 4 Generating Station and extending north 2.12 miles to the Public Service Raun Substation, then extending 23.45 miles in a north and easterly direction to the Western Area Power Administration ("WAPA") Sioux City Substation located south of Hinton, Iowa. Said line is operated and maintained by Public Service on behalf of all owners.

Applicant states that a copy of this Application has been mailed to the Iowa Utilities Board.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this document.

6. Iowa Public Service Company

[Docket No. EC87-3-000]

Take notice that on October 31, 1986, Iowa Public Service Company ("Public Service"), an Iowa corporation with its principal office at 401 Douglas Street, P.O. Box 778, Sioux City, Iowa 51102, filed a proposal to sell to Algona Municipal utilities, Algona, Iowa ("Algona") certain ownership interests in 345 kV electric transmission facilities located in Woodbury and Plymouth Counties, Iowa. The Application for the proposed sale of a certain ownership interest in said facilities is filed pursuant to section 203 of the Federal Power Act and Part 33 of the Commission's Regulations thereunder.

Applicant states that it is engaged in the generation, interstate transmission

and sale, and distribution and sale at retail of electric energy.

Public Service states that it desires to sell and Algona desires to purchase an additional ownership interest in capacity of 2 MW in the George Neal Unit 4 Transmission Facilities located in Plymouth and Woodbury Counties, Iowa.

Said interest in transmission facilities proposed to be sold by Public Service and purchased by Algona concerns a transmission line operated at 345 kV and located in Woodbury and Plymouth Counties, Iowa: Beginning at the Neal 4 Generating Station and entending north 2.12 miles to the Public Service Raun Substation, then extending 23.45 miles in a north and easterly direction to the Western Area Power Administration ("WAPA") Sioux City Sub-station located south of Hinton, Iowa. Said line is operated and maintained by Public Service on behalf of all owners.

Applicant states that a copy of this Application has been mailed to the Iowa Utilities Board.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Georgia Power Company

[Docket No. EC87-4-000]

Take notice that on October 31, 1986, Georgia Power Company ("GPC") tendered for filing an application for an Order authorizing the sale of approximately 167 miles of transmission lines to the City of Dalton, Georgia, acting through its Board of Water, Light and Sinking Fund Commissioners ("Dalton").

GPC states that the proposed sale is the second of such transactions with Dalton pursuant to an Intergrated Transmission System Agreement which provides for the establishment of an integrated transmission system operated by GPC to carry the loads of GPC, Dalton and the other participants therein free of charge (subject to the conditions of the Transmission Agreement), and which requires an aggregate investment by each party in transmission facilities comprising the integrated transmission system in the proportion the load of each (as defined in the Transmission Agreement) bears to the aggregate load on such system. GPC further states that Dalton's aggregate investment in such facilities has fallen below the required amount and that the proposed sale will permit Dalton to achieve its requisite investment, thereby eliminating Dalton's payments for transmission services for so long as Dalton maintains such requisite investment.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER87-37-000]

Take notice that on October 21, 1986, San Diego Gas & Electric Company (SDG&E) and Public Service Company of New Mexico (PNM) tendered for filing a statement of reasons for proposed termination of Precommercial Energy Sale and Purchase Letter Agreement between SDG&E and PNM.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER87-97-000]

Take notice that on November 12, 1986, pursuant to 18 CFR 35.12, the Pacific Gas and Electric Company (PG and E) requested approval for a two-year experiment, and tendered for filing and acceptance the Western Systems Power Pool Agreement (WSPP Agreement) and its attached Service Schedules. PG and E submitted this filing on behalf of itself and the following Western System Power Pool (WSPP or Pool) member utilities: Arizona Public Service Company, El Paso Electric Company, Nevada Power Company, Pacific Power and Light Company, Portland General Electric Company, Public Service Company of New Mexico, San Diego Gas and Electric Company, and Southern California Edison Company; and with the following additional participants: Arizona Electric Power Cooperative, Inc., Bonneville Power Administration, Northern California Power Agency, Sacramento Municipal Utility District, Salt River Project, and Department of Water Resources of the State of California.

The WSPP Agreement has a term of 24 months commencing on the requested effective date of February 1, 1987, unless the Commission specifies otherwise and the Participants agree. No transactions under the experiment will commence until the Commission has accepted the filing.

Copies of this filing were served upon the customers taking service under the affected rate schedules and tariffs, and upon the public utility regulatory commissions of the states of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Washington, and Wyoming.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this document.

10. Portland General Electric Company

[Docket No. ER87-71-000]

Take notice that Portland General Electric Company ("Portland") on October 31, 1986, tendered for filing, as an initial rate schedule, the Settlement Exchange Agreement between the United States of America, Department of Energy, acting by and through the Bonneville Power Administration ("Bonneville") and Portland General Electric Company, executed September 17, 1985.

The Agreement provides for the exchange of power and energy which is expected to commence on January 1, 1987.

Portland requests an effective date of January 1, 1987, the date service is expected to commence under the Agreement.

A copy of the filing was mailed to Bonneville.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Power & Light Company

[Docket No. ER87-66-000]

Take notice that Puget Sound Power & Light Company ("Puget") on October 31, 1986, tendered for filing, as an initial rate schedule, the Settlement Exchange Agreement between by the United States of America, Department of Energy, acting by and through the Bonneville Power Administration ("Bonneville") and Puget Sound Power & Light Company, executed September 17, 1985.

The Agreement provides for the exchange of power and energy which is expected to commence on January 1, 1987.

Puget requests an effective date of January 1, 1987, the date service is expected to commence under the agreement.

A copy of the filing was mailed to Bonneville.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

12. System Energy Resources, Inc.

[Docket No. ER87-60-000]

Take notice that on October 30, 1986, System Energy Resources, Inc. (SERI) tendered for filing pursuant to Part 35 of the Commission's Regulations under the Federal Power Act Third Revised Sheet Schedule A (Depreciation Expense) of the Billing format appended to the Unit Power Sales Agreement dated June 10, 1982, as amended, between SERI and Arkansas Power & Light Company

(AP&L), Mississippi Power & Light Company (MP&L), Louisiana Company (MP&L) and New Orleans Public Service Inc. (NOPSI). SERI states that Third Revised Sheet Schedule A, which has been filed in compliance with Order paragraph (H) of Opinion No. 234, 31 FERC ¶ 61,305 (1985) and Order Accepting Revised Rate Schedule for Filing, 35 FERC ¶ 61,427 (1986), establishes a 3.1% annual depreciation rate for calculation of depreciation expense for Unit 1 of its Grand Gulf Nuclear Station.

SERI propose to make the depreciation rate of 3.1% per year effective as of January 1, 1987, when permission to utlize the units-of-production depreciation method expires.

Copies of the filing were served upon AP&L LP&L MP&L and NOPSI, the public service commissions of Arkansas, Louisiana, Mississippi and Misssouri and the Council of the City of New Orleans.

Comment date: December 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North 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 concidered 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. 86-26205 Filed 11-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-179]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Granting Rehearing Solely For the Purpose of Further Consideration

Issued: November 13, 1986.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On October 14, 1986, the Cincinnati Gas & Electric Company (CG&E), Union Light, Heat and Power Company (Union Light) and Mountaineer Gas Company (Mountainer) filed a joint request for rehearing of the Commission's "Order Granting In Part and Denying In Part Petition for Clarification" issued on September 11, 1986,[1] regarding Columbia Gas Transmission Corporation (Columbia).

In order to afford additional time for consideration of the issues raised in the request for rehearing, it is necessary to grant rehearing for the limited purpose of further consideration.

The Commission orders:

Rehearing is hereby granted for the limited purpose of further consideration. As provided in Rule 713(d) [2] of the Commission's rules of practice and procedure, no answers to the request for rehearing will be entertained by the Commission.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-26206 Filed 11-19-86; 8:45 am]

BILLING CODE 6717-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before January 5, 1987. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance, (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liason Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: EEOC Agency Liaison Officer: Margaret P. Ulmer, Financial and Resource Management Services, Room 386, 2401 E. Street, NW., Washington, DC, 20507; Telephone (202) 634-1932.

OMB Reviewer: James Mason, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC, 20503; Telephone (202) 395-6880.

Type of Request: Extension of a currently approved collection
Title: Elementary-Secondary Staff Information EEO-5
Frequency of Report: Biennially
Type of Respondent: State or local governments
Standard Industrial Classification (SIC) Code: 821
Description of Affected Public: Public elementary and secondary school systems and districts with 15 or more full-time employees.
Responses: 61,184
Reporting Hours: 309,896
Federal Costs: $60,000.00
Applicable under Section 3504(h) of Public Law 95-511: Not applicable
Number of Forms: 2

Data are used by EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Data are shared with the Department of Education (Office for Civil Rights and Center for Statistics), Department of Justice, and 33 State and 56 local FEPC agencies.

For the Commission.

JoAnn Henry,

Acting Management Director, Equal Employment Opportunity Commission.

[FR Doc. 86-26148 Filed 11-19-86; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL RESERVE SYSTEM

Acquisition of Banks or Bank Holding Companies; Norris Kuenzel

The notificant listed below has applied for the Board's approval under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notice are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank

[1] 36 FERC ¶ 61,269 (1986).

[2] 18 CFR 385.713(d) (1986).

indicated. Once the notice 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 5, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Norris Kuenzel,* Garnavillo, Iowa, to acquire 23.46 percent of the voting shares of Garnavillo Bank Corporation, Garnavillo, Iowa, and thereby indirectly acquire Garnavillo Savings Bank, Garnavillo, Iowa.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26170 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

Chemical New York Corp.; Proposal To Engage in Commercial Paper (or Other Short-Term Promissory Note) Placement Activities

Chemical New York Corporation ("Applicant"), New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage in the activity of acting as agent for issuers of short-term promissory notes (including commercial paper) in connection with the placement of such notes with institutional purchasers. In addition to acting as agent for issuers of commercial paper, Applicant may provide, on a non-fee basis, information about market conditions to issuers.

Applicant would engage in the activities indirectly through Chemical Securities, Inc. ("Company"), New York, New York, a wholly-owned subsidiary. Applicant has previously applied for approval under § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)) to underwrite and deal in U.S. government and municipal securities and money market instruments that banks are expressly authorized to underwrite and deal in under section 16 of the Glass-Steagall Act (12 U.S.C. 24 Seventh). The foregoing activities are presently conducted by Applicant's principal banking subsidiary, Chemical Bank, but would be transferred to Company. Applicant proposes to expand Company's activities by transferring to it commercial paper placement activities currently being performed by Chemical Bank. The activities would be conducted throughout the United States principally through Company's offices in New York. Offices of Company may be established in other locations in the future as Company may deem necessary and appropriate.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not previously approved the proposed activities for bank holding companies.

Applicant states that the activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis that banks engage in the activities, and because the activities are the functional equivalent of extending a short-term commercial bank loan to customers.

Commercial paper constitutes a security for purposes of the Glass-Steagall Act, which restricts the third party securities activities of banks and affiliates of banks. Section 20 of that Act (12 U.S.C. 377) prohibits affiliates of banks from being "engaged principally in the issue, flotation, underwriting, public sale, or distribution" of securities. In Applicant's opinion, it would not be engaged in such activities on the basis that the activities are limited to acting solely as agent for the customer and would not involve a public distribution of securities.

The U.S. District Court has ruled that similar activity conducted by Bankers Trust Company, a member bank, would constitute underwriting or the public sale or distribution of securities under sections 16 and 21 of the Glass-Steagall Act. *Securities Industry Association* v. *Board of Governors/Bankers Trust,* 627 F.Supp. 695 (D.D.C. 1986). An appeal of the court's decision is pending in the U.S. Court of Appeals for the D.C. Circuit.

Applicant also states that it would not be "engaged principally" in such activities because the gross revenue to be derived from the proposed activity will be no more than 5 percent of the Company's total gross revenue and assets at risk allocable to such activities will be a *de minimis* percentage of Company's total assets.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates the type of test proposed by the Applicant, which is based on a percentage of the affiliate's total business activities, measured in terms of gross revenue. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or non-incidental basis and without regard to the amount of other activities conducted by the affiliate. While the Board has decided to publish Chemical's proposal for comment, the Board does not thereby take any position on the "engaged principally" issue under the Glass-Steagall Act. Publication of the proposal has been ordered by the Board solely in order to seek the views of interested persons on this question as well as other issues raised by the application.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole 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 these questions must be accompanied by a statement of the reasons why 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.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 19, 1986.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26169 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

First Regional Bancorp, Inc., et al.; Notice of Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 10, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Regional Bancorp, Inc.*, Hartford, Connecticut; to engage *de novo* in purchasing participations in real estate loans and secured and unsecured commercial and consumer loans from its wholly owned subsidiary, First National Bank-CT, Hartford, Connecticut, pursuant to § 225.25(b)(1) (i), (iii) and (iv). These activities will be conducted in the State of Connecticut.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *James Madison Limited*, Washington, DC; to engage *de novo* in owning, installing, operating, and providing support services to automated teller machines in convenience stores, supermarkets, and other selected locations pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26171 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

Madison Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 10, 1986.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Madison Corporation*, Little Rock, Arkansas; to become a bank holding company by acquiring at least 86.07 percent of the voting shares of Madison Bank and Trust, Kingston, Arkansas.

2. *Montgomery County Bancshares, Inc.*, Little Rock, Arkansas; to acquire 100 percent of the voting shares of First National Bank in Mena, Mena, Arkansas.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26172 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

J.P. Morgan and Co., Inc.; Proposal To Offer Investment Advice and Securities Execution Services From One Subsidiary

J.P. Morgan and Company, Inc. ("JPM"), New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to expand the authority of its indirect wholly-owned subsidiary, J.P. Morgan Equities Inc. ("JPM Equities"), to include the provision of investment advisory services for "Institutional Customers" (as defined in its application). JPM Equities proposes to conduct these activities from offices in New York City and London, England, for its affiliates and for institutional customers in the United States and abroad.

By letter dated June 3, 1986, JPM was authorized by the Federal Reserve Bank of New York, pursuant to authority delegated by the Board, to engage in discount brokerage activities in accordance with § 225.25(b)(15) of the Board's Regulation Y. JPM now proposes to provide through JPM Equities investment advisory services, including portfolio investment advice and research, general economic advice, and forecasting to its affiliates and institutional customers. The Board has approved the separate provision of investment advisory services by bank holding company subsidiaries and has incorporated this activity into Regulation Y. (12 CFR 225.25(b)(4)).

The Board previously has determined by Order that the offering of investment advice and securities execution services to institutional customers from the same subsidiary of a bank holding company is a permissible nonbanking activity. *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986) (*"NatWest"*), a determination that is currently under challenge in *Securities Industry Association* v. *Board of Governors*, No. 86-1412 (D.C. Cir. filed July 14, 1986).

JPM has proposed certain modifications to the conduct of these activities that differ from the NatWest proposal. Those differences are:

1. The corporate title of JPM Equities will resemble that of Applicant's bank subsidiaries.

2. In addition to the combined provision of investment advice and securities execution services to institutional customers, JPM Equities also will offer discount brokerage services without investment advice, to non-institutional customers.

3. JPM Equities will exercise investment discretion with respect to customer accounts in certain "rare situations", as authorized by such customers.

4. JPM Equities will receive certain operational support services from its affiliates.

5. Although no officer of JPM Equities will provide investment advice or brokerage services on behalf of an affiliated bank, such services may be provided on behalf of one or more foreign securities affiliates.

Interested persons may express their views 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 views or requests for hearing on the proposal should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, not later than December 12, 1986. Any request for a hearing must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26168 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

Sovran Financial Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 8, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sovran Financial Corporation*, Norfolk, Virginia; to acquire Sovran Mortgage Corporation, Richmond, Virginia, and thereby engage in origination, marketing and servicing of FHA and VA insured as well as conventional residential and commercial loans, acting as agent in the sale of credit life, credit accident and health insurance, mortgage redemption, and mortgage accident and health insurance directly related to its extensions of credit pursuant to § 225.25(b)(1)(iii) and (8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26173 Filed 11-19-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in December

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of one of the agency's national advisory bodies and an initial review committee. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the Mental Health Small Grant Review Committee meeting will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Mental Health Small Grant Review Committee.

Date and Time: December 3: 9:30 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue, NW., Washington, DC 20036

Status of Meeting:

Open—December 3: 9:30-10:30 a.m.

Closed—Otherwise.

Contact: Betty Russell, Room 9C-05, Parklawn Building 5600 Fishers Lane, Rockville, MD 20857, (301) 443-4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral biological sciences.

Committee Name: National Advisory Mental Health Council.

Date and Time: December 5: 9:00 a.m.

Place: National Institutes of Health, Building #31C, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Status of Meeting: OPEN

Contact: Rachel Driver, Room 9-105, Parklawn Building, 5600 Fishers Lane Rockville, MD 20857, (301) 443-3367.

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the

Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIMH: Ms. Joanna Kieffer, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: November 14, 1986.

Estelle O. Brown,

Committee Management Assistant, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86–26153 Filed 11–19–86; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 86F–0373]

Combibloc, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Combibloc, Inc., has filed a petition proposing that the food additive regulations be amended to provide for an increase in the level of residual hydrogen peroxide that may be present when hydrogen peroxide is used to sterilize polymeric food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3962) has been filed by Combibloc, Inc., 4800 Roberts Rd., Columbus, OH 43228, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for an increase in the hydrogen peroxide limitation from the current 0.1 part per million to a level of 0.5 part per million. This will provide for an increase in the level of residual hydrogen peroxide that may be present when hydrogen peroxide is used to sterilize polymeric food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 5, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–26136 Filed 11–19–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86E–0357]

Determination of Regulatory Review Period for Purposes of Patent Extension; Orthoclone OKT*3

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Orthoclone OKT*3 and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Orthoclone OKT*3 (muromonab CD3) which is indicated for the treatment of acute allograft rejection in renal transplant patients. Based on this approval, Ortho Pharmaceutical Corp. now seeks patent term restoration.

FDA has determined that the applicable regulatory review period for Orthoclone OKT*3 is 2,301 days. Of this time, 1,488 days occurred during the testing phase of the regulatory review period, while 813 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* March 3, 1980. The applicant states that investigational exemption (IND) time for the drug product is inapplicable. However, FDA records indicate that an IND for the product became effective on March 3, 1980.

2. *The date the product license application was initially submitted with respect to the human drug product under section 351 of the Public Health Service Act:* March 29, 1984. FDA has verified that the product license application for the drug product was filed on March 29, 1984.

3. *The date the application was approved:* June 19, 1986. FDA verified that product license 996 for the drug product was approved on June 19, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension.

In its application for patent extension, this applicant seeks 201 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 20, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 19, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 14, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86–26157 Filed 11–19–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0422]

Allergan Pharmaceuticals, Inc.; Premarket Approval of the Lens Plus OXYSEPT™ Disinfection System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Allergan Pharmaceuticals, Inc., Irvine, CA, for premarket approval, under the Medical Device Amendments of 1976, of the Lens Plus OXYSEPT™ DISINFECTION SYSTEM for use with soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 22, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On November 29, 1985, Allergan Pharmaceuticals, Inc., Irvine, CA 92715, submitted to CDRH an application for premarket approval of the Lens Plus OXYSEPT™ DISINFECTION SYSTEM. The Lens Plus OXYSEPT™ DISINFECTION SYSTEM is a 3 percent hydrogen peroxide system consisting of the OXYSEPT™ 1 Disinfecting Solution, the OXYSEPT™ 2 or OXYSEPT™ 2/np Rinse and Neutralizer, and the OXYCUP™ Lens Case. The Lens Plus OXYSEPT™ DISNFECTION SYSTEM is indicated for use to disinfect, neutralize, and store soft (hydrophilic) contact lenses.

On May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 30, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the Lens Plus OXYSEPT™ DISINFECTION SYSTEM states that the system is indicated for use to disinfect, neutralize, and store soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before December 22, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 13, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–26154 Filed 11–19–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[OACT–014–N]

Medicare Program; Omnibus Budget Reconciliation Act of 1986; Effect of Provisions on Part A Deductible, Part A and B Premiums, and Economic Index

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

ACTION: Notice.

SUMMARY: This notice announces the effects of the Omnibus Budget Reconciliation Act of 1986 on the Medicare Part A deductible, Medicare Part A and B premiums, and the Medicare economic index.

FOR FURTHER INFORMATION CONTACT: Roland King, (301) 594–2826.

SUPPLEMENTARY INFORMATION:

I. Background

As required by the Social Security Act (the Act) we must publish every year the new Medicare Part A (Hospital Insurance) inpatient hospital deductible, Part A premium rates, and Medicare Part B (Supplementary Medical Insurance) (SMI) premium rates. Section 1813(b) of the Act, as amended by section 9125 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) Pub. L. 99–272, requires the Secretary of Health and Human Services (HHS) to determine and publish, between July 1 and September 15 of the year, the amount of the inpatient hospital deductible applicable for the following calendar year. Section 1818(d)(2) of the Act requires the Secretary to determine and publish, during the next to last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment of the uninsured aged for the following calendar year. Section 1839(a) of the Act require the Secretary to announce each September the monthly SMI actuarial rates and resulting Part B premium for the following calendar year.

In addition, in order to implement section 1842(b)(3) of the Act and our regulations at 42 CFR 405.504, we publish an annual notice setting forth the Medicare economic index (MEI) for the following fee screen year (that is, the 12-month period for applying payment screens for determining reasonable charges under Medicare Part B). Until 1985, the fee screen year began on July 1 of each year. Section 2306 of Pub. L. 98–369 provided that, beginning October 1, 1985, fee screen years would begin on October 1 of each year. Subsequently, section 9301 of Pub. L. 99–272 further revised the underlying legislation, with the result that effective January 1, 1987, the fee screen year for Medicare Part B reasonable charge payments will begin on January 1 of each year. (See conforming changes to our regulations published October 1, 1986 at 51 FR 34975.)

On August 11, 1986, we published a proposed notice in the **Federal Register** (51 FR 28766) that would have revised the MEI to reflect a more accurate representation of changes in physicians' office space expenses. Since the MEI methodology we had used since its establishment in 1975 was a cummulative index methodology, we proposed to recompute the index base back to its beginning, in order to ensure that the index values for prospectively affected fee screen years would be accurately calibrated. We planned to finalize this notice and make the revised MEI effective on January 1, 1987.

The inpatient hospital deductible for 1987 was published in the **Federal Register** on September 15, 1986. The new deductible was announced as $572. The daily coinsurance amounts were: (a) $143 for the 61st through the 90th day of hospitalization; (b) $286 for lifetime reserve days; and (c) $71.50 for the 21st through 100th day of extended care services in a skilled nursing facility (51 FR 32691).

The Part A premium for the uninsured aged for the 12 months beginning January 1, 1987 was published in the **Federal Register** on October 1, 1986. The premium was announced as $248 (51 FR 35053).

On October 2, 1986 the monthly actuarial rates and Part B premium rates were published in the **Federal Register.** The 1987 monthly Part B premium was announced as $17.90 (51 FR 3591).

On October 21, 1986 new legislation was enacted. The Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, amended those sections of the Act controlling the Part A deductible, Part A and B premiums, and the Medicare economic index. This notice explains the effect of these changes.

II. Part A Deductible for Calendar Year 1987

Section 1813 of the Act (42 U.S.C. 1395e) provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable by Medicare for inpatient hospital services furnished an individual. Section 1813(b)(2) of the Act as amended by section 9125 of COBRA, Pub. L. 99–272, requires the Secretary of Health and Human Services (HHS) to determine and publish, between July 1 and September 15 of the year, the amount of the inpatient hospital deductible applicable for the following calendar year. As noted above, we announced, in a **Federal Register** notice on September 15, 1986, that the inpatient hospital deductible for 1987 was to be $572.

Section 9301 of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, provides that the Part A deductible for 1987 will be $520. The daily coinsurance amounts will be: (a) $130 for the 61st through 90th days of hospitalization; (b) $260 for lifetime reserve days; and (c) $65 for the 21st through 100th days of extended care services in a skilled nursing faculty.

In subsequent years (that is, beginning with the deductible to be published in September 1987) the Part A deductible will be adjusted by the applicable percentage increase (as defined in section 1886(b)(3)(B) of the Act) which is applied under section 1886(d)(3)(A) for discharges in the fiscal year that begins on October 1 of the preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case-mix data available). Any amount which is not a multiple of $4 will be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, to the next higher mutliple of $4).

A new section 1813(b)(3) provides that a hospital stay which falls into two calendar years will have the deductible applied based on the first day of the hospitalization. Applicable cost sharing under Part A would continue to be determined based on the annual deductible in effect for the year in which the cost sharing days are incurred.

Under section 9301(b) of Pub. L. 99–509, this amendment applies to inpatient hospital services and post-hospital extended care services furnished on or after January 1, 1987, and is to be applied in calculating the Part A premium to be paid by the uninsured aged for months beginning with January 1, 1987. Section 9301(c) requires the Secretary to provide for the publication of the inpatient hospital deductible, and the affected coinsurance and premium amounts within 30 days of the date of enactment; that is, by November 20, 1986.

III. Part A Premium for Calendar Year 1987

Section 1818 of the Act provides for voluntary enrollment in Part A of Medicare, subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for Social Security or Railroad Retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.) Section 1818(d)(2) of the Act, as amended by section 606(b) of the Social Security Amendments of 1983 (Pub. L. 98–21) requires the Secretary to determine and publish, during the next to last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the following calendar year.

Based on the formula specified in the statute, the monthly hospital insurance premium for the uninsured aged for the 12-month period beginning January 1, 1987 was announced as $248. With the enactment of section 9301 of Pub. L. 99–509 (which set the Part A deductible at $520 for 1987), the Part A premium rate for calendar year 1987 had to be recalculated. The necessity was recognized by Congress in section 9301(b) of Pub. L. 99–509, which, in providing for the effective date of the new Part A deductible for 1987, noted its application to the 1987 Part A premium. Therefore, effective January 1, 1987, the new monthly premium rate will be $226.

Under section 1818(d)(2) of the Act, which was not amended by Pub. L. 99–509, to calculate the Part A premium for calendar year 1987, the 1973 base year premium ($33) is multiplied by the ratio of: (1) The 1987 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearest multiple of $1, or, if midway between multiples of $1, to the next higher multiple of $1.

Since under section 1813(b)(1) of the Act, as amended by Pub. L. 99–509, the 1987 inpatient hospital deductible is $520, and the 1973 deductible was actuarially determined to be $76,* the monthly hospital insurance premium is $33 x (520/76)=$225.79, which is rounded to $226.

IV. Part B Premium Rate

The Secretary of Health and Human Services is required by section 1839(a) of the Act to issue two annual notices relating to the Medicare Part B Supplementary Medical Insurance (SMI) program. One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half of the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half of the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates." The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) We published in the **Federal Register** on October 2, 1986 (51 FR 35291) a notice setting forth both monthly actuarial rates and the Part B premium rate for 1987, promulgating a Part B premium for calendar year 1987 of $17.90. However, we stated clearly in the October 2 notice that it was possible that the Part B premium would not be increased, but would remain at $15.50 monthly. At the time that notice was published, section 1839(f)(1) of the Act, as amended by section 9313 of Pub. L. 99–272, stated that if no cost-of-living increase under section 215(i) of the Act becomes effective in December 1985, 1986, or 1987, there would be no increase in the SMI monthly premium paid by the enrollees for the following year. Therefore, the notice stated that if inflation was less than 3 percent, as appeared likely, Social Security beneficiaries would not receive a cost-of-living increase, under section 215(i) of the Act, as it existed at the time. However, section 9001 of Pub. L. 99–509 amended section 215(i) of the Act so that it no longer contains the 3 percent provision; therefore, since there will be a cost-of-living increase, we are confirming that the premium rate for calendar year 1987 will be $17.90.

Section 1839(f)(2) of the Act, added by Pub. L. 98–369 and amended by Pub. L. 98–617 and Pub. L. 99–272, provides that if there is a cost-of-living increase in Social Security benefits for 1987, as there now definitely will be, a beneficiary would be held harmless from a Part B premium increase for premiums deducted from his or her benefit payment. Under this section, if the dollar amount of a beneficiary's monthly benefit increase is less than the dollar amount of the increase in the premium, the beneficiary's premium is reduced so that the beneficiary receives at least the same amount as in December of the previous year.

V. Medicare Economic Index

Section 1842(b)(3) of the Social Security Act and our regulations at 42 CFR 405.504 require that the prevailing charge for a physician service in a locality not exceed the level in effect for that service in the locality on June 30, 1973, except to the extent justified on the basis of appropriate indicators of economic change. To accomplish this, we have established a Medicare economic index (MEI) for the purpose of determining prevailing charge levels. The basis for this index is set forth in § 405.504(a)(3). The index is comprised of two portions; one measuring changes in general levels (attributable to factors other than changes in productivity) and the other measuring changes in expenses of the kind incurred by physicians in the practice of medicine. The physician practice expense portion is currently composed of six components: (1) Salaries and wages; (2) office space; (3) drugs and supplies; (4) automobile expense; (5) malpractice insurance premiums; and (6) all other, miscellanous expenses.

Since 1975, when the first MEI was published, we have, when publishing the MEI for each successive fee screen year (FSY), recomputed the index base to its beginnings in 1971 to reflect the latest revisions of statistics and data on those earlier years. In view of this methodology, when the Bureau of Labor Statistics revised a measure of a subcomponent of the Housing component of the CPI, which affects the physician practice expense component of the MEI, we decided to incorporate the revised measure in the computations of ratios and values for all previous years. Therefore, on August 11, 1986, we proposed to revise the MEI to reflect a more accurate representation of changes in physicians' office space expenses. We had planned to finalize this change in the MEI to be applied to the fee screen year beginning January 1, 1987.

Subsequently, Pub. L. 99–509 was enacted, including provisions that set the 1987 MEI directly, and prohibit finalizing our August 11, 1986 proposal. Section 9331(c)(1) of Pub. L. 99–509 provides that the percentage increase in the Medicare economic index for FSY 1987 will be 3.2 percent for physicians' services. Section 9331(c)(2) states that the Secretary is not authorized to revise the MEI in a manner that would reflect the proposed revised housing cost measure for any period before January 1, 1985. Therefore, we do not plan to proceed with the August 11, 1986 proposal. Section 9331(c)(3) provides that for fee screen years after 1987, the MEI will be revised only to reflect year-to-year economic charges.

The "annualized" MEI increase for FSY 1987 beginning on January 1, 1987 is 3.2 percent. Note that the extra 1 percent rise that was included in the MEI increase of 4.15 percent (1.0415) for participating physicians' services effective May 1, 1986 will be permanently retained. The cumulative FSY 1987 MEI is therefore 2.218. (The cumulative FSY 1984 MEI of 2.063 multiplied by 1.0415 in effect yielded a cumulative figure of 2.149 for the May 1, 1986 reasonable charge update, and the latter mulitplied by 1.032 yields a cumulative FSY 1987 MEI of 2.218.)

* Although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council (See 37 FR 21452, October 11, 1972), the monthly premium for the 12-month period beginning January 1, 1987 was calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law.

VI. Regulatory Impact Statement

This notice merely announces amounts required by legislation for the Part A deductible, Part A and B premiums and the MEI percentage increase for participating physicians' services. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 through 612).

VII. Paperwork Reduction Act

The changes in this notice would not impose information collection requirements. Consequently, they need not be reviewed by the Executive Office fo Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Sec. 1813(b); 1818(d)(2); 1839(a), (e) and (f); and 1842(b)(3) of the Social Security Act; 42 U.S.C. 1395e(b); 1395i–2(d)(2); 1395r(a), (e) and (f); and 1395u(b)(3))

Dated: November 13, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: November 14, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–26231 Filed 11–19–86; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the Interagency Technical Committee (IATC) on Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources, sponsored by the National Heart, Lung, and Blood Institute on December 16, 1986, from 1:00 p.m. to 4:00 p.m., Building 31, C Wing, Conference Room 8, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting is open to the public. The Interagency Technical Committee (IATC) is meeting to examine and coordinate Federal research activities that concern heart, blood vessel, lung, and blood diseases and blood resources. This meeting will focus on data collection, issues, and problems. Attendance by the public will be limited to space available.

Dr. Lawrence Friedman, NHLBI, will speak on data collection in clinical trials, and Dr. Millicent Higgins, NHLBI, will speak on data collection in epidemiological studies. Dr. Donald Goldstone, from the National Center for Health Services Research, will provide an overview of the National Medical Expenditure Study. Dr. James S. Robertson, Department of Energy, will report on radon and female lung cancer.

For the detailed program information, agenda, and minutes of the meeting, contact: Ms. Jan Kaplan, Office of Program Planning and Evaluation, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, NIH, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496–5031.

Dated: November 14, 1986.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 86–26189 Filed 11–19–86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting on December 12, 1986, of the National Toxicology Program (NTP) Board of Scientific Counselors, Reproductive and Developmental Toxicology Program Review Subcommittee. The meeting will be held in Conference Room A, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

The meeting begins at 9:00 a.m., and will be open to the public. The primary agenda topics are reviews of evaluations of the short-term *in vivo* developmental toxicity test (Chernoff/Kavlock test) and two *in vitro* tests for developmental toxicity by the NTP Reproductive and Developmental Toxicology Program, which includes efforts of the staff at the National Institute of Environmental Health Sciences, the National Center for Toxicological Research and the National Institute for Occupational Safety and Health.

The Executive Secretary, Dr. Larry Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish the final agenda.

The roster of Subcommittee members and other program information will be available prior to and at the meeting, and summary minutes will be available subsequent to the meeting.

November 17, 1986.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 86–26190 Filed 11–19–86; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Marine Diesel Fuel and JP–5 Navy Fuel

The HHS' National Toxicology Program today announces the availability of the Technical Report describing the toxicology and carcinogenesis studies of Marine Diesel Fuel and JP–5 Navy Fuel. Marine diesel fuel is a common industrial and military fuel. JP–5 navy fuel is a jet fuel used exclusively by the U.S. Navy.

Toxicology and carcinogenicity studies were conducted by administering to groups of 49 or 50 male and 50 female $B6C3F_1$ mice 0, 250, or 500 mg/kg marine diesel fuel or JP–5 navy fuel in acetone by dermal application to the clipped dorsal interscapular region five days per week for 103 weeks.

Under the conditions of these two-year studies, marine diesel fuel at doses of 250 and 500 mg/kg resulted in dose-related increased incidences of squamous cell neoplasms of the skin (primarily carcinomas), providing equivocal evidence of carcinogenicity [1] for male and female $B6C3F_1$ mice. The sensitivity for detecting systemic carcinogenicity in female mice dosed with marine diesel fuel was reduced by poor survival. Under the conditions of these two-year dermal studies, JP–5 fuel at doses of 250 and 500 mg/kg provided no evidence of carcinogenicity for male and female $B6C3F_1$ mice.

Copies of *Toxicology and Carcinogenesis Studies of Marine Diesel Fuel and JP–5 Navy Fuel in $B6C3F_1$ Mice (Dermal Studies)* (TR 310) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541–3991. FTS: 629–3991.

[1] The NTP uses five categories of evidence of carcinogenicity to summarize the strength of the evidence observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

Dated: November 13, 1986.

David P. Rall,

Director.

[FR Doc. 86-26191 Filed 11-19-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Performance Review Board; Appointments

AGENCY: Department of the Interior.

ACTION: Notice of change in membership of the Office of the Solicitor Performance Review Board.

SUMMARY: This notice provides the names of replacement individuals to serve on the Office of the Solicitor Performance Review Board. The publication of these appointments is required by section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454; 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective November 20, 1986.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, 1800 C Street NW., Washington, DC 20240. Telephone Number: 343-6761.

Performance Review Board (PRB)—Changes as of October 21, 1986

Office of the Solicitor PRB

Howard Shafferman (Noncareer), Chairperson
Anthony Conte (Career, Field)
Timothy Elliott (Career)
Constance Harriman (Noncareer)
Charles Hughes (Career)
Alan Sears (Noncareer)

Dated: October 28, 1985

Gerald Riso,

Assistant Secretary—Policy, Budget Administration.

[FR Doc. 86-26146 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[AA-6695-B]

Alaska Native Claims Selection; Port Graham Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Port Graham Corporation for approximately 275.52 acres. The lands involved are in the vicinity of Port Graham, Alaska.

Seward Meridian

T. 12 S., R. 13 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, any agency of the Federal government or regional corporation, shall have until December 22, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-26194 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-040-07-4332-06]

Arizona; Amendment of Wilderness Study Area Boundaries

AGENCY: Bureau of Land Management, Interior.

ACTION: Changes in the Boundaries of Five Wilderness Study Areas.

SUMMARY: This notice serves as an amendment to previous wilderness inventory decisions made by the Bureau of Land Management (BLM) of Needle's Eye (AZ-040-1A), Fishhooks (AZ-040-14), Day Mine (AZ-040-16), Javelina Peak (AZ-040-48), and Dos Cabezas Mountains (formerly Happy Camp Canyon) (AZ-040-65) Wilderness Study Areas (WSA).

SUPPLEMENTARY INFORMATION: On June 28, and September 13, 1985, BLM's Safford District acquired, through exchange, 3,844 acres of State of Arizona land within or adjacent to Needle's Eye, Fishhooks, Day Mine, Javelina Peak, and Dos Cabezas Mountains WSAs. The following table identifies the acquired parcels by acreage and their relationship to the existing WSAs.

WSA	Acres	Location of the acquired land
Needle's Eye	231	Adjacent.
Fishhooks	202	Inholding.
Day Mine	640	Adjacent.
	40	Inholding.
Javelina Peak	960	Adjacent.
	23	Adjacent.
Dos Cabezas Mountains	591	Adjacent.
	597	Adjacent.
	560	Adjacent.
Total	3,844	

On July 23, 1985 and September 23, 1986, the BLM Director approved wilderness study of the acquired lands under section 202 of the Federal Land Policy and Management Act (FLPMA) of 1976. The lands listed in the above table are hereby added to the respective WSAs and will be incorporated into the Safford District's on-going wilderness studies.

The acquired lands were inventoried and found to possess the wilderness characteristics required by BLM inventory policy and section 2(c) of the Wilderness Act of 1964. Inventory reports were prepared in accordance with the guidelines of the BLM Wilderness Inventory Handbook. These reports describe the wilderness character of the acquired lands and are available for inspection at the Safford District Office.

These lands were acquired to consolidate public lands in areas with important multiple resource values. The amended WSA boundaries include the following acreages.

WSA	Previous WSA acreage	Acquired acreage to be studied under sec. 202 of FLPMA	New WSA acreage
Needle's Eye	9,485	231	9,716
Fishhooks	15,013	202	15,215
Day Mine	16,629	680	17,309
Javelina Peak	17,870	983	18,853
Dos Cabezas Mountains	16,761	1,748	18,509

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained by contacting Steve Knox, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546, or phone (602) 428-4040.

Dated: November 10, 1986.

Beaumont C. McClure,

Acting State Director.

[FR Doc. 86-26201 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-32-M

[CA-940-06-4212-13; CA 19154]

California; Exchange of Public and Private Lands in Riverside County and Opening Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire a portion of the non-Federal lands within the proposed 13,030-acre preserve for the Coachella Valley fringe-toed lizard. The lizard is Federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire 6,700 acres of land within the preserve. Other State or Federal agencies will acquire the remaining portion of the preserve. Within the preserve there are habitat and non-habitat areas for the fringe-toed lizards. The land acquired in this exchange is within a non-habitat area and will be used as a source of sand for the lizards' habitat areas. The public interest was well served through completion of this exchange. The land acquired in this exchange will be open to the operation of the public land laws and to the full operation of the United States mining laws and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office (916) 978–4815.

The United States issued an exchange conveyance document to The Nature Conservancy on October 16, 1986, for the following described land under Sec. 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 3 S., R. 6 E.,
Sec. 14, Lots 1 to 8, inclusive, S½NW¼, W½SW¼, NE¼SE¼, and S½SE¼;
T. 3 S., R. 7 E.,
Sec. 28, Lots 1 to 8, inclusive, SW¼NE¼, S½NW¼, and S½;
Sec. 34, All;
Containing 1682.61 acres of public land.

In exchange for these lands the United States acquired the following described land from The Nature Conservancy:

San Bernardino Meridian, California

T. 4 S., R. 7 E.,
Sec. 7, Lots 1 and 2 in NW¼, and W½NW¼NE¼;

Except 50% of all mineral, gas, oil, and geothermal rights, and substances, under the real estate described in the Deed, without rights of surface entry, as reserved in the Deed from Lou R. Crandall and Marguerita Crandall, husband and wife; William V. Lawson and May Lou Lawson, husband and wife; Stanley N. Gleis and Kathleen R. Gleis, husband and wife; and William J.D. Lane and Kathleen C. Lane, husband and wife; each as to an undivided one-quarter interest, by Deed dated January 21, 1959, which recites as tenants in common, recorded April 27, 1971, as Instrument No. 43315 of Official Records of Riverside County, California;

Containing 186.17 acres of non-Federal land.

A payment in the amount of $6,000 has been paid to the United States by The Nature Conservancy to equlize values between the non-Federal lands and the public lands.

At 10 a.m. on December 22, 1986, the non-Federal lands described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 22, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on December 22, 1986, the non-Federal lands described above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Dated: November 12, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86–26199 Filed 11–19–86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4212-13; CA 5626]

Exchange of Public and Private Lands In Lassen County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land conveyance document.

SUMMARY: The purpose of this exchange was to acquire these non-Federal lands which have significant multiple-use values; i.e., recreational, cultural, wildlife, botanical, and scenic. These values far outweigh the values found on the Federal lands in this exchange. The public interest was well served through completion of this exchange.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978–4815.

The United States issued an exchange conveyance document to W.M. Beaty & Associates, Inc. on March 7, 1986, under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716), for the following described land:

Mount Diablo Meridian, California

T. 29 N., R. 9 E.,
Sec. 33, SE¼NE¼;
T. 29 N., R. 10 E.,
Sec. 1, Lots 3 and 4;
Sec. 2, Lot 1, SE¼NE¼, SW¼NW¼, and NW¼SW¼;
Sec. 3, SE¼NE¼;
Sec. 9, E½SE¼;
Sec. 10, SW¼NW¼;
Sec. 11, NW¼NW¼ and S½SW¼;
Sec. 14, NW¼;
T. 29 N., R. 11 E.,
Sec. 10, NW¼NE¼;
Sec. 19, SE¼NE¼;
Sec. 20, NW¼NE¼;
Sec. 21, NE¼NE¼;
T. 30 N., R. 11 E.,
Sec. 1, N½SW¼;
Sec. 5, Lots 1 and 2, S½NE¼, and NE¼SE¼;
Sec. 6, Lots 1 and 2 and SW¼NE¼;
Sec. 18, W½NE¼;
T. 31 N., R. 11 E.,
Sec. 26, SW¼SE¼.
Containing 1,392.07 acres of public land.

In exchange for these lands, the United States acquired the following described land from W.M. Beaty & Associates, Inc.:

Mount Diablo Meridian, California

T. 29 N., R. 9 E.,
Sec. 4, Portion of SW¼SW¼;
Sec. 17, Portion of SW¼;
T. 29 N., R. 11 E.,
Sec. 2, SE¼NW¼, SW¼NW¼, Lot 2, and portions of Lots 3 and 4;
Sec. 3, S½N½, N½SW¼, NW¼SE¼;
Sec. 4, W½SW¼, S½NE¼, NE¼SE¼;
Sec. 5, E½SE¼, NW¼SE¼, and portions of NW¼SW¼, SE¼NW¼;
Sec. 6, Portions of SE¼SW¼, SW¼SE¼;
T. 30 N., R. 9 E.,
Sec. 36, Portions of N½, NE¼SE¼;
T. 30 N., R. 11 E.,
Sec. 35, N½SE¼, SW¼SE¼, SE¼SW¼.
Containing 1,091.51 acres of non-Federal land.

A cash payment in the amount of $320 has been paid to the United States by W.M. Beaty & Associates, Inc. to equalize values between the non-Federal lands and public lands.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

Dated: November 12, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86–26200 Filed 11–19–86; 8:45 am]

BILLING CODE 4310-40-M

[CA-010-07-4352-10]

Designation of the Limestone Salamander Area of Critical Environmental Concern; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that certain public lands in the Folsom Resource Area, Bakersfield District, California are designated as an Area of Critical Environmental Concern (ACEC)—Corrections.

SUMMARY: The following correction is made to a notice published in the Federal Register on Thursday, July 17, 1986, on page 25948. The first "T&R" listed should read "T. 3 S., R. 18 E., instead of "T. 1 S., R. 18 E.".

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 95630; (916) 985–4474.

Dated: November 13, 1986.

D.K. Swickard,

Area Manager.

[FR Doc. 86–26195 Filed 11–19–86; 8:45 am]

BILLING CODE 4310-40-M

[CA 940-07-4212-18, CA 18984, N-43627]

Clearing Title to Certain Lands Along the California-Nevada Boundary

November 6, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pub. L. 99–200 (99 Stat. 1663) is an act to clear title to certain lands along the California/Nevada boundary. Thousands of acres of public lands transferred by the United States to the State of California or to the State of Nevada on or before June 1, 1982, are now located within the other State according to the boundary between them established by the United States Supreme Court in the Case of California versus Nevada (447 U.S. 125 (1980)). Each State accepted such transfers as valid, and commencing over 125 years ago, conveyed substantially all of the land into private ownership. The original title of each State and political subdivisions thereof and subsequent private parties have been treated as good and valid for all governmental and private purposes. Pursuant to the provisions of this Act the Bureau of Land Management, California State Director, has been directed to publish the list of State patents or other conveyances agreed on by the two States for tracts of land affected.

EFFECTIVE DATE: December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Virginia B. Henke, California State Office, 916–978–4749.

ADDRESS: Inquiries should be sent to:

Bureau of Land Management, California State Office, Chief, Branch of Adjudication and Records, 2800 Cottage Way (Room E–2841), Sacramento, CA 95825

Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520–0006

State of California, State Lands Commission, 1807 13th Street, Sacramento, CA 95814

State of Nevada, Division of State Lands, 201 S. Fall Street, Capitol Complex, Carson City, NV 89710

The following is a list of all State patents or other conveyances affected by this act:

Lands Patented by the State of Nevada Which Now Are Within the Boundaries of the State of California

T. 32 N., R. 17 E.
Sec. 13, portion NW¼NE¼, N½NW¼, lot 1 NW¼.
Patent No. 455
Patentee: William B. Tiffany
Date of Patent: 6/20/1872
Grant I.I.

T. 32 N., R. 17 E.
Sec. 13, SW¼SE¼, SE¼SW¼,
Sec. 24, W½NE¼, NE¼NW¼, W½SE¼,
Sec. 25, NW¼NE¼
Patent No. 446
Patentee: J. Humboldt Eaton
Date of Patent: 6/3/1872
Grant I.I.

T. 16 N., R. 18 E.
Sec. 30, portion Lot 1 NW¼.
Patent No. *779
Patentee: Joseph A. Todman
Date of Patent: 11/16/1874
Grant I.I.

T. 16 N., 18 E.
Sec. 30, Lot 2 NW¼.
Patent No. *534
Patentee: W. B. Campbell
Date of Patent: 5/28/1873
Grant I.I.

T. 16 N., R. 18 E.
Sec. 18, W½.
Patent No. *253
Patentee: Alexander Fraser
Date of Patent: 7/25/1870
Grant I.I.

T. 17 N., R 18 E.
Sec. 6, portion NW¼.
Patent No. *185
Patentee: I. B. Wallace
Date of Patent: 3/16/1870
Grant I.I.

T. 18 N., R 18 E.
Sec. 30, Lot 3.
Patent No. *11487
Patentee: H. B. R. Bushard
Date of Patent: 7/31/1941
Grant I.I.

T. 18 N., R. 18 E.
Sec. 30, portion NW¼.
Patent No. *343
Patentee: A. M. Wickes
Date of Patent: 5/2/1871
Grant I.I.

T. 18 N., N., R. 18 E.
Sec. 30, Lot 3 NW¼.
Patent No. *455
Patentee: William B. Tiffany
Date of Patent: 6/20/1872
Grant I.I.

T. 18 N., R. 18 E.
Sec. 19, Lot 3 SW¼,
Sec. 7, S½ Lots 2 & 3.
Patent No. *936
Patentee: Emily C. Fish
Date of Patent: 8/25/1875
Grant I.I.

T. 18 N., R. 18 E.
Sec. 18, Portion SW¼.
Patent No. *7570
Patentee: Edward J. McLaughlin
Date of Patent: 7/19/1913
Grant I.I.

T. 18 N., R. 18 E.
Sec. 18, S½ Lot 3 NW¼. N½ Lot 3 SW¼.
Patent No. *160
Patentee: Charles Webber
Date of Patent: 2/18/1870
Grant P.B.

T. 18 N., R. 18 E.
Sec. 18, N½ Lot 2 NW¼, N½ Lot 3 NW¼.
Patent No. *186
Patentee: I. B. Wallace
Date of Patent: 3/16/1870
Grant I.I.

T. 18 N., R. 18 E.
Sec. 18, S½ Lot 1 NW¼.
Patent No. *950
Patentee: Joseph N. Wallace
Date of Patent: 10/15/1875
Grant I.I.

T. 18 N., R., 18 E.
Sec. 18, S½ Lot 2 NW¼, N½ Lot 1 SW¼, N½ Lot 2 SW¼.
Patent No. *806
Patentee: Joseph N. Wallace
Date of Patent: 1/22/1975
Grant I.I.

T. 18 N., R. 18 E.
Sec. 6, S½ Lot 2 SW¼, Lot 3 SW¼, S½ Lot 3 NW¼.
Patent No. *710
Patentee: Henry L. Fish
Date of Patent: 2/25/1874
Grant I.I.

T. 18 N., R. 18 E.
Sec. 6, S½ Lot 2 NW¼.
Patent No. *816
Patentee: Mary A. Tiffany
Date of Patent: 3/4/1875
Grant: I.I.

T. 18 N., R. 18 E.
Sec. 6, N½ Lot 3 NW¼.
Patent No. *563
Patentee: William B. Tiffany
Date of Patent: 5/28/1873
Grant: I.I.

T. 18 N., R. 18 E.
Sec. 6, Portion Lot 1 NW¼.
Patent No. *140
Patentee: Waterman H. Morton
Date of Patent: 1/27/1870

*Portion of Patent that now lies in California may not be all the lands as described in the original patent from the State of Nevada.

Grant: I.I.
T. 18 N., R. 18 E.
Sec. 6, N½ Lot 2 NW¼.
Patent No. *1001
Patentee: Mary Ann Tiffany
Date of Patent: 5/20/1876
Grant: I.I.
T. 18 N., R. 18 E.
Sec. 6, N½ Lot 1 SW¼.
Patent No. *1021
Patentee: Mary A. Tiffany
Date of Patent: 9/19/1876
Grant: I.I.
T. 18 N., R. 18 E.
Sec. 6, S½ Lot 1 SW¼.
Patent No. *1773
Patentee: Mary A. Tiffany
Date of Patent: 4/9/1883
Grant: I.I.
T. 18 N., R. 18 E.
Sec. 7, N½ Lot 1 NW¼.
Patent No. *975
Patentee: Henry C. Hunken
Date of Patent: 12/20/1875
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 31, S½ Lot 3 SW¼, N½ Lot 2 SW¼.
Patent No. *809
Patentee: William B. Tiffany
Date of Patent: 2/8/1875
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 31, N½ Lot 2 NW¼, S½ Lot 3 NW¼, N½ Lot 3 SW¼.
Patent No. *976
Patentee: Henry C. Hunken
Date of Patent: 12/20/1875
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 31, Lot 1 SW¼.
Patent No. 1110
Patentee: William B. Tiffany
Date of Patent: 10/31/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 31, S½ Lot 2 SW¼.
Patent No. 1111
Patentee: Mary A. Tiffany
Date of Patent: 10/31/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 31, S½ Lot 1 NW¼.
Patent No. 1241
Patentee: Henry C. Hunken
Date of Patent: 10/15/1878
Grant: M.C.
T. 19 N., R. 18 E.
Sec. 31, N½ Lot 3 NW¼.
Patent No. 1067
Patentee: Truman H. Thompson
Date of Patent: 3/22/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, S½ Lot 3 SW¼.
Patent No. *506
Patentee: Truman H. Thompson
Date of Patent: 11/11/1872
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, S½ Lot 2 SW¼.
Patent No. *580
Patentee: T.H. Thompson
Date of Patent: 6/13/1873
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, N½ Lot 3 SW¼.
Patent No. *11670
Patentee: John C. Fugitt
Date of Patent: 5/26/1943
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, N½ Lot 1 SW¼.
Patent No. *1240
Patentee: Christopher Haller
Date of Patent: 10/15/1878
Grant: M.C.
T. 19 N., R. 18 E.
Sec. 30, Lot 3 NW¼.
Patent No. *438
Patentee: John P. Foulks
Date of Patent: 6/3/1872
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, S½ Lot 1 NW¼.
Patent No. *746
Patentee: J.P. Foulks
Date of Patent: 5/15/1874
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 30, N½ Lot 1 NW¼.
Patent No. *754
Patentee: Joseph N. Wallace
Date of Patent: 6/3/1874
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 19, S½ Lot 2 SW¼, S½ Lot 3 SW¼.
Patent No. *1070
Patentee: John P. Foulks
Date of Patent: 4/21/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 19, S½ Lot 1 SW¼.
Patent No. *977
Patentee: Henry C. Hunken
Date of Patent: 12/20/1875
Grant: U.
T. 19 N., R. 18 E.
Sec. 19, N½ Lot 3 SW¼, S½ Lot 3 NW¼.
Patent No. *1820
Patentee: Margaret Foulks
Date of Patent: 5/21/1883
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 19, N½ Lot 3 NW¼.
Patent No. 1828
Patentee: W.H. Young
Date of Patent: 5/29/1883
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 19, Lot 2 NW¼.
Patent No. 1066
Patentee: Joseph Jones
Date of Patent: 3/22/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 19, Lot 1 NW¼.
Patent No. 1068
Patentee: William H. Young
Date of Patent: 3/22/1877
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 18, Lot 3 SW¼.
Patent No. *169
Patentee: Felix O'Neil
Date of Patent: 3/4/1870
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 18, Lot 3 NW¼.
Patent No. *1857
Patentee: Philip Judkins
Date of Patent: 6/23/1883
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 18, S½ Lot 1 NW¼, S½ Lot 2 NW¼.
Patent No. 5207
Patentee: Philip Judkins
Date of Patent: 5/12/1904
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 6, S½ Lot 1 SW¼.
Patent No. *772
Patentee: William Merrill
Date of Patent: 7/7/1874
Grant: I.I.
T. 19 N., R. 18 E.
Sec. 6, S½ Lot 2 SW¼.
Patent No. *13373
Patentee: Hugh Holstrom
Date of Patent: 2/26/1962
Grant: I.I.
T. 20 N., R. 18 E.
Sec. 30, Portion SW¼SE¼, Lot 1 SW¼, Lot 2 SW¼, Lot 3 SW¼, S½ Lot 3NW¼.
Patent No. *839
Patentee: Moritz Lippman
Date of Patent: 5/20/1875
Grant: I.I.
T. 20 N., R. 18 E.
Sec. 30, S½ Lot 1 NW¼, Lot 2 Nw¼, N½ Lot 3 NW¼.
Patent No. *840
Patentee: Thomas K. Hymers
Date of Patent: 5/20/1875
Grant: I.I.
T. 20 N., R. 18 E.
Sec. 18, Lot 7.
Patent No. *13343
Patentee: Chris, Martin & Sophus Mortensen
Date of Patent: 3/13/1961
Grant: I.I.
T. 20 N., R. 18 E.
Sec. 6, Lot 5 NW¼.
Patent No. *2810
Patentee: John H. Merritt
Date of Patent: 12/31/1888
Grant: I.I.
T. 21 N., R. 18 E.
Sec. 30, Lots 1 and 2, SE¼NW¼, NE¼SW¼.
Patent No. *737
Patentee: George W. Browne
Date of Patent: 4/25/1874
Grant: I.I.
T. 21 N., R. 18 E.
Sec. 30, NE¼NW¼.
Patent No. *995
Patentee: John N. Pine
Date of Patent: 4/4/1876
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 35, Portion NW¼, Portion SW¼NE¼.
Patent No. 485
Patentee: Caroline M. Lapham
Date of Patent: 10/7/1872
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 34, SW¼NW¼, NE¼SW¼,
Sec. 33, N½SE¼, SW¼SE¼, SE¼NE¼.
Patent No. 427
Patentee: Freeman McComber
Date of Patent: 5/2/1872
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 33, SE¼SE¼,
Sec. 34, SE¼SW¼.
Patent No. 852

Patentee: Ellen D. McComber
Date of Patent: 5/25/1875
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 34, W½SW¼.
Patent No. 852
Patentee: Freeman McComber
Date of Patent: 5/25/1875
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 34, SE¼.
Sec. 35, W½SW¼.
Patent No. 456
Patentee: Ellen D. McComber
Date of Patent: 5/25/1875
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 26, Lot 5,
Sec. 27, Portion SE¼SE¼.
Sec. 35, Portion NW¼NW¼.
Sec. 34, SE¼NW¼, S½NE¼.
Patent No. 59
Patentee: W.W. Lapham
Date of Patent: 6/26/1869
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 33, SW¼SW¼.
Patent No. 2841
Patentee: William S. Bliss
Date of Patent: 4/9/1889
Grant: I.I.
T. 13 N., R. 18 E.
Sec. 36, Portion S½SW¼.
Patent No. 1331
Patentee: George F. Mills
Date of Patent: 8/6/1879
Grant: 16 & 36
T. 12 N., R. 19 E.
Sec. 36, Portion NE¼SE¼.
Patent No. 3260
Patentee: John Baldwin
Date of Patent: 6/7/1892
Grant: 2M
T. 12 N., R. 19 E.
Sec. 36, Portion NW¼NW¼, Portion SE¼NW¼.
Patent No. 9321
Patentee: Harrison Berry
Date of Patent: 9/18/1919
Grant: 2M
T. 12 N., R. 19 E.
Sec. 36, SW¼NW¼.
Patent No. 566
Patentee: William W. Wyatt
Date of Patent: 5/28/1873
Grant: 16 & 36
T. 12 N., R. 19 E.
Sec. 26, Portion SE¼SE¼.
Patent No. 9322
Patentee: George H. Fay
Date of Patent: 9/18/1919
Grant: U.
T. 12 N., R. 19 E.
Sec. 26, W½SW¼.
Patent No. 818
Patentee: James Hannum
Date of Patent: 3/19/1875
Grant: I.I.
T. 12 N., R. 19 E.
Sec. 27, Lot 7 NW¼.
Patent No. 7867
Patentee: Christina S. Speck
Date of Patent: 11/24/1914
Grant: 2M
T. 12 N., R. 19 E.
Sec. 22, Portion SW¼SE¼.
Patent No. 7878
Patentee: Chris Beck
Date of Patent: 12/3/1914
Grant: 2M
T 12 N., R. 19 E.
Sec. 22, portion SW¼NW¼.
Patent No. 4181
Patentee: Benjamin Palmer
Date of Patent: 2/3/1900
Grant: 2M.
T 12 N., R. 19 E., Lot 7
Sec. 21
Patent No. 3587
Patentee: Alexander Scossa
Date of Patent: 9/7/1895
Grant: 2M–C.
T 12 N., R. 19 E.
Sec. 21, SE¼NE¼, Lot 8 NE¼.
Patent No. 12537
Patentee: W.F. Dressler
Date of Patent: 6/7/1950
Grant: I.I. 2M.
T 12 N., R. 19 E.
Sec. 21, portion NE¼NE¼.
Patent No. 9381
Patentee: Frank E. Brockliss
Date of Patent: 11/28/1919
Grant: I.I.
T 12 N., R. 19 E.
Sec. 21, NW¼NE¼,
Sec. 16, portion SE¼SW¼, portion SW¼SE¼.
Patent No. 3232
Patentee: Wilhelm Dangberg
Date of Patent: 5/4/1892
Grant: 2M.
T 12 N., R. 19 E.
Sec. 16, SW¼SW¼, portion N½SW¼.
Patent No. *250
Patentee: David Jones
Date of Patent: 5/28/1870
Grant: 16 & 36.
T 11 N., R. 20 E.
Sec. 8, portion E½NE¼, E½SW¼.
Patent No. 787
Patentee: Abial S. Berry
Date of Patent: 11/6/1874
Grant: I.I.
T 11 N., R. 20 E.
Sec. 8, NW¼NW¼.
Patent No. 788
Patentee: Patrick Higgins
Date of Patent: 11/6/1874
Grant: I.I.
T 11 N., R. 20 E.
Sec. 8, SW¼NW¼, NW¼SW¼.
Patent No. 801
Patentee: William Salge
Date of Patent: 1/25/1875
Grant: I.I.
T 11 N., R. 20 E.
Sec. 8, fractional portion SW¼SW¼.
Patent No. 4913
Patentee: Dierich Panning
Date of Patent: 12/13/1902
Grant: I.I.
T 11 N., R. 20 E.
Sec. 8, portion E½NE¼.
Patent No. 5947
Patentee: Luigi DeLuchi
Date of Patent: 6/7/1907
Grant: 2M.
T 11 N., R. 20 E.
Sec. 7, lot 4, NW¼NE¼.
Patent No. 175
Patentee: Harriet Woodford
Date of Patent: 3/11/1870
Grant: I.I.
T 11 N., R. 20 E.
Sec. 7, lot 1, 2 & 3, NW¼.
Patent No. 1018
Patentee: Henry Neddenreip
Date of Patent: 7/26/1876
Grant: I.I.
T 11 N., R. 20 E.
Sec. 6, Lot 9, SE¼.
Patent No. 2923
Patentee: Theodor Tillman
Date of Patent: 5/23/1890
Grant: 2M.
T 11 N., R. 20 E.
Sec. 6, SW¼.
Patent No. 302
Patentee: Anthony Derrick
Date of Patent: 12/6/1870
Grant: I.I.
T 11 N., R. 20 E.
Sec. 6, W½NW¼.
Patent No. 62
Patentee: W.H. Smith
Date of Patent: 6/28/1869
Grant: I.I.
T 11 N., R. 20 E.
Sec. 25, portion W½NW¼, lot 4.
Patent No. 3944
Patentee: Elihu J. Kelley
Date of Patent: 11/1/1898
Grant: 2M.
T 11 N., R. 20 E.
Sec. 26, lot 10.
Patent No. 3945
Patentee: Seth Kelley
Date of Patent: 11/1/1898
Grant: 2M.
T 11 N., R. 20 E.
Sec. 23, portion SW¼SE¼.
Patent No. 8940
Patentee: Fritz Elges
Date of Patent: 12/8/1917
Grant: 2M.
T 11 N., R. 20 E.
Sec. 23, portion E½SW¼.
Patent No. 8944
Patentee: George Springmeyer
Date of Patent: 12/8/1917
Grant: 2M.
T 11 N., R. 20 E.
Sec. 23, portion SW¼NW¼.
Patent No. 5636
Patentee: George Soule
Date of Patent: 3/22/1906
Grant: 2M–C.
T 11 N., R. 20 E.
Sec. 22, lot 14,
Sec. 15, portion SE¼SW¼.
Patent No. 3755
Patentee: George W. Gallaner
Date of Patent: 10/6/1897
Grant: 2M.
T 11 N., R. 20 E.
Sec. 15, portion lot 2, SW¼.
Patent No. 4145
Patentee: William H. Harley
Date of Patent: 11/10/1899
Grant: 2M.
T 10 N., R. 21 E.
Sec. 25, portion NE¼NE¼.
Patent No. 12285
Patentee: James & Ida Compston
Date of Patent: 9/19/1947
Grant: 2M.

T 10 N., R. 21 E.
Sec. 24, portion lot 1, SW¼,
Sec. 23, lots 1, 2, & 3, portion SE¼NE¼.
Patent No. 8482
Patentee: Len Derrick
Date of Patent: 11/27/1916
Grant: 2M.
T 10 N., R. 21 E.
Sec. 6, lot 1, NE¼.
Patent No. 4450
Patentee: Mathias A. Jacobsen
Date of Patent: 3/5/1901
Grant: 2M.
T 11 N., R. 21 E.
Sec. 31, portion NW¼SE¼, portion lot 6, SE¼.
Patent No. 4121
Patentee: Barney Riley
Date of Patent: 10/2/1899
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 24, portion 6.
Patent No. 12650,
Patentee: Vemba W. Pitts
Date of Patent: 4/19/1951
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 24, portion lots 1, 2, 3, 4 & 5,
Sec. 13, portion SW¼ fractional quarter, portion S½NE¼,
Sec. 14, portion lots 2, 3, 4 & 5.
Patent No. 2142,
Patentee: John P. Marshal
Date of Patent: 8/20/1884
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 14, portion, NE¼NW¼.
Patent No. 2020
Patentee: Richard Kirman
Date of Patent: 1/4/1884
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 14, portion lot 1,
Sec. 15, portion lot 1.
Patent No. 2264
Patentee: Alfred P. Pike
Date of Patent: 2/19/1885
Grant: 2M, Indemnity.
T. 9 N., R. 22 E.
Sec. 11, portion SW¼SW¼,
Sec. 10, portion lots 6 & 7, SE¼, portion NE¼SE¼.
Patent No. 2011
Patentee: Barbara A. Lancaster
Date of Patent: 12/12/1883
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 10, portion lot 4, portion lot 5.
Patent No. 2008
Patentee: H. H. Lancaster
Date of Patent: 12/12/1883
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 10, portion lot 3.
Patent No. 2009
Patentee: G. W. Stout
Date of Patent: 12/12/1883
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 4, portion lots 4 & 5,
Sec. 5, portion lot 3.
Patent No. 8494
Patentee: Tremnor Coffin
Date of Patent: 11/27/1916
Grant: 2M.
T. 9 N., R. 22 E.
Sec. 5, portion lot 1 NE¼
Patent No. 8489
Patentee: William Bender
Date of Patent: 11/27/1916
Grant: 2M.
T. 10 N., R. 22 E.
Sec. 32, portion NW¼NW¼.
Patent No. 8479
Patentee: Andrew S. Bryant
Date of Patent: 11/27/1916
Grant: 2M.
T. 9 N., R. 23 E.
Sec. 30, portion lots 1, 2, 4 & 4, portion NW¼NE¼.
Patent No. 8474
Patentee: Joseph Platt
Date of Patent: 11/27/1916
Grant: 2M.
T. 9 N., R. 23 E.
Sec. 19, portion SW¼.
Patent No. 8468
Patentee: Ezekiel Edgecomb
Date of Patent: 11/27/1916
Grant: 2M.
T. 7 N., R. 25 E.
Sec. 35, portion NE¼SW¼.
Patent No. 2159
Patentee: George A. Green
Date of Patent: 9/19/1884
Grant: I.I.

Lands patented by the State of California which now are within the boundaries of the State of Nevada:

T. 1 N., R. 31 E.
Sec. 12, portion SW¼NW¼.
Patent No. Ind 2042
Patentee: Oliver Bertrand
Date of Patent: 10/27/1900
Grant: Lieu.
T. 4 N., R. 36 E.
Sec. 36, portion.
Patent No. Sac. 4727
Patentee: George B. and Gertrude Moss
Date of Patent: 11/02/1950
Grant: 16 & 36.
T. 5 S., R. 37 E.
Sec. 5, portion tr. 39.
Patent No. Ind. 3563
Patentee: Robert C. Allen
Date of Patent: 9/6/1923
Grant: Lieu.
T. 5 S., R. 37 E.
Sec. 16, portion NE¼NE¼NE¼.
Patent No. Ind. 3141
Patentee: James A. Little
Date of Patent: 1/22/1912
Grant: 16 & 36.
T. 5 N., R. 28 E.,
Sec. 32, portion SW¼SW¼.
Patent No. Ind. 3440
Patentee: Edward Rondel
Date of Patent: 6/2/1922
Grant: Lieu.

For illustrative purposes maps (using the Department of the Interior, Bureau of Land Management Master Title Plats) and the above listed patents or conveyances are available for public inspection with the State Directors of the Bureau of Land Management, Department of the Interior, in California and Nevada, and with the State Lands Administrator of Nevada and State Lands Commissioner of California.

Sharon N. Janis,

Chief, Branch of Adjudication & Records.

[FR Doc. 86-26193 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-40-M

[MT-030-07-4410-08]

Montana; Dickinson District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Dickinson District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: The district advisory council for the Bureau of Land Management's Dickinson District will meet December 19, 1986, in Dickinson, North Dakota.

Two major topics will be discussed at the council meeting: alternative management proposals and expected environmental impacts presented in the Draft North Dakota Resource Management Plan, and proposed changes to the Federal coal management regulations.

The council is chartered by the Secretary of Interior to give citizen advice to the Dickinson District Manager regarding planning and management of public lands and resources.

The meeting is open to the public, and members of the public will be given the opportunity to make statements before the Council. Persons wishing to submit a written statement to the Council should send it to the Dickinson District Manager.

Location, Date, and Time: December 19, 1986, from 8:30 A.M. to approximately 3:00 P.M. Mountain Standard Time, Conference Room, Bureau of Land Management, 202 East Villard, Dickinson, North Dakota.

FOR FURTHER IMFORMATION CONTACT: William F. Krech, District Manager; P.O. Box 1229, Dickinson, North Dakota 58602; Telephone (701) 225-9148.

William F. Krech,

District Manager.

[FR Doc. 86-26197 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-DN-M

[UT-040-06-4830-12]

Utah; Cedar City District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Advisory Council will be held December 11, 1986.

The meeting will begin at 9:30 a.m. in the BLM office at 176 East DL Sergent

Drive, Cedar City, Utah. The agenda will include: update on several lands and mineral issues that the council has previously addressed, follow-up on the Escalante RAMP discussion of last meeting, land sale request in the Beaver County area, ORV designations, Christmas tree sales and trespass, and a discussion on the preplanning effort currently underway in the Dixie Resource Area.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 9:45 a.m. or submit written comments for the councils consideration. Anyone wishing to make an oral statement must notify the District Manager, 176 East DL Sargent Drive, Cedar City, Utah 84720 by Dec. 8, 1986. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager or Council Chairman.

Dated: November 13, 1986.

Morgan S. Jensen,

District Manager.

[FR Doc. 86-26196 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-DQ-M

Alaska; Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48734-AM has been received covering the following lands:

Copper River Meridian, Alaska

T. 4 S., R. 2 E.,
Sec. 29, S½NW¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from June 1, 1985, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48734-AM as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective September 1, 1985, subject to the terms and conditions cited above.

Dated: November 12, 1986.

Kay F. Kletka,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 86-26198 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-84-M

[WY920 07 4121-14; Coal Lease Application W-100441]

Black Butte Coal Co. Emergency By-Pass; Coal Lease Application W-100441

At 2:00 p.m., December 17, 1986, an authorized officer of the Bureau of Land Management, Wyoming State Office will offer the following described lands for competitive lease by sealed bid to the qualified bidder submitting the highest cash amount per acre, or fraction thereof, in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). No bid will be considered which is less than $100 per acre and bids should be formulated on the basis of 1,218 acres. The minimum bid is not intended to represent fair market value.

Coal offered: The coal resource to be offered consists of all the recoverable coal in the following described lands located in Sweetwater County, Wyoming:

T. 19 N., R. 100 W., 6th P. M., WY
Sec. 12: All;
Sec. 24: W½E½, W½;
Sec. 26: Lots 4, 5.
Containing 1,217.98 acres.

The estimated total recoverable reserves are 11.7 million tons with the following estimated coal quality: BTU—9,313/lb; Sulphur—.26 percent; Ash—6.71 percent; Moisture—21.74 percent. The coal is classified as subbituminous. The above described lands lie within the Rock Springs Known Coal Leasing Area in Sweetwater County, Wyoming and contain three mineable coal seams averaging between 4.5 feet and 29 feet in thickness. The report indicating demonstrated in-place and recoverable reserves by coal seam is available for public review in case file W-100441.

Rental and Royalty

A lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8.0 percent of the value of coal produced by underground mining methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

Advance Royalty

Upon request by the lessee, the authorized officer may accept, for a total of not more than 10 years, the payment of advance royalties in lieu of the condition of continued operation, consistent with the regulations. The advance royalty shall be based on a percent of the value of a minimum number of tons determined in the manner established by the advance royalty regulations in effect at the time the lessee requests approval to pay advance royalties in lieu of continued operation.

Where and When To Submit Bids

Sealed bids must be submitted on or before 1:00 p.m., December 17, 1986, to the Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001. Sealed bids received after the hour specified will not be considered. The envelope used for the sealed bid should be plainly marked that it is not to be opened before the hour and date of the sale and should show that the bid is for coal lease W-100441. Sealed bids may not be modified or withdrawn unless the modification or withdrawal is received before 1:00 p.m., December 16, 1986, at the above address.

Sealed Bidding Requirements

No specific form of sealed bid is required. However, all bids must show the amount bid per acre, the total amount bid, the amount submitted with the bid, and must be signed by the bidder or a person authorized to act for the bidder. Each sealed bid must be accompanied by the following:

1. A bid deposit of one-fifth of the amount bid in cash, cashier's check, certified check, bank draft, money order, certificate of bidding rights, or personal check made payable to the order of the Bureau of Land Management.

2. A statement over the bidder's own signature with respect to citizenship and interests held, similar to that prescribed in 43 CFR Part 3472 and a statement as to the sole party in interest as specified in 43 CFR 3472.2-1. A lease will not be issued to a bidder who holds or controls more than 46,080 acres of Federal coal leases in any one state or more than 100,000 acres of Federal coal leases in the United States.

3. A completed and signed Form 1140-6, Independent Price Determination Certificate, to the effect that the bid was arrived at by the bidder independently and was tendered without collusion with any other bidder.

Bidders are warned against violation of section 1860, Title 18, U.S.C. prohibiting unlawful combination or intimidation of bidders.

Bid Opening

At 2:00 p.m., December 17, 1986, in the conference room, third floor, 2515 Warren Avenue, Cheyenne, Wyoming, the authorized officer will open and read all the sealed bids. If identical bids are

received for the tract, the tying high bidders will be asked to submit follow-up sealed bids until a high bid is received. An apparent high bidder submitting a tie-breaking sealed bid shall tender, at the close of the sale, any additional amount necessary to bring the amount submitted with the original bid up to one-fifth of the final bid. The highest bid will be announced and the successful high bidder will be formally notified in writing after the State Director has made his determination. The Department of the Interior reserves the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned.

Consultation With the Attorney General

In accordance with the Federal Coal Leasing Amendments Act of 1976, and the implementing regulations 43 CFR 3422.3–4, the successful bidder and prospective lessee will be required to disclose the nature and extent of its coal holdings to the Department of Justice prior to lease issuance. The Department of Justice has devised a reporting form for the submission of this information and *will not accept* the data in any other form. To insure the confidentiality of the information submitted, the successful bidder is required to furnish the data in a separate envelope which has been clearly marked to show its contents. Information of the prospective lessee's non-coal-related holdings is not required. The lease will not issue until 30 days after this information has been received by the Attorney General or the Attorney General notifies the authorized officer that lease issuance would not create or maintain a situation inconsistent with the antitrust laws, whichever comes first.

Deferred Bonus

Payment of the bonus bid shall be on a deferred basis. One-fifth of the bonus will be payable on the day of the sale. The balance shall be paid in equal annual installments due and payable on the first four anniversary dates of the lease. If the lease is relinquished or otherwise terminated, the unpaid remainder of the bid shall be immediately payable to the United States.

Requirements for Mining and Reclamation Plan Approval

Mining of the coal and reclamation of the lands will be done in accordance with an approved mining plan and reclamation plan which must be developed to meet the requirements of (1) the lease, (2) 43 CFR Part 3480 and Chapter VII of Title 30 of the Code of Federal Regulations and (3) Wyoming Environmental Quality Act and Wyoming Land Quality Rules and Regulations as included in the State-Federal cooperative agreement.

Lease Issuance Requirements

Prior to the issuance of a lease, the successful bidder will be required to furnish the following:

1. First year's rental in the amount of $3,654.00.
2. The cost of advertising the sales notice in a local newspaper.
3. A lease bond in an amount sufficient to cover all regular requirements and the deferred bonus. The successful bidder will be notified in writing of the amount required. The lease bond will be reviewed when production begins and as the balance of bonus bid declines and will be adjusted accordingly.
4. The information required for antitrust review. (See Consultation with the Attorney General paragraph.)
5. Four executed copies of the lease form.

Lease Form and Stipulations

The attention of all prospective bidders is directed to the attached copy of the proposed coal lease and stipulations.

Hillary A. Oden,

State Director.

[FR Doc. 86–26150 Filed 11–19–86; 8:45 am]

BILLING CODE 4310–14–M

[WY920 07 4121–14]

Wyoming; Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001. Notice is hereby given that certain coal resources in the lands hereinafter described, located in Sweetwater County, Wyoming will be offered for competitive lease by sealed bid. This offering is being made as a result of an emergency by-pass coal lease application filed by the Black Butte Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq). The sale will be held at 2:00 p.m., December 17, 1986, in the third floor conference room at the above address.

Processing of the Black Butte emergency lease application and the related amendment to the Salt Wells Management Framework Plan have been completed. This includes an environmental assessment (EA) of the proposed coal development and plan amendment. The results of these activities were a finding of no significant environmental impacts from the proposed coal development, the amended planning decision that the Federal coal lands involved are acceptable for further leasing consideration and the decision to offer the Federal coal resources for lease. The emergency lease/plan amendment EA and Record of Decision, including mitigation requirements, are on file in the Wyoming State Office.

This tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value determination of the tract. The minimum bid is $100 per acre. No bid less than $100 per acre will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the Authorized Officer after the sale. Sealed bids must be submitted on or before 1:00 p.m., December 17, 1986, to the Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001. Bids received after that time will not be considered.

Coal Offered

The coal resource to be offered consists of all the recoverable coal in the following described lands located in Sweetwater County, Wyoming:

T. 19 N., R. 100 W., 6th P.M., WY.
Sec. 12: All;
Sec. 24: W½E½, W½;
Sec. 26: Lots 4, 5.

The 1,217.98 acre tract contains an estimated 11.7 million tons of recoverable coal with the following estimated coal quality: BTU—9,313/lb.; Sulphur—.26 percent; Ash—6.71 percent; Moisture—21.74 percent. The coal is classified as subbituminous.

Rental and Royalty

The lease issued as a result of this offering will provide for payment of annual rental of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8.0 percent of the value of coal produced by underground mining methods.

Deferred Bonus

Payment of the bonus bid for this lease shall be on a deferred basis. One-fifth of the bonus will be payable on the day of the sale. The balance shall be paid in equal annual installments due

and payable on the first four anniversary dates of the lease.

Notice of Availability

Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the Statement and of the proposed coal lease are available at the Wyoming State Office. Case file documents are also available at that office for public inspection. Coal resource information pertaining to this tract is also available for public inspection in the Rock Springs District Office, Highway 191 North, Rock Springs, Wyoming 82902.

Hillary A. Oden,
State Director.

[FR Doc. 86-26149 Filed 11-19-86; 8:45 am]
BILLING CODE 4310-10-M

Arizona and California; Temporary Closure of Selected Public Lands in La Paz County, AZ, and San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of selected public lands in La Paz County, Arizona, and San Bernardino County, California, during the operation of the 1987 SCORE Parker 400 off-road vehicle race.

SUMMARY: The District Managers of the Yuma District, the California Desert District, and the Phoenix District jointly announce the temporary closure of selected public lands under their respective administration. This action is being taken to provide for public safety and prevent unnecessary environmental degradation during the official permitted running of the 1987 SCORE Parker 400 off-road vehicle race.

EFFECTIVE DATES: January 29, 1987, through February 1, 1987.

FOR FURTHER INFORMATION CONTACT: Jerry L. Page, Supervisory Natural Resource Specialist, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, (602) 855-8017; Robert W. Schneider, Resource Protection Chief, Needles Resource Area, 901 Third Street, Needles, California 92363, (619) 326-3896; or Mike Feeney, Natural Resource Specialist, Lower Gila Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 863-6711.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure periods are as follows:

California Loop

1. The entire course is closed to public vehicle use from 6 a.m., Thursday, January 29, 1987, to 6 p.m. Sunday, February 1, 1987 (PST).

2. Between noon, Friday, January 30, 1987, and 3 p.m., Saturday, January 31, 1987 (PST), vehicles are prohibited within 1 mile of either side of existing roads making up the California Loop of the officially approved course. Access routes leading to the course are also closed. All closed routes will be posted throughout the closure period.

3. Spectator viewing is limited to four designated spectator areas located at:

a. Start/Finish area (approximately 5 miles east of Vidal Junction off State Route 62).

b. Vidal Junction (approximately 2 miles north of Vidal Junction adjacent to U.S. Highway 95).

c. Rice (approximately 18 miles west of Vidal Junction off State Route 62).

d. Thunder Alley (approximately 25 miles west of Vidal Junction off Cadiz Road).

Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these four locations shall be legally registered for street and highway operation.

4. The previously used spectator viewing area located adjacent to U.S. Highway 95, approximately 18 miles north of Vidal Junction, is open *only* to official pitting activity. No spectators will be allowed at this location.

5. Spectators and vehicle parking along U.S. Highway 95 is prohibited.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Arizona Loop

1. The portion of the course comprised of BLM roads and ways is closed to public vehicle use from 6 a.m., Thursday, January 29, 1987, to 6 p.m. Sunday, February 1, 1987 (MST).

2. Vehicles are prohibited from the following five Wilderness Study Areas:

a. AZ-050-12 (Gibraltar Mountain)
b. AZ-050-14A/B (Cactus Plain)
c. AZ-050-15A (Swansea)
d. AZ-050-17 (East Cactus Plain)
e. AZ-050-71 (Buckskin Mountains)

3. The entire area encompassed by the Arizona Loop and all areas within 1 mile outside the Arizona Loop are closed to vehicles unless otherwise posted. Access routes leading to the course are closed to vehicles. All closed routes will be posted throughout the closure period.

4. Spectator viewing is limited to two designated spectator areas located at:

a. Arizona Start/Finish area (along Shea Road east of Parker, Arizona).

b. Bouse Road (about 1½ miles north of Bouse, Arizona).

Camping is allowed only in the two designated spectator areas. Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these two locations shall be legally registered for street and highway operation.

5. Spectators and vehicle parking along Bouse Road, Shea Road, and Swansea Road is prohibited except for the two designated spectator areas.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Signs and maps directing the public to the Arizona and California spectator areas will be provided by the Bureau of Land Management and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the States of Arizona and California, or the Counties of La Paz and San Bernardino. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maximum speed limit of 30 mph on all BLM roads and ways. This speed limit shall not apply to vehicles entered in the race during race day, Saturday, January 31, 1987.

Authority for closure of public lands is found in 43 CFR Part 8340, Subpart 8341; 43 CFR Part 8360, Subpart 8364.1, and 43 CFR Part 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

Dated: November 13, 1986.

J. Darwin Snell,
Yuma District Manager.

H.W. Riecken,
Acting California Desert District Manager.

Marlyn V. Jones,
Phoenix District Manager.

[FR Doc. 86-26147 Filed 11-19-86; 8:45 am]
BILLING CODE 4310-32-M

Limitation of Vehicle Use on Four Routes Within Little Picacho Peak Wilderness Study Area 356, Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of four vehicle routes to parking overnight wayside parking within Little Picacho Peak Wilderness Study Area #356, Imperial County, California.

SUMMARY: This vehicle route limitation notice affects four vehicle routes lying within T. 14 ½ S., R. 22 E., SBM and T. 15 S., R. 22 E., SBM, within the Little Picacho Peak Wilderness Study Area #356. This area is under the administrative responsibility of the El Centro Resource Area, California Desert District. Vehicle use on the affected routes is hereby limited to day use only. The routes are closed to overnight wayside parking.

The area along these routes is receiving increasing amounts of vehicle-based camping overflow from the adjacent Imperial Dam Long-term Visitor Area. This use threatens to impair the suitability of WSA #356 if allowed to continue. Although wayside camping along the routes has previously been limited to 14 days, this limitation has not been adequate to prevent damage to natural desert pavement surfaces and degradation of scenic values. Closure of the routes to overnight wayside parking will stop camping impacts and prevent impairment of wilderness suitability.

Use of the routes affected by this notice is being limited under the authority of 43 CFR 8364.1. This limitation order was effective November 4, 1986 and shall remain in effect until completion of the Vehicle Route Designation Amendment Process for this area. The affected routes have been posted "Day Use Only—No Overnight Camping". Maps showing the location of the affected routes are available from the El Centro Resource Area, 333 South Waterman Avenue, El Centro, California 92243.

Any person who knowingly and willfully violates this closure order may be subject to a fine of up to $1,000 or imprisonment of up to 12 months, or both under authority of 43 CFR 8364.1(d).

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, (714) 351–6386.

Dated: November 12, 1986.

H.W. Riecken,

Acting District Manager.

[FR Doc. 86–26144 Filed 11–19–86; 8:45 am]

BILLING CODE 4310–40–M

Geological Survey

Application Notice Establishing the Closing Date for Transmittal of Applications Under the National Earthquake Hazards Reduction Program for Fiscal Year (FY) 1988

Applications are invited for research projects under the National Earthquake Hazards Reduction Program.

Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Pub. L. 95–124. (42 U.S.C. 7701, et. seq.)

The purpose of this program is to support research in earthquake hazards and earthquake prediction to provide earth-science data and information essential to mitigate earthquake losses.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of State or local governments.

Closing Date for Transmittal of Applications: Applications for awards must be received on or before February 19, 1987.

Program Information: This program supports research related to the following general areas of national interest: (1) Current tectonic and earthquake potential studies—analysis of regional seismic network data, identification of source zone characteristics, and earthquake potential estimates; (2) earthquake prediction research—prediction methodology and evaluation, focused earthquake prediction experiments, and theoretical, laboratory, and fault zone studies; and (3) regional earthquake hazards assessments—mapping and synthesis of geologic hazards, loss estimation modeling, and implementation.

Application Forms: The program announcement is expected to be available on or about December 1, 1986, and may be obtained by writing to the U.S. Geological Survey, Branch of Procurement and Contracts, MS 205C, 12201 Sunrise Valley Drive, Reston, VA 22092 and requesting a copy of announcement 7234. All organizations that applied for a FY 1987 award and all organizations that requested to be retained on the mailing list since the last announcement will be mailed a copy of the program announcement.

Further Information: For further information contact Dr. Elaine Padovani, Deputy Chief, External Research Program, Office of Earthquakes, Volcanoes, and Engineering, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, VA 22092. Telephone: 703–648–6722.

(Catalog of Federal Domestic Assistance Number 15.807)

Dated: November 5, 1986.

Roy J. Heinbuch,

Acting Assistant Director for Administration.

[FR Doc. 86–26158 Filed 11–19–86; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 7654 and 6638, Blocks 266 and 267, respectively, East Cameron Area, offshore Louisiana. Proposed Plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on November 12, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention, OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section /Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: November 13, 1968

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-26202 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: November 28, 1986, 7:00 p.m.

Inclement weather reschedule date: None.[1]

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764-0159. (717) 729-8251

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvent in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of the final draft of River Management Plan. The meeting will be open to the public.

Any member of the public may file with the council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles North of Narrowsburg, NY, Damascus Township, Pennsylvania.

Dated: November 5, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-26133 Filed 11-19-86; 8:45 am]

BILLING CODE 4310-70-M

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council; meeting

The fourth quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, DC, on December 16, 1986. The meeting will take place in Conference room 220 at the Department of the Interior, Interior South Building, 1951 Constitution Avenue, NW., from 9:30 a.m. to 12:00 p.m. The public is welcome to attend.

The agenda will include matters related to the coordination of the Federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724-7655.

Dated: November 17, 1986.

Approved:

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 86-26203 Filed 11-19-86; 8:45 am]

BILLING CODE 4410-18-M

MERIT SYSTEMS PROTECTION BOARD

Relocation of Regional Offices in Boston and St. Louis

AGENCY: Merit Systems Protection Board.

ACTION: Notice of change in address for two MSPB regional offices.

SUMMARY: Recently, the Boston and St. Louis regional offices of the U.S. Merit Systems Protection Board relocated.

DATE: November 20, 1986.

FOR FURTHER INFORMATION CONTACT: Michael W. Doheny, Acting Assistant Managing Director for Regional Operations, FTS: 653-7980.

SUPPLEMENTARY INFORMATION: Below are the new addresses for the Boston and St. Louis Regional Offices and the new telephone numbers for the Boston Regional Office:

Boston Regional Office, Merit Systems Protection Board, 10 Causeway Street, Suite 1078, Boston, Massachusetts 02222-1042, Telephone: FTS: 835-6650, Commercial: (617) 565-6650

St. Louis Regional Office, Merit Systems Protection Board, 911 Washington Avenue, Suite 615, St. Louis, Missouri 63101-1203, Telephone: FTS: 279-4295, Commercial: (314) 425-4295

Dated: November 14, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86-26161 Filed 11-19-86; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel; Meeting

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.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. 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; or (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, I 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.

1. Date: December 1–2, 1986.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Central Disciplines in Undergraduate Education—Improving Introductory Courses and Fostering Coherence Throughout an Institution—for projects beginning after October 1, 1986.

2. Date: December 2, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Sociology, Psychology, and Education submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

3. Date: December 2, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316
Program: This meeting will review Summer Stipends applications in American History I submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

4. Date: December 3, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

5. Date: December 3, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316.
Program: This meeting will review Summer Stipends applications in Foreign Languages and Literatures; Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

6. Date: December 4–5,, 1986.
Time: 8-30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted for Central Disciplines in Undergraduate Education—Promoting Excellence in A Field and Nontraditional Learners—for projects beginning after October 1, 1987.

7. Date: December 5, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 361
Program: This meeting will review Summer Stipends applications in Philosophy I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

8. Date: December 5, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in American History II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

9. Date: December 8, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316
Program: This meeting will review Summer Stipends applications in Philosophy II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

10. Date: December 8, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Classics, Comparative Literature, Theory and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

11. Date: December 9, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Music and Dance, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

12. Date: December 9, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316.
Program: This meeting will review Summer Stipends applications in Anthropology, Folklore, Archaeology, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

13. Date: December 10, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316.
Program: This meeting will review Summer Stipends applications in Archaeology, Ancient, Medieval and Early Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

14. Date: December 11, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316.
Program: This meeting will review Summer Stipends applications in Communications, Theater and Film submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

15. Date: December 11–12, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted for the humanities submitted to the Projects category of the Interpretive Research Programs, Division of Research Programs, for projects beginning after July 1, 1987.

16. Date: December 12, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

17. Date: December 12, 1986.
Time: 9:00 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review applications submitted for the Constitutional Summer Stipends, Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

18. Date: December 15, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Romance Languages and Literatures submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

19. Date: December 15, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316.
Program: This meeting will review Summer Stipends applications in African, Asian, and Latin American History and Politics submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

20. Date: December 15–16, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the humanities submitted to the Projects category of the Interpretive Research

Program, Division of Research Programs, for projects beginning after July 1, 1987.

21. Date: December 16, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315

Program: This meeting will review Summer Stipends applications in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

22. Date: December 16, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316

Program: This meeting will review Summer Stipends applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

23. Date: December 17, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316

Program: This meeting will review Summer Stipends applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

24. Date: December 18, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315

Program: This meeting will review Summer Stipends applications in Modern American and British Literature submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987.

25. Date: December 19, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316

Program: This meeting will review Summer Stipends applications in Political Science, Law, and Jurisprudence, Geography and Economics submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1987

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 86-26209 Filed 11-19-86; 8:45 am]
BILLING CODE 7536-01-M

Inter-Arts Advisory Panel (Folk Arts Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Folk Arts Section) to the National Council on the Arts will be held on December 10-12, 1986 from 9:00 a.m.-5:30 p.m. and on December 13, 1986 from 9:00 a.m.-3:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 13, 1986 from 11:30 a.m.-12:30 p.m. to discuss policy issues.

The remaining sessions of this meeting on December 10-12, 1986 from 9:00 a.m.-5:30 p.m. and on December 13, 1986 from 9:00 a.m.-11:30 a.m. and from 1:30 p.m.-3:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,
Director, Council and Panel Operations, National Endowment for the Arts.

November 14, 1986.

[FR Doc. 86-26141 Filed 11-19-86; 8:45 am]
BILLING CODE 7537-01-M

Media Arts Advisory Panel (Radio Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio Section) to the National Council on the Arts will be held on December 16-18, 1986 from 9:00 am-6:00 pm in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,
Director, Council and Panel Operations, National Endowment for the Arts.

November 14, 1986.

[FR Doc. 86-26142 Filed 11-19-86; 8:45 am]
BILLING CODE 7537-01-M

Music Advisory Panel (Orchestra Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on December 9, 1986 from 9:00 a.m.-6:30 p.m.; on December 10, 1986 from 9:00 a.m.-9:30 p.m.; on December 11, 1986 from 9:00 a.m.-10:00 p.m.; and on December 12, 1986 from 9:00 a.m.-6:30 p.m. in room MO-7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 12, 1986 from 1:00 p.m.-2:30 p.m. to review guidelines and the Five Year Plan.

The remaining sessions of this meeting on December 9, 1986 from 9:00 a.m.-6:30 p.m.; on December 10, from 9:00 a.m.-9:30 p.m.; on December 11, 1986 from 9:00 a.m.-10:00 p.m.; and on December 12, 1986 from 9:00 a.m.-12:00 noon and 2:30 p.m.-6:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-

5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

November 14, 1986.

[FR Doc. 86–26143 Filed 11–19–86; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 22, 1986. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 17, 1986.

The application received is as follows:

1. *Applicant:* David H. Elliot, Institute of Polar Studies, The Ohio State University, Columbus, Ohio 43210.

Activity for Which Permit Requested: Enter site of special scientific interest. The applicant requests permission to enter Site of Special Scientific Interest No. 6, Byers Peninsula, to conduct geological field work.

Location: Byers Peninsula, Antarctica.

Dates: December 1986–January 1987.

Authority to publish this notice has been delegated by the Director of the National Science Foundation.

Charles E. Myers,

Permit Office.

[FR Doc. 86–26145 Filed 11–19–86; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability—Extension of Comment Period

On October 28, 1986 (51 FR 39440), the Nuclear Regulatory Commission published a document announcing the availability of a draft of a new guide for public comment. The draft guide, entitled "Containment System Leakage Testing", is temporarily identified by its task number, MS 021–5.

The period for submitting public comments on this draft guide has been extended from December 29, 1986 until January 26, 1987. Comments or any other correspondence concerning this draft guide should mention the task number. Comments should be sent to the Rules and Procedures Branch, division of Rules and Records, Office of Administration, Room 4000 MNBB, Washington DC 20555.

Dated at Rockville, Maryland, this 13th day of November 1986.

Guy A. Arlotto,

Director, Division of Engineering Safety, Office of Nuclear Regulatory Research.

[FR Doc. 86–26210 Filed 11–19–86; 8:45 am]

BILLING CODE 7590–01–M

Consumer Power Co.; Midland Plant, Units 1 and 2; Evironmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an Order Revoking Construction Permit Nos. CPPR–81 and CPPR–82, which authorized construction of the Midland Plant, Units 1 and 2, located just south of the City of Midland in Midland County, Michigan. The construction permits are held by Consumers Power Company (CPC). The latest construction completion dates in the permits, as amended, were December 1, 1984 and July 1, 1984, respectively.

On May 24, 1984 and September 11, 1984, CPC filed a timely request to extend the latest completion dates to December 1, 1989 and July 1, 1989, respectively. On July 1, 1986, CPC withdrew its request to extend the latest completion dates in its construction permits.

Environmental Assessment:

Identification of Proposed Action: The proposed action is to issue an order that would terminate Construction Permit Nos. CPPR–81 and CPPR–82 for the Midland Plant, Units 1 and 2. This action was requested by CPC because it does not plan to complete the plant as nuclear-fueled units.

On July 1, 1986, CPC informed the Commission that it planned to convert Unit 1 at Midland to a gas-fired unit and to abandon Unit 2 in-place. It also stated that it is withdrawing its request to extend the construction permits' latest completion dates. The Nuclear Regulatory Commission staff (staff) requested additional information on the status of the plant and site on August 21, 1986, and CPC responded with additional detail on October 2, 1986.

By motion dated July 11, 1986, CPC requested the Atomic Safety and Licensing Board (ASLB) to authorize withdrawal of its application for a license to operate Units 1 and 2 at Midland. In this motion, CPC attested to the condition of the plant and requested the ASLB to terminate the operating license proceeding. The ASLB, in a Memorandum and Order dated September 26, 1986, ordered that the action on CPC's motion seeking authorization to withdraw the OL application be deferred pending preparation by the staff and consideration by the Board of an environmental assessment.

The staff conducted an inspection of the Midland site on October 15 and 16, 1986 to determine, among other things, whether CPC's site stabilization plan, outlined in the October 2, 1986 CPC letter had been satisfactorily completed and to determine whether the site stabilization plan considered all critical site areas. A particular effort was made to inspect areas of the site which could be subject to continued erosion and

contribute silt to surface waterbodies, as well as identify areas where standing water could result in saturated soils. The entire site, including the cooling pond, was examined. In addition the staff inspected the transmission line corridor from the plant to the Tittabawassee substation and from the Tittabawassee substation to the Kewowa/Thetford substation at several locations.

In a letter dated November 14, 1986, the staff issued to CPC a report entitled "Inspection and Evaluation of the Midland Energy Center for Adequacy of the Stabilization Plan." In that report the staff did not identify any area that required attention that was not covered in the applicant's stabilization plan. Additionally, the site was adequately stabilized and there was no areas where erosion could lead to detrimental offsite environmental impact. The staff also inspected the auxiliary building underpinning to assure that this structure would cause no danger to the public or site usuers. This inspection is documented in a report dated October 28, 1986, Report No. 50–329/86001(DRP) and 50–330/86001(DRP), wherein the staff determined that the planned underpinning work to support the auxiliary building had been completed. Since the shutdown, over two years ago, the auxiliary building has experienced virtually no movement except for the seasonal variations with temperature. This indicates that the existing underpinning and lay-up grouting has left the building in a safe and stable condition, which can cause no damage to the public. Physical barriers are in place to prevent unauthorized access to the underpinning area.

The site cannot be used as a utilization facility. The control rods have either been sold or have been salvaged for the metal content. The pressure boundary remains breached because all four steam generators lack auxiliary feedwater lines. No nuclear fuel was ever received on site. These conditions, by themselves, preclude use of the facility as a nuclear power plant. In addition, CPC has started to cut and cap all steam and feedwater lines in order to meet Internal Revenue Service abandonment criteria. The staff observed that one steam and one feedwater line had been cut and capped and that approximately four square feet of pipe surface on one of the reactor coolant pump cold legs had been removed.

CPC is also a holder of two other NRC licenses, a fission chamber license and a by-product materials license. These two licenses will be terminated by separate actions of the NRC.

The staff concludes, based on its review and inspection, that the Midland site is in an environmentally stable condition and that Units 1 and 2 cannot be operated as nuclear power plants in their present condition.

Need For Proposed Action: The licensee has terminated construction of the nuclear power plant and has disabled the facility so that it cannot be operated as a utilization facility. The licensee intends to use the equipment and site for other purposes. This action would terminate the construction permits.

Environmental Impact: This is a simple administrative action of terminating the outstanding permits to reflect the fact that there are no longer utilization facilities under construction at the Midland site and that the site has been adequately stabilized. This action has no environmental impact.

Alternative Use of Resources: This action, for which there are no appropriate alternatives, does not involve the use of, and therefore will not affect available resources.

Agencies and Persons Contacted: The NRC staff reviewed CPC's request for termination of the construction permit and conducted the environmental review and inspection of the facility. The NRC did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for this proposed action. Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the CPC's request for termination of Construction Permit Nos. CPPR–81 and CPPR–82, dated July 1 and 11, 1986, CPC's site stabilization report transmitted by letter dated October 2, 1986, and NRC staff's inspection reports transmitted by letters dated October 28, 1986 and November 14, 1986. These documents regarding the NRC staff's environmental assessment of the proposed action are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Grace A. Dow Memorial Library, 1710 West St. Andrews Road, Midland, Michigan 48640. Correspondence concerning this facility will continue to be maintained at these locations for at least one year.

Dated at Bethesda, Maryland, this 17th day of November 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–26213 Filed 11–19–86; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The information concerning this application follows.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Oct. 28, 1986, Oct. 29, 1986, XSNM02144, Amend. 03.	Enriched Uranium	Add'l 42.900	Add'l 40.026	Add'l fuel for BR-2 Research Reactor	Belgium.

Dated this 14th day of November 1986 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 86-26212 Filed 11-19-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or canceled since the last list of proposed meetings published October 23, 1986 (51 FR 37671). 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, canceled, or rescheduled, or whether changes have been made in the agenda for the December 1986 ARCRS 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

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 and I&E Programs, December 2, 1986, Glen Ellyn, IL. The Subcommittee will review the activities of the Office of Inspection and Enforcement which are under the control of the NRC Regional Offices. This meeting will focus on the activities under the purview of the Region III Office.

Waste Management, December 4 and 5, 1986, Washington, DC. The Subcommittee will review the following radioactive waste management topics: (1) The waste management aspects of the FY 1988 and FY 1989 NRC safety research program; (2) the NRC Staff's review of DOE's Final Environmental Assessment for the five nominated geologic repository sites; (3) assessing compliance with the EPA Standard for HLW repositories; (4) rulemaking to conform Part 60 to the EPA Standard; (5) States' implementation of the Low-Level Radioactive Waste Policy Amendments Act of 1985; (6) alternatives to shallow land burial; and (7) the safety assessment of alternatives to shallow land burial.

Containment Requirements, December 9, 1986, Washington, DC. The Subcommittee will discuss the NRR proposed generic letter on Mark I BWR containment requirements. Included will be a discussion of Revision 4, BWR Emergency Procedure Guidelines (covers venting concepts).

Safety Philosophy, Technology, and Criteria, December 10, 1986, Washington, DC. The Subcommittee will: (1) Discuss the implications of the Chernobyl accident, (2) continue its review of USI A-17, "Systems Interactions in Nuclear Power Plants," (3) review the status of the NRC's work on steam generator overfill, (4) discuss the NRC's proposed policy for reviewing reactivated license application for deferred or canceled nuclear power plants, and (5) discuss the status of the EDO's work on the implementation of the Commission's Safety Goal Policy.

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.

Severe Accidents, December 19, 1986, Washington, DC. The Subcommittee will discuss the NRR Implementation Plans for the Severe Accident Policy Statement regarding Individual Plant Examinations (IPE) for Existing Plants.

General Electric Reactors (ABWR), January 7, 1987, Washington, DC. The Subcommittee will begin its review of the ABWR. This will be a preliminary session to explore the status of this effort. A current description of the ABWR is sought as well as schedules from GE and the Staff.

Regulatory Policies and Practices, January 14, 1987, Washington, DC. The Subcommittee will begin its review of the nuclear plant regulatory process.

Regional and I&E Programs, 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 the 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 the NRC safety research programs on containment integrity and Category I structures, and visit the contractor's test facilities.

Decay Heat Removal Systems, January 22, 1987, Washington, DC. The Subcommittee will continue its review of the NRR Resolution Position for USI A-45.

Advanced Reactor Designs, February 4, 1987, Washington, DC. The Subcommittee will review DOE advanced non-LWR designs regarding the use of proven technology and standardization.

Joint Seabrook/Occupational and Environmental Protection Systems/ Severe Accidents, Date to be determined, 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.

Seabrook Unit 1, Date to be determined (fall/winter), Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook Unit 1.

AC/DC Power Systems Reliability, Date to be determined (January), 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).

ACRS Full Committee Meeting

December 11–13, 1986: Items are *tentatively* scheduled.

*A. *NRC Regulatory Guides*—proposed revision of Regulatory Guide 1.63, Electric Penetration Assemblies in Containment Structures for Nuclear Power Plants.

*B. *Meeting with NRC Commissioners (tentative)*—discuss procedures for review and resolution of nuclear power plant accidents and incidents and standardization of nuclear power plants.

*C. *Safeguards and Security*—meeting with Director, Division of Safeguards, NMSS regarding security provisions at nuclear facilities.

*D. *Systems Interactions*—discuss resolution of ACRS comments in its report of May 13, 1986 regarding Resolution of USI A–17, Systems Interactions in Nuclear Power Plants.

*E. *Foreign Experience*—discuss implications of Chernoblyl Nuclear Plant accident to U.S. nuclear power plants.

*F. *Pressurized Thermal Shock*—discuss proposed NRC Regulatory Guide regarding pressurized thermal shock of reactor pressure vessels.

*G. *Reactor Operating Experience*—briefing and discussion of recent nuclear facility incidents and events.

*H. *Election of ACRS Officers for CY 1987 (Closed)*—discussion and election of candidates proposed for ACRS Officers for calendar year 1987.

*I. *Containment Capability*—discuss proposed NRC generic letter regarding dynamic type containment capability to contain severe accidents.

*J. *NRC Reorganization*—discuss proposed reorganization of NRC staff and assignment of personnel.

*K. *Improved Light-Water Reactors*—discuss proposed ACRS recommendations for improved light-water cooled and moderated nuclear power plants.

*L. *Reactivation of Deferred or Cancelled Nuclear Power Plants*—discuss proposed NRC policy regarding reactivation of nuclear power plants which have been deferred or cancelled.

*M. *Future Activities*—discuss anticipated ACRS subcommittee activities and items proposed for consideration by the ACRS.

*N. *ACRS Subcommittee Activities*—hear and discuss status reports regarding assinged ACRS subcommittee activities including resolution of outstanding ACRS comments regarding the Shearon Harris Nuclear Power Plant; waste management and disposal including proposed revisions to 10 CFR Part 60, Disposal of High-Level Radioactive Wastes in Geologic Repositories, low-level radwaste handling, and alternatives to shallow land burial, storage of spent nuclear power plant fuel and related revisions to 10 CFR Part 70, Domestic Licensing of Special Nuclear Material; and activities of NRC Regional Offices.

January 8–10, 1987—Agenda to be announced.

February 5–7, 1987—Agenda to be announced.

Dated: November 17, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–26204 Filed 11–19–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–482

Kansas Gas and Electric Co. et al.; Exemption

I.

Kansas Gas and Electric Company, Kansas City Power & Light Company, and Kansas Electric Power Cooperative, Inc., (the licensee) are the holders of Facility Operating License No. NPF–42 which authorizes operation of the Wolf Creek Generating Station (the facility) at steady-state reactor power levels not in excess of 3411 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility consists of a pressurized water reactor located at the licensee's site in Coffey County, Kansas.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.2 of Appendix E requires that each licensee at each site shall annually exercise its emergency plan.

III.

By letter dated March 20, 1986, the licensee requested an exemption from the schedular requirements of section IV.F.2 of Appendix E. The last annual emergency preparedness exercise was a full participation exercise conducted at the Wolf Creek Generating Station on November 20, 1985. The licensee requests that an exemption be granted to allow the next annual exercise to be deferred from its currently scheduled date of November 5, 1986, to the time period between January 1 and February 28, 1987.

The licensee states that major scheduling constraints are anticipated from the first refueling outage at Wolf Creek Generating Station which is scheduled for October 1986. The outage is expected to extend into November 1986, with an additional period of time required if any unanticipated difficulties arise. The licensee states that conducting the emergency plan exercise coincident with the refueling outage would require the reassignment of key supervisory and management personnel from crucial refueling outage activities to exercise activities, would unduly burden other staff including health physics and security personnel, and could potentially extend the outage.

The licensee has informed the NRC that state and local government agencies may participate at varying levels of participation in the licensee's proposed annual exercise. The licensse will also conduct a full participation exercise later in 1987 in which state and local governments will fully participate in accordance with the biennial frequency requirement of 10 CFR 50, Appendix E, section IV.F.3. This exercise schedule has been coordinated with the Federal Emergency Managment Agency (FEMA) Region VII.

Full participation exercises at Wolf Creek Generating Station with state and local government participation have been conducted annually during the previous two years, with the most recent full participation exercise conducted on November 20, 1985. This exercise involved appropriate full participation by all jurisdictions within the plume and ingestion exposure pathway emergency planning zones including the State of Kansas and Coffey County. A remedial exercise was conducted in April 1986 to

correct a deficiency indentified by FEMA in monitoring and decontamination capabilities at a county relocation/reception center. Both NRC and FEMA have found that the implementation of onsite and offsite emergency plans was adequate to protect the health and safety of the public. These findings provide assurance that the licensee, state and local agencies have the capability to respond to an emergency at the Wolf Creek Generating Station.

An extensive amount of emergency plan training has been conducted by the licensee since the last exercise was held on November 20, 1985. The licensee conducted an offsite radiological monitoring drill on March 5, 1986, with state and local monitoring teams participating. The licensee conducted table top drills for primary and alternate Technical Support Center emergency response personnel in June 1986, for Operational Support Center emergency response personnel on June 25 and July 7, 1986, and for Emergency Operations Facility personnel in July 1986. Control room personnel participated in table top drills in August 1986, continuing for six weeks to include all six operating shifts. Home Office Emergency Center emergency response personnel are to participate in drills starting in October 1986, with eight sessions planned. Additionally, the licensee has conducted monthly and quarterly communications drills involving onsite and offsite response centers and organizations.

IV

Based on the above assurance related to maintenance of onsite preparedness and the adequacy of offsite emergency preparedness, we conclude that the licensee's request for an exemption is reasonable and that granting the requested exemption will not adversely affect the overall state of emergency preparedness for Wolf Creek Generating Station.

The Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter dated March 20, 1986, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Finally, the exemption requested is a temporary one which will exist only for about two months and is necessary only because of scheduling restraints caused by the first refueling outage. The licensee has made a good faith effort to comply with the regulation by attempting to schedule the excerise earlier. Due to scheduling constraints of the Federal Emergency Management Agency, this was not possible. This situation constitutes the special circumstances described in 10 CFR 50.12(a)(2)(v).

Accordingly, the Commission hereby approves the exemption, modified as follows:

The next emergency exercise at Wolf Creek Generating Station conducted pursuant to the requirement of 10 CFR 50, Appendix E, section IV.F.2, shall be conducted not later than February 28, 1987.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environement (51 FR 41172). This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of November 1986.

For The Nuclear Regulatory Commission.

George Lear,

Acting Deputy Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-26211 Filed 11-19-86; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan Amendments; Statement of Policy

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Adoption of agency policy.

SUMMARY: On September 19, 1986, the Northwest Power Planning Council (Council) published a Draft Statement of Council Policy Implementing section 6(c) of the Northwest Electric Power Planning and Conservation Act (Act), 16 U.S.C. 839 (1980). Section 6(c) requires the Administrator of the Bonneville Power Administration (Bonneville) to conduct a public hearing on any Bonneville proposal to acquire a major resource or to implement a conservation measure that will conserve an equivalent amount of energy. The Administrator must determine whether the proposal is consistent with the Council's Northwest Conservation and Electric Power Plan (Plan). The Act gives the Council an opportunity to make its own subsequent determination regarding consistency with the Plan. Should either Bonneville or the Council find a proposal inconsistent, Bonneville can acquire the major resource only after receiving approval from the Congress. The Council took public comment at several regularly scheduled meetings and accepted written comments through October 16, 1986. The following policy, which addresses the procedures that the Council will employ in making a consistency determination and the criterion that the Council will employ, responds to the comments received.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and Involvement, 850 S.W. Broadway, Suite 1100, Portland, Oregon 97205; (503) 222-5161, (toll-free) 1-800-222-3355 (in Montana, Idaho or Washington) or 1-800-452-2324 in Oregon.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory

Under section 6(c) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839-839h (Supp. V 1981) (Act), the Administrator of the Bonneville Power Administration is directed to conduct a public hearing:

[f]or each proposal under subsection (a), (b), (f), (h) and (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and pre-construction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource . . . .

This hearing must develop an adequate record to assist in evaluating the proposal so that the Administrator may make a finding, among others, that a proposal is either consistent or inconsistent with the Council's Northwest Conservation and Electric Power Plan. Once the Administrator's determination is sent to the Council, the Council may then make its own determination that the Administrator's proposal is consistent or inconsistent with the plan. If either Bonneville or the Council finds a proposal inconsistent with the plan, the Administrator may not implement the proposal without receiving authorization for expenditure of funds by an Act of Congress.

This statement announces the Council's policy toward implementation of its responsibilities under section 6(c) of the Northwest Power Act. It announces a final policy, but one that is intended to be subject to revision as experience is gained with the section 6(c) process. This statement is not intended to change the meaning of any part of the Northwest Power Act.

B. Scope of Policy Statement

This proposed policy statement is limited to only two of the activities made subject to review under the Act, a Bonneville proposal to acquire a major resource and a Bonneville proposal to implement a conservation measure that will conserve an amount of electric power equivalent to that of a major resource. The Council is not addressing the other two activities made subject to section 6(c) review, a Bonneville proposal to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource and a Bonneville proposal to grant billing credits or services involving a major resource. Neither is the Council determining any issue related to the consistency required pursuant to section 4(h)(10)(A) or any other provision of the Act.

C. Finality of Policy Statement

The Council recognizes that this policy statement is final for purposes of judicial review under section 9(e)(5) of the Northwest Power Act, or other applicable laws.

Given the necessarily preliminary level of current understanding of the types of resource acquisitions that may require review pursuant to section 6(c), the Council will, at least every five years, initiate a public policymaking concerning the Section 6(c) consistency criterion in order to evaluate evolving understandings of resource acquisitions and to assess the need for changes in interpretation. The Council understands that Bonneville also will initiate such a process concerning Bonneville's responsibilities under section 6(c), including threshold, process and consistency criterion, for the same purposes. The result of such public policymaking by the Council and Bonneville will be final actions for purposes of judicial review under Section 9(e)(5) of the Northwest Power Act, or other applicable laws.

II. Statement of Council Policy

A. Council Consistency Determination Process

If the Council elects, pursuant to section 6(c)(2), to review a Bonneville proposal under section 6(c)(1) for consistency with the Northwest Conservation and Electric Power Plan, it will do so by a majority vote of all the members within sixty days of receiving the Administrator's determination made pursuant to section 6(c)(1). In order to inform itself with respect to Bonneville's proposal, the Council may attend the hearing that Bonneville is required to conduct pursuant to section 6(c)(1)(B) and may consider the record developed by the Administrator in such proceeding. If the Council elects to review, it will also conduct its own analysis and public comment process prior to reaching its determination.

B. Council Consistency Criterion

If the Council elects to review a Bonneville proposal under section 6(c)(1) for consistency with the Northwest Conservation and Electric Power Plan, it will employ the following standard.

A Bonneville proposal pursuant to Section 6(c)(1) of the Northwest Power Act shall be found consistent with the Northwest Conservation and Electric Power Plan if it is judged to be so structured that it will achieve substantially the goals and objectives of the plan in effect at the time the proposal is made.

Decision Document

I. Council Consistency Determination Process

A. Summary of Comments

A number of commenters said that the Council should not become a party at the hearing that Bonneville is required to conduct in reaching its consistency determination. PPC, WPUDA, NCAC, WPAG. In consultations held during the course of this policy making exercise, it became evident that at least some of these same commenters identified party status with assumption of an advocacy role.

Other commenters said that the Council itself should avoid excessive process, ICP, and noted that the Council's decision on consistency must follow that of the Administrator. PPC, WPAG. Although some commenters observed that Council participation in Bonneville's hearing process might facilitate review, WEUC, and called for as much public involvement as time would allow, WPAG, some of those same commenters said that the Council should limit its involvement in Bonneville's process to preserve its objectivity for the determination that it may also face. WPAG.

Another frequent comment was that the Council should not consider amending the power plan during the course of a section 6(c) review. PPC, WPAG. The policy that the Council has adopted provides for testing a Bonneville proposal against the plan in effect at the time the proposal is made. The Council agreed with those commenters who said that review should focus on consistency with the *existing* plan. PPC, for example, said that the plan should not become a "moving target." The Council and Bonneville have committed to consultations that would include representatives from the region prior to the time that a section 6(c) review might be initiated, and have agreed that such consultations constitute the appropriate time to address the advisability of modifying a Bonneville proposal or of amending the Council's power plan. Bonneville and the Council have also committed to periodic consultations with one another and representatives of the region to discuss potential proposals to acquire resources within the context of section 6(c).

B. Discussion.

Section 6(c)(2) of the Northwest Power Act provides that the Council "may" make a determination regarding the consistency of a Bonneville proposal "within sixty days of the receipt of the Administrator's decision . . . ." The Council's decision is to be "by a majority vote of all members of the Council . . . ." Thus, if the Council decides to review a Bonneville proposal, it will make its decision by a vote of at least five members, within sixty days of receiving the Administrator's determination, at either a regularly scheduled public meeting, or one specially called for this purpose.

Because the Act gives the Council only sixty days within which to make its decision, it will ordinarily be necessary for the Council and its staff to begin investigating a Bonneville proposal before the Administrator forwards his consistency finding. One important source the Council may use to inform itself about the proposal is the hearing that Bonneville is required to conduct under section 6(c)(1)(C). The question of what role, if any, the Council might play at Bonneville's hearing was the subject of considerable discussion during this policy making exercise. Because Bonneville has adopted hearing procedures modelled on section 7(i), the Council expects that it will participate in Bonneville's hearing and simply receive all documents filed and attend the hearing as an observer. The Council does not anticipate participating in the Bonneville hearing as an advocate arguing for or against consistency.

The Council's ordinary decision making process entails staff presentation of an issue paper, public comment, staff analysis and recommendation, and Council decision. The 60 day maximum established by section 6(c)(2) suggests that this process will have to be accomplished in less than the usual time. Shortening this schedule might be accomplished, in part, by having the Council staff publish an

issue paper along with its own preliminary analysis as soon as possible after Bonneville's hearings. The Administrator's consistency determination and its supporting record could be made an appendix, if they were available. Public comment could be taken at the next scheduled Council meeting. The staff's analysis and recommendation could then be presented at the following Council meeting, or at a specially scheduled meeting, if that were necessary.

The Council has taken a position that will allow it to gain as much information as is possible for an observer at Bonneville's hearing. The Council does not intend to compromise its independence, should it elect to make a consistency determination. For its own consistency finding, the Council has outlined a process that will allow for more or less process, according to the complexity and controversial nature of the proposal. The Council recognizes that the Act contemplates two separate and independent consistency decisions: one determination required of the Administrator and another, subsequent determination at the option of the Council.

II. Council Consistency Criterion

A. Summary of Comments

A number of commenters said that the Council's plan should be general enough so that the Administrator has reasonable flexibility in selecting reasonable means to implement the plan. ICP, PPC, PNUCC, WPAG. Thus, for example, WPAG said that the plan should offer a general blueprint for Bonneville acquisitions that specifies type, quantity, cost, and timing of resource acquisitions. A proposal that satisfies each of those characteristics should be found consistent with the plan, WPAG said.

While most commenters who addressed the question of the consistency criterion favored a standard that was not overly exacting, PGE, PNUCC, MPC, and that would not be used to dictate detailed program design features, PNUCC, many said that the proposed criterion failed to meet the requirements of the Act. Changing the statutory requirement of consistency with the plan to substantial achievement of the goals and objectives of the plan constituted an improper attempt, some said, to amend the congressional provision through adoption of an interpretative rule. BLUMM, IDAG. Others said that this standard would introduce confusion into the region's planning process, IDAG, BLUMM, WPAG, NRDC, in that it fails to identify operative goals and objectives and appears to disclaim the binding force of *any* plan provisions. NRDC. Several commenters said that the policy should explain why it does not address pre-construction expenses and billing credits. Others noted that it would have to be applied on a case-by-case basis, ICP, PNUCC, and that it would have to be applicable to a variety of proposed major resources. PGE. Several commenters said that the criterion should be substantial compliance with the plan, ICP, for example, and others said that the criterion should be conformity with the overall objectives and intent presented in the plan. PNUCC, MPC.

NCAC offered detailed comments on the consistency criterion that favored a more exacting standard. A proposal should be found consistent, NCAC said, if it (1) demonstrates an ability to achieve an objective of the action plan, (2) incorporates all relevant activities of the action plan, and (3) is consistent with the resource portfolio's estimates of achievable resources and its resource priorities and schedules for resource acquisition. Other commenters agreed that the resource portfolio should operate as a hard constraint in determining consistency. NRDC, WPAG.

Several commenters were concerned that the draft consistency standard would, directly or indirectly, lead to adoption of a similar standard in judging whether Bonneville's is complying with its responsibilities under section 4(h)(1)(A) of the Act. NMFS, NWF, Blumm, IDAG. Commenters also were concerned with the draft's requirement that a Bonneville proposal "achieve substantially the goals and objectives of the power plan," because: the fish and wildlife program contains a large range of measures that may not be expressly incorporated into the power plan; the draft standard gives the region little guidance; and because the draft standard adds complexity to what is a simple statutory standard. NWF, NMFS, IDAG. Some suggested that the draft standard was not legally supportable. One commenter suggested that the draft standard was adequate because one of the basic goals and objectives of the plan is to satisfy the provisions of the fish and wildlife program. PNUCC. Hence, the commenters believed that the draft standard would be adequate to bring the question of specific consistency with the Fish and Wildlife Program provisions into the 6(c) hearing process. The determination of specific consistency with each program measure could only be accomplished when the details of a specific resource in question are known and only on a case-by-case within the 6(c) hearing process, said the commenter.

B. Discussion

In the 1986 Power Plan, the Council adopted an approach to implementation that aimed at giving Bonneville greater flexibility in planning the activities required to meet the goals and objectives of the plan. "Rather than specifying action items in great detail, as it did in the 1983 plan, the Council is providing Bonneville more flexibility in designing programs to achieve the objectives set forth in the Action Plan." 1986 Power Plan, p. 9–5. The consistency standard that the Council has adopted for making a determination pursuant to 6(c) reflects this same commitment to allowing Bonneville greater latitude in selecting the means to achieve the goals and objectives of the plan. "Goals and objectives" should be understood in a broad sense. It should be noted that the Council does not regard only those goals listed on page 3–1 and those objectives found in bold-face type in chapter 9 of the 1986 plan as the "goals and objectives" against which a given proposal is to be tested.

The Council, in making its consistency determination, will be faced with making a judgment about the extent to which a Bonneville proposal substantially achieves the plan's goals and objectives. If the Council were evaluating a Bonneville proposal against the current power plan, for example, it would look first at the goals and objectives set forth in the plan. Then the Council would consider the issues identified by the Council staff, public comment on those issues, the various activities that could be expected to acheive the relevant goals and objectives, including those selected by the Council and set forth in the most recent power plan, and judge the degree to which the proposal would be likely to achieve those goals and objectives.

Although the Council has adopted a standard that is not expressed with as much detail as some commenters have suggested, application of the Council's standard will include a comparison of the type quantity cost, and timing of a proposed resource with the schedule, cost, quantity, and priority of resources identified in the resource portfolio of the power plan. It will entail judging whether the activities Bonneville has proposed are likely to acheive substantially the goals and objectives of the power plan. The Council wishes to make clear that, as stated in the 1986 Power Plan, it intends to accord Bonneville greater flexibility in

implementing the plan, and is not adopting a standard that would require every particular activity enumerated in the action plan to be implemented. The Council recognizes that it will be necessary for it to exercise its judgment, on a case-by-case basis, to determine whether the particular activities in a Bonneville proposal are likely to meet substantially the relevant goals and objectives of the plan.

The Northwest Power Act requires the Council to develop a Columbia River Basin Fish and Wildlife Program, which is incorporated by statute into the power plan. One goal of the plan is to protect, mitigate and enhance fish and wildlife in the Columbia River Basin in accordance with the provisions of the Council's fish and wildlife program. Therefore, each Bonneville proposal under section 6(c) must be evaluated for consistency with provisions of the fish and wildlife program relevant to the proposal. In this sense, under section 6(c), a finding of consistency with the goals and objectives of the power plan must resolve the issue of consistency with the fish and wildlife program for purposes of evaluating in proposal under section 6(c).

This policy decision regarding consistency for purposes of review pursuant to section 6(c) is not intended to have any implications with respect to the responsibilities of the Administrator in implementing the Council's fish and wildlife program pursuant to section 4(h)(10)(A), or any section of the Northwest Power Act other than section 6(c). Neither does this policy statement constitute in any manner a precedent for determining or interpreting consistency under section 4(h)(10)(A), or any section of the Northwest Power Act other than section 6(c).

III. Finality of Policy Statement

A. Summary of Comment

Commenters expressed concern that the Council's or Bonneville's policy statement would be deemed a final action under section 9(e)(5) of the Northwest Power Act, and therefore become final unless challenged within 90 days. WWP, ICP, PNUCC. They advised against such an outcome, because it could force litigation filed for protective purposes.

B. Discussion

The Council appreciates this concern, particularly because these policy statements have been developed without the benefit of any actual experience with the section 6(c) process. We strongly believe that the threshold, process and consistency criterion may be improved as the parties gain experience with section 6(c), and that these policy statements must be dynamic, and open to change. We cannot provide assurance that a court would not find this policy statement or Bonneville's policy to be final actions for purposes of section 9(e)(5).

However, in response to these concerns, the Council and Bonneville have provided for periodic reevaluations of the Council's policy statement and of Bonneville's policy. These reevaluations would allow each agency to incorporate the experience and knowledge gained through implementing the section 6(c) process. After such reevaluations, each agency would issue a policy statement or rule that would be subject to judicial review under section 9(e)(5) or other applicable law. By this provision, the Council hopes that interested parties will not feel it necessary to file protective actions merely because they fear that they will have no remedy 90 days after these actions become final.

The Council and Bonneville have reviewed each other's section 6(c) policy statements and agree that those policies and supporting documents are reasonable.

List of Abbreviations of Commenters Referred to in Decision Document

PPC—Public Power Council
WPUDA—Washington Public Utility Districts' Association
NCAC—Northwest Conservation Act Coalition
NRDC—Natural Resources Defense Council
WPAG—Western Public Agencies Group
ICP—Intercompany Pool
PNUCC—Pacific Northwest Utilities Conference Committee
WWP—Washington Water Power Company
WEUC—Washington Energy and Utilities Committee
PGE—Pacific Gas and Electric
MPC—Montana Power Company
BLUMM—Mike Blumm, Lewis & Clark Law School
MMFS—National Marine Fisheries Service
NWF—National Wildlife Federation

Issued in Portland, Oregon, on November 12, 1986.

Edward Sheets,

Executive Director.

[FR Doc. 86-26218 Filed 11-19-86; 8:45 am]

BILLING CODE 0000-00-M

Northwest Conservation and Electric Power Plan; Proposed Model Conservation Standards Amendments, Hearings, and Public Comment Period

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed amendments, hearings, and opportunity to comment regarding model conservation standards for new residential and commercial construction and surcharge recommendation.

SUMMARY: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Northwest Conservation and Electric Power Plan (Plan) including model conservation standards (MCS) (48 FR 24493, June 1, 1983). On December 4, 1985, the Council adopted amendments to the MCS (51 FR 7364, March 3, 1986), which were later incorporated in the 1986 Plan amendments (51 FR 16239, May 1, 1986).

The Council now proposes to further amend portions of the plan relating to the MCS. This notice describes the proposed amendments and explains how to participate in the amendment process. In an effort to complete this amendment process before the 1987 building season begins, the Council has, on its own motion and at the suggestion of the Bonneville Power Administration, decided to conduct this amendment process according to the schedule described below. This amendment process is separate from any Plan amendment process the Council may conduct in the future in response to petitions received from outside parties to amend the Plan regarding the MCS.

DATES ADDRESSES: Written comments regarding the proposed amendments should be postmarked no later than December 22, 1986. The period for oral public comment and consultation sessions will continue until 5 p.m. Pacific time on January 9, 1987. Public hearings on the proposed amendments will be held at the following places and times:

- Seattle, Washington, Friday, December 12, 10:00 a.m., Federal Building, South Auditorium, 915 Second Avenue.
- Missoula, Montana, Monday, December 15, 1986, 1:00 p.m., Missoula Sheraton Hotel, 200 S. Pattee.
- Boise, Idaho, Tuesday, December 16, 1986, 10:00 a.m., Red Lion Riverside, Cinnabar Room, 29th and Chinden.
- Portland, Oregon, Wednesday, December 17, 1986, 10:00 a.m Council

Central Offices, 850 SW. Broadway, Suite 1100.

The Council expects to take final action on these proposed MCS-related amendments at its January 14–15, 1987 meeting.

Guidelines for Presenting Oral Comments at Hearings

1. To reserve a time period for presenting oral comments at a hearing, contact Ruth Curtis, Information Coordinator, at the Council's central office (850 SW. Broadway, Suite 1100, Portland, Oregon, 97205 or (503) 222–5161 (toll free 1–800–222–3355 in Idaho, Montana, and Washington or 1–800–452–2324 in Oregon)) no later than the day before the hearing.

2. Those who do not reserve time periods will be permitted to present oral comments as time permits.

3. Use the hearing to summarize written comments. The comments themselves should not be read.

4. If possible, 10 (10) copies of written comments should be submitted to the Council recorder at the hearings. This person will be sitting at a table near the Council members and will be identified at the start of the hearing by the hearing chairman. When preparing these copies, refer to the instructions below for written coments.

5. Comment time may be limited on those occasions when the number of people signed up to testify is sufficiently large that it will be necessary to impose limits in order to allow all commentors a hearing. A 15-minute guideline is suggested.

6. Appearance at more than one hearing is unnecessary. At each hearing, scheduling preference will be given to individuals and groups which have not testified at other hearings.

Guidelines for Submitting Written Comments

1. All written comments must be sent to the Council's central office, Attn: Dulcy Mahar, Director of Public Information and Involvement, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205 and must be postmarked by December 22, 1986. Comments postmarked after that date will not be considered.

2. Comments should be clearly marked "Comments on Model Conservation Standards for New Residential and Commercial Construction."

3. Written comments should be specific and concise and refer to sections or page numbers in the proposed MCS amendments.

4. If appropriate, submit a "marked up" copy of the proposed MCS (or appropriate sections) including suggestions and/or revisions. Suggested deletions should be lined out and placed in parentheses. Suggested new languge should be underlined.

5. Please type (double-spaced) comments, if possible. Use only one side of the paper.

6. Provide ten (10) copies of all comments and supporting materials if at all possible.

Additional Consultations

Individuals or groups wishing to discuss portions of the proposed MCS rule, in addition to testifying at the public hearings and submitting written comments, may contact the central or state offices of the Council listed below. To the extent that schedules allow, consultations will be held upon request until the end of the comment period at 5 p.m., January 9, 1987.

Central Office, Attn: Ruth Curtis, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205, (503) 222–5161, 1–800–222–3355 (regional toll-free), 1–800–452–2324 (Oregon toll-free).

Idaho Council Office, Attn: Beth Heinrich, Statehouse Mail; Towers Building, 450 West State, Boise, Idaho 83720, (208) 334–2956.

Montana Council Office, Attn: Terri Wilner, Capitol Station, Helena, Montana 59620, (406) 444–3952.

Oregon Council Office, Attn: Judi Hertz, 505C State Office Building, 1400 SW. Fifth Avenue, Portland, Oregon 97201, (503) 229–5171.

Western Washington Council Office, Attn: Tess Nosbush, Olympic Tower Building, Suite 700, 217 Pine Street, Seattle, Washington 98101, (206) 464–6519.

Eastern Washington Council Office, Attn: Carol McAllister, Eastern Washington University, Anderson Hall #34, North 9th and Elm Street, P.O. Box B, Cheney, Washington 99004, (509) 359–7352.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and Involvement, at the address and telephone numbers listed above for the Council's central office in Portland, Oregon.

SUPPLEMENTARY INFORMATION: Since the Council's first regional power plan was adopted on April 27, 1983, the Council and Bonneville have made substantial progress in their efforts to improve the energy efficiency of new buildings. Several local jurisdictions in the states of Washington and Idaho have adopted the MCS as codes. In addition, statewide code improvements have been achieved in Oregon and Washington, although not to the full levels of the MCS. Over 400 houses have been built to the MCS through the Residential Standards Demonstration Program (RSDP), a training program for builders, code officials, and other interested parties in the shelter industry. Even though the data from the RSDP have statistical limitations, the Council is encouraged by the fact that costs reported by the majority of RSDP builders were in accord with the Council's 1983 cost estimates.

Bonneville has an ongoing marketing and incentive program, Super Good Cents, aimed at achieving MCS levels of construction in new residences. Houses built and marketed through the Super Good Cents program are certified as being energy efficient by electrical utilities. The goal of certification is to get lenders, sellers and buyers to recognize the added value of an MCS home because it is less expensive to own and heat. Bonneville also has a continuing program to help train and educate the shelter industry, including lenders, about the advantages of building more efficient buildings. In addition, several investor-owned utilities in the region have established programs to market efficient building practices in their service territories.

The Council originally adopted the MCS in its 1983 Power Plan for the region (48 FR 24493, June 1, 1983). On July 26, 1985, the Council published proposed amendments to those standards (50 FR 30654, July 26, 1986). Hearings were held in the four Northwest states to receive oral public comment on the proposed amendments. Consultations were held with interested persons and groups. Extensive written public comments were also received. After review of the comments received, the Council published a reformulated version of the proposed rule and reopened the comment period (50 FR 40091, Oct. 1, 1985). Additional consultations and hearings were held in each of the Northwest states.

Based on the results of these consultations and public hearings the Council adopted a revised version of the MCS in December of 1985 and incorporated these revisions into its amended 1986 Plan. The MCS savings levels for both new residential and new commercial buildings adopted by the Council were equivalent to the MCS set forth and as amended by the Council in its 1983 plan.[1]

The Council's 1983 approach to the MCS emphasized the use of building codes as the least expensive way for the regional power system to acquire cost-effective conservation. State and local jurisdictions are still strongly

[1] In January, 1985, the Council amended the MCS adopted in the 1983 Plan to correct two technical, nonsubstantial errors (50 FR 5021, Feb. 5, 1985).

encouraged to adopt the MCS for new residential and commercial buildings and conversions as building codes. The 1985 reformulation of the MCS, however, also focused on utility residential and commercial conservation programs. The MCS for utility programs were designed to encourage through marketing and financial assistance improved building practice and ultimate adoption of building codes at MCS levels by reducing the cost of the MCS.

Section 4(f)(2) of the Northwest Power Act (16 U.S.C. 839 *et seq.*) provides for Council recommendation of a 10 percent to 50 percent surcharge on Bonneville customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to those which would be obtained under the MCS. In its 1985 amendments, the Council recommended that Bonneville impose a surcharge on utilities that failed to take steps by designated dates that would result in achieving energy savings comparable to those obtainable through the MCS. Bonneville's draft surcharge policy, circulated for public comment in July, 1986, called for utilities to submit MCS plans by January 1, 1987, or be subject to a surcharge. However, a final surcharge policy is awaiting the conclusion of this amendment process.

The Council is interested in comments on all aspects of the proposed amendments appearing below. Additional comments on the following issues will be particularly useful:

1. What are the appropriate penetration rate targets for Bonneville's programs before Bonneville's programs should be phased out and local utilities' programs phased in?

2. Should Bonneville's budget for MCS activities be limited, and if so, at what dollar level and over what period of time?

3. What process and/or criteria should be used to adjust financial assistance levels in Bonneville's programs?

4. How should a utility's performance in the conduct of Bonneville's MCS programs or alternative programs be measured, and how can performance-based surcharges be implemented in the future?

5. What actions are most appropriate to insure adequate indoor air quality?

Proposed Amendments

If adopted by the Council, the proposed amendments would revise Volume I, Chapter 9, section I. 1.0 and Appendix 1–B of the 1986 Power Plan to read as follows:

1.0 New Residential (Site-built) and New Commercial Buildings

As directed by the Northwest Power Act, the Council designed the model conservation standards (MCS) to produce electricity savings that are both cost effective for the region and economically feasible for consumers. Since most residential and commercial buildings constructed today are likely to last considerably longer than the current surplus of electricity, all cost-effective conservation should be captured at the time the buildings are constructed. Where such cost-effective measures are not installed at the time of construction, it can be prohibitively expensive if not impossible to return to the structure and add the measures later. The result is that a cost-effective resource is lost to the region forever.

Goal

To improve the efficiency with which new residential and commercial buildings use electricity and to ensure that buildings converting from other fuels also use electricity efficiently. Bonneville should acquire all electric energy savings from new residential and new commercial buildings that are expected to cost less than 4.0 cents/kWhr in 1986 dollars. Economic feasibility for building owners must be maintained by Bonneville financial assistance for any measures which are regionally cost-effective but beyond the point of minimum life cycle cost to the consumer. To maintain economic feasibility, financial assistance should be at least equal to the difference between the present value life cycle cost of a building built to the minimum life cycle cost point and that of a building including all regionally cost-effective measures. New buildings must also maintain levels of indoor air quality that were typical in 1983. The measures required to achieve the goal of the MCS should be reliable and commercially available throughout the region. In designing and implementing programs to achieve this goal, Bonneville is expected to achieve the following objectives:

MCS Objectives

A. New electrically-heated residential buildings that comply with the MCS are to be built to the energy efficiency levels at least equal to those which would be achieved by using the illustrative component performance paths displayed in Table I–B–1 for each climate zone. New commercial buildings complying with the MCS whose primary space conditioning system is electric shall meet the specifications set forth in Appendix I–B–1. Conservation measures included in the MCS should provide reliable savings to the power system and be commercially available throughout the region.

B. Adequate and responsible actions should be taken to preserve indoor air quality levels at least equal to levels found in 1983.

C. All conservation measures should be economically feasible to consumers taking into account the financial assistance made available under the Act. Financial incentives from BPA and utilities should cover cost above the building owner's minimum life-cycle-cost point but the incentives for energy savings from the entire package of measures in the MCS should not be more than the regionally cost-effective limit. Within these limits, the incentives should be adjusted from time to time to achieve clearly defined penetration targets in MCS construction practice.

D. Amenity levels (e.g. comfort, window area, architectural styles, etc.) should be maintained.

E. Bonneville and the region's utilities should provide financial, marketing, and technical assistance to achieve the MCS regionwide. Current early adopter contracts should be fully honored.

F. Given that building practices change and new materials and information become available, BPA should commit to a regular and ongoing program of:

(1) data collection on cost, thermal performance, and environmental performance of new buildings constructed in the region,

(2) analysis of these data, sharing their results with the region, and program changes based firmly on the results of such analysis, and

(3) continued research and development and demonstration designed to lower costs, improve performance, ensure maintenance of indoor air quality, and enhance comfort and safety of buildings constructed to the MCS levels.

G. MCS programs should not significantly alter the consumer's choice of heating fuel.

H. Continuity of the MCS is very important. Both the programs developed to implement the MCS and the levels of efficiency required by the MCS should remain relatively stable for a period of three years. At the end of that time period, the Council will use new information gathered in the ensuing years to revise the MCS if appropriate and Bonneville should revise related MCS programs.

Status and Review: Model Conservation Standards

Since the Council's first regional power plan was adopted on April 27, 1983, the Council and Bonneville have made substantial progress in their efforts to improve the energy efficiency of new buildings. Several local jurisdictions in the states of Washington and Idaho have adopted the model conservation standards (MCS) as codes. In addition, statewide code improvements have been achieved in Oregon and Washington, although not to the full levels of the MCS. Over 400 houses have been built to the MCS through the Residential Standards Demonstration Program (RSDP), a training program for builders, code officials, and other interested parties in the shelter industry. Even though the data from the RSDP have statistical limitations, the Council is encouraged by the fact that costs reported by the majority of RSDP builders were in accord with the Council's 1983 cost estimates. This result is remarkable in that most RSDP builders were constructing an MCS home for the first time.

Bonneville has an ongoing marketing and incentive program, Super Good Cents, aimed at achieving MCS levels of construction in new residences. Houses built and marketed through the Super Good Cents program are certified as being energy efficient by electrical utilities. The goal of certification is to get lenders, sellers and buyers to recognize the added value of an MCS home because it is less expensive to own and heat. Bonneville also has continuing program to help train and educate the shelter industry, including lenders, about the advantages of building more efficient buildings. In addition, several investor-owned utilites in the region have established a program to market efficient building practices in their service territories.

The Coucil adopted the MCS in its 1983 Power Plan for the region (48 FR 24493). On July 26, 1985, the Council published proposed amendments to those standards (50 FR 30654). Hearings were held in the four Northwest states to receive oral public comment on the proposed amendments. Consultations were held with interested persons and groups. Extensive written public comments were also received. After review of the comments received, the Council published a reformulated version of the proposed rule and reopened the comment period (50 FR 40091, Oct. 1, 1985). Additional consultations and hearings were held in each of the Northwest states.

Based on the results of these consultations and public hearings the Council adopted a revised version of the MCS in december of 1985. The MCS savings levels for both new residential and commercial buildings adopted by the Council were equivalent to the MCS set forth and as amended by the Council in its 1983 plan.

Following the adoption of the Council's 1986 Plan, the Administrator of the Bonneville Power Administration, at the request of the region's public utilities, agreed to conduct an independent review of the cost-effectiveness of the residential MCS. Based on its own analysis, Bonneville found the energy efficiency levels called for in the Council's residential MCS to be regionally cost-effective. Bonneville also identified what is believed to be less costly ways to meet the MCS, as well as additional measures that appear to be cost effective. Based on its analysis, Bonneville has suggested to the Council that it consider revising the MCS.

The MCS are designed to protect indoor air quality by including requirements to maintain air quality at levels common in 1983 in new non-MCS residential buildings. The Council also has included action items in this plan for the development by Bonneville of design, installation, and inspection standards for mechanical ventilation as well as the development of specifications for mitigating indoor air pollution problems through means other than increased ventilation, including but not limited to source control.

The savings resulting from the MCS will help the region avoid the construction of more expensive resources. The MCS are also designed to meet the Northwest Power Act's requirements that they produce all electrical energy savings that are cost effective for the region and economically feasible for consumers, taking into account financial assistance made available pursuant to the Act. The Council will continue to monitor the cost and performance of all the model conservation standards and will revise the MCS as appropriate. To give the MCS programs stability, the Council will plan their review and revision on a three year cycle, with only such interim changes as may be necessary to correct obvious errors and inequities. Data collection and analysis should be scheduled to be available when the Council next reviews the MCS.

The Council's 1983 approach to the MCS emphasized the use of building codes as the least expensive way for the regional power system to acquire cost-effective conservation. State and local jurisdictions are still strongly encouraged to adopt the MCS for new residential and commercial buildings and conversions as building codes. The 1985 reformulation of the MCS, however, also focused on utility residential and commercial conservation program. The MCS for utility programs were designed to encourage through marketing and financial assistance improved building practice and ultimate adoption of building codes at MCS levels by reducing the cost of the MCS.

To help jurisdictions and utilities prevent inefficient buildings from being converted to electricity for space heating and/or conditioning, the Council has included an MCS for conversions that calls upon state and local jurisdictions and utilities to require all regionally cost-effective conservation measures to be installed at the time of conversion.

The model conservation standards are contained in Appendiz I-B. It is important to note that paths and strategies to implement the MCS are intended to be flexible so as to promote code adoption and acceptance of the MCS by homebuyers and builders. The standard for new residential dwellings are stated in Appendix I-B in terms of a package of measures. While a residence built with these measures satifies the MCS by definition, the MCS is not meant to be a prescriptive standard. The illustrative prescriptive paths in Appendix I-B are provided as benchmarks against which to judge the equivalence of other combinations of measures or strategies to achieve the MCS. Any combination of measures or strategies that achieves equivalent electricity use is an acceptable path to the MCS.

Activities: Model Conservation Standards

Achieving the improved levels of building efficiency represented by the MCS is the goal of the Council. Bonneville has a key leadership role in achieving the goal of constructing more efficient buildings in the region.

Even though the benefits of building to the MCS are clear, homebuyers, commercial developers, builders, lenders, state and local governments and utilities need technical and financial assistance to make the transition to energy efficient buildings constructed at the level of the standards. Bonneville should continue activities to assist homebuyers, commercial building developers, state and local governments, builders, utilities, realtors, lenders, and appraisers to accurately evaluate

building techniques that will achieve improved levels of electrical energy efficiency. This training and technical information is needed so that all of the decision makers involved in constructing and purchasing new buildings can make an informed decision that recognize the importance of energy efficient measures in the total costs of owning and heating or cooling the building. Bonneville activities listed below are those that the Council has determined are important in achieving its goal.

Bonneville activities are discussed in four sections below: (1) New electrically heated residences; (2) new commercial buildings; (3) conversions of buildings to electric space conditioning; and (4) general activities that relate to more than one of the building sectors.

1. *New electrically heated residential buildings.* Bonneville should develop and implement a work plan which includes the following actions:

• Assist states, local governments and/or utilities in their efforts to comply with the Council's residential model conservation standards (MCS), described in Appendix I–B.

• Maintain an aggressive energy efficient new home marketing program (e.g., Super Good Cents). The Super Good Cents and MCS adopter programs should include a path that allows the builder/homebuyer to choose mechanical ventilation with heat recovery (HRV) if the house is built very tight (i.e. 0.1 ach). Financial incentives for this path should include payments for the HRV at the cost-effective level, except that all existing MCS adoption contracts should be honored. Bonneville's incentives should be sufficient to encourage the further development of this technology.

• Establish a program to offer financial assistance to local utilities for both single family and multifamily dwellings. Bonneville should establish financial assistance levels that will achieve substantial market penetration of dwellings built to the MCS. The minimum value of financial assistance offered should be no less than the difference in net present value life cycle cost to the consumer between a house built to the minimum life cycle costs level and a house built to the full residential MCS level. The maximum value of financial assistance offered for energy savings should not exceed the Council's cost effectiveness limit for lost opportunity resources. Market penetration targets should be established in consultation with the Council, Bonneville's customers, state and local governments, and the shelter industry. Bonneville should also establish a procedure to adjust the financial assistance and/or marketing program to ensure that substantial penetration of the MCS is achieved. This procedure should start from a premise that within the bound of financial incentives described above, Bonneville should pay what is necessary to achieve the penetration targets. This may mean a constant budget for Bonneville's MCS programs since incentives per housing unit can be adjusted based upon penetration rates.

Bonneville should be supportive of MCS in non-full requirements customer's service territories. However, this should not be taken to imply that those utilities have no regional responsibility of their own to achieve MCS. As it indicated in Section III of this chapter, the Council feels that public utility commissions and the utilities they regulate should also consider the importance of the role they play in achieving the MCS.

Bonneville financial assistance to partial requirements customers and potential customers not currently purchasing from Bonneville should vary to reflect the benefits Bonneville is expected to receive in reduced load requirements, reduced exchange requirements, and improved building practice. The payments should take into consideration Bonneville's "Final Conservation Cost-Sharing Principles" (Office of Conservation, Bonneville Power Administration, January 21, 1985), which allow cost sharing with all Bonneville customers, including those with no load requirements on Bonneville.

Bonneville financial assistance should be offered regionwide—including to utilities not currently exchanging with Bonneville or purchasing power from Bonneville. There are several reasons for this. First, Bonneville could find itself obligated to meet future investor-owned utility loads under its current power sales contracts. Avoiding unnecessary increases in investor-owned utility load requirements would reduce future rate increases as well as other risks associated with expensive thermal plant construction. Second, when an investor-owned utility acquires new resources, its acquisition costs are not paid solely by that utility's customers. In significant part, the costs are paid by Bonneville and its customers. This occurs when these costs are included in an investor-owned utility's average system cost and are spread to all Bonneville customers through the exchange. This exchange was authorized by the Northwest Power Act and is designed to provide lower rates for the residential and small farm customers of investor-owned utilities. Energy efficient construction will help hold down the size and cost of the exchange. Third, it is important for the ultimate adoption of MCS building codes and reduction of MCS costs to pursue MCS construction and market development regionwide. Improving building practice is key to achieving MCS construction. This may not occur if the focus is solely on that portion of the region (approximately 40 percent) currently purchasing power from Bonneville.

• Refine a component trade-off system using the generalized paths shown in Table I–B–1 of Appendix I–B as the basis. At a minimum, component trade-offs should be included to account for variations in building thermal mass, heating system efficiency, solar orientation, envelope thermal efficiency, and mechanical ventilation without heat recovery. The point system is needed to give builders the flexibility they need to meet the wide range of characteristics desired by homebuyers. Moreover, the point system should be used to encourage builders to explore new strategies which might achieve the MCS goals more efficiently and at lower cost while promoting builder acceptance of the MCS and regional acceptance of programs to implement the MCS.

• Develop and implement in consultation with the region's electric utilities, other energy providers (such as the natural gas industry), state and local governments, utility regulatory commissions, and others, a method to monitor the effects of financial assistance on heating system choice of new homebuyers. The Council does not believe that consumer choice between competing energy sources will be significantly affected by financial assistance offered by Bonneville and/or utilities. The Council will analyze how the life cycle cost of gas-heated homes compares to electrically heated homes and will make that information available to interested parties.

• Request utilities to submit to Bonneville as soon as is practicable, a plan declaring how they intend to comply with the MCS for utility residential conservation programs.

• Expand Bonneville's existing Indoor Air Quality Research Program to:

• Continue research on technology that improves indoor air quality beyond the level attained in homes built to current practice.

• Assess the relative effectiveness of alternative source reduction and alternative ventilation systems and strategies for minimizing potential pollutant build-up, including but not limited to spot ventilation, whole house exhaust-only ventilation, ductless heat

recovery ventilation, and whole house heat recovery ventilation.

• Monitor indoor air quality in a sample of new electrically heated homes and evaluate the effectiveness of natural ventilation (i.e., infiltration) compared to mechanical ventilation in maintaining clean air, given the same source strength and whole house ventilation rate.

• Identify the major indoor pollutants that may be significantly reduced or eliminated through source reduction actions that might be effected through building codes and product standards.

• Provide findings from indoor air quality research to local and state building code and public health agencies for their consideration.

• Heat recovery ventilation systems and/or alternative ventilation systems without heat recovery installed in all programs used to achieve the residential MCS should be certified as meeting design, installation and performance standards promulgated by Bonneville. Final standards for the design, installation, and performance of such ventilation systems should be established as soon as is practicable.

• Inspect heat recovery ventilators installed before the standards have been established and repair those units that are not meeting the certification standard. To the degree possible, inspect mechanical ventilation systems without heat recovery that were installed in MCS houses an ensure that they are working.

• Require that utilities operating the Bonneville/utility residential MCS program or an alternative program being used to comply with the residential standard offer to monitor the indoor air quality in any new dwelling serviced by that utility.

• Continue to provide technical and financial assistance to builders, insulation contractors, architects, designers, real estate appraisers, lenders, salespersons and code officials for the implementation of a uniform, regionwide energy efficiency certification system for new residential buildings.

• Provide information to homebuyers on energy efficient housing, including publications on how to operate an energy efficient house and equipment such as heat recovery ventilators and information on indoor air pollution sources and mitigation measures.

• Bonneville should develop paths in the Super Good Cents program to recognize that some new homes will be constructed from logs. Given that some consumers will choose log homes for amenity reasons, Bonneville should recommend ways of improving the efficiency of electrically heated log homes to levels that are regionally cost-effective. Since most log construction precludes wall insulation, BPA would emphasize ceiling and floor insulation, improved windows and doors, and the use of heat pumps. Incentives for these homes should follow the objectives of the MCS as set forth above.

2. *New commercial buildings.* Bonneville should develop and implement a work plan which includes the following activities:

• Assist states, local governments and/or utilities in their efforts to take actions through codes, a Bonneville/utility commercial MCS program, alternative programs, or a combination thereof which will result in compliance with the commercial buildings MCS.

• Request utilities or local jurisdictions to submit to Bonneville their plans for complying with the MCS for utility conservation programs for commercial buildings as soon as is practicable after this program has been developed by Bonneville.

• Develop and implement an aggressive energy efficient new commercial buildings marketing program, or an equally effective alternative strategy, similar to the Super Good Cents program for residential buildings. This should be made part of a comprehensive package to market efficient buildings, both residential and commercial. Evaluate the need for financial assistance to promote commercial buildings built to the MCS.

• Collect and evaluate data on new energy efficient commercial buildings built under the MCS adoption program or elsewhere. These data should be maintained and updated as necessary so they can be used in future planning and be used in information brochures on efficient building techniques.

• Continue the New Commercial Buildings Field Test Demonstration program conducted pursuant to the Council's 1983 plan. This program is designed to achieve approximately 30 new commercial buildings constructed to be approximately 30 percent more efficient than the Council's standard.

• Develop for commercial buildings an energy efficiency certification program.

3. *Residential and commercial buildings converting to electric space conditioning.* Bonneville should develop and implement a workplan which includes the following activities:

• Encourage and assist states, local governments or utilities to take actions through codes, alternative programs or a combination thereof to achieve electric power savings from buildings which convert to electrical space conditioning comparable to those savings that would be achieved by incorporating all efficiency improvements that could be installed up to the regionally cost-effective level. The Council will work with Bonneville in consultation with the interested regional parties to define the measures that are regionally cost effective.

4. *General activities for both residential and commercial buildings.* Bonneville should develop and implement a work plan which includes the following activities:

• Implement the Code Adoption Demonstration Program, which encourages utilities, states and local governments to achieve the MCS through adoption of equivalent codes. If codes adopted in a utility's jurisdiction vary in specifics from those of the MCS but result in equivalent electricity use in new buildings, the utility should be eligible for inclusion in the Code Adoption Demonstration Program. This "MCS adoption" program should be available throughout the region to jurisdictions which comply in aggregate with the MCS for new residential and commercial buildings through improvements in their building codes and should include the following elements:

• Financial assistance to help offset the incremental cost of electrically heated residential building construction to the MCS. This financial assistance should be available to any jurisdiction that adopts the MCS through codes before January 1, 1989. Financial assistance to MCS adopters should be set at or above financial assistance given to utilities participating in the Bonneville/utility MCS program, and should be established at levels required to meet the Washington State law or higher. However, any existing MCS adopter agreements should be honored.

• Inclusion of finanical assistance to commercial building developers in MCS adoption jurisdictions.

• Reimbursement to utilities and states or local governments for the costs of MCS-level code adoption and enforcement.

• Systematic evaluation of construction cost, fuel share impacts, thermal performance, occupant satisfaction, indoor air quality, overall compliance with code targets, and enforcement costs for both residential and commercial buildings.

• Education and training programs for builders, consumers, architects, designers, energy code enforcement officials, mechanical ventilation system designers, installers and servicing contractors, realtors, lenders and appraisers, and other appropriate

participants in the design, purchase, and construction of new buildings.

- Shelter industry training which focuses on the most cost efficient means of achieving the MCS.
- Implement programs to reimburse state and local governments throughout the region for the incremental costs of adopting and enforcing model conservation standards as codes. Reimbursement should be made available throughout the region and should continue as long as enforcement of the standards remains regionally cost effective.
- Establish and maintain a program to reimburse states or local governments for the incremental costs of adopting and enforcing codes that are designed to achieve only part of the savings represented by the MCS if the inspection and enforcement activities are undertaken as part of an overall program designed to meet the MCS. This reimbursement should be provided throughout the region so long as regionally cost effective.
- Design and implement a method or process for estimating costs of building to the MCS throughout the region. This activity should be aimed at producing annual reports on the estimated costs experienced by builders in MCS adoption jurisdictions, and by builders in the Bonneville/utility MCS programs throughout the region.
- Design a process to collect utility-specific data on the achievement of the number of MCS residences as a percentage of the total new residences with electric heat. The data should be the basis for a report published every year to notify utilities of their progress towards achieving the MCS in the previous year.
- Continue to collect and analyze data regarding energy use, structural specifications and operations of residences and commercial buildings through the existing End-use Load and Conservation Assessment Project (ELCAP).
- Establish, maintain and disseminate the results of an ongoing research and demonstration effort which focuses on the refinement of new residential and commercial building conservation technologies, construction techniques and products. This program should initially concentrate in the residential sector, identifying and/or developing better information on:
  - Reducing uncontrolled air leakage.
  - Providing more reliable ventilation both with and without heat recovery.
  - Constructing highly insulated exterior walls.
- Develop the surcharge policy and impose a 10 percent surcharge on any utility that has not met all of the requirements of the MCS for utility conservation programs for new residential and new commercial buildings. The surcharge policy should be developed and the surcharge should be imposed pursuant to the Council's model conservation standards and surcharge recommendation included in Appendix I–B.

Appendix I–B—Model Conservation Standards for New Residential Buildings, New Commercial Buildings, Conversions, and Utility Residential and Commercial Conservation Programs; and Surcharge Methodology

The Model Conservation Standards

The Council has adopted five model conservation standards (MCS). The MCS include the MCS for new residential buildings, the MCS for utility residential conservation programs, the MCS for new commercial buildings, the MCS for utility commercial conservation programs, and the MCS for conversions.

The MCS for New Residential Buildings

The Council's model conservation standard for new single and multifamily electrically heated residential buildings [2] is as follows:

New buildings are to be built to energy efficiency levels at least equal to those which would be achieved by using the illustrative component performance paths displayed in Table I–B–1 for each of the Northwest climate zones.[3] It is important to remember that these illustrative paths are provided as benchmarks against which other combinations of strategies and measures can be evaluated. Any combination of measures that result in equivalent electricity used for heating and maintain indoor air quality, is an acceptable path to achieve the MCS.

Trade-offs among the components may be made so long as the overall efficiency and indoor air quality of the building are at least equivalent to a building containing the measures listed in Table I–B–1. Bonneville, in consultation with the Council, should develop other illustrative approaches for building to this standard and publish these as code versions of the standard.

TABLE I–B–1.—ILLUSTRATIVE PATHS FOR RESIDENCES BUILT TO THE MCS LEVEL

Component	Climate zone		
	Zone 1	Zone 2	Zone 3
Ceilings:			
Attic	R-38(U-0.032) [a]	R-49(U-0.022)	R-49(U-0.022)
Vaults	R-38(U-0.028)	R-38(U-0.028)	R-38(U-0.028)
Walls:			
Above grade	R-19(U-0.057)	R-24(U-0.045)	R-30(U-0.035) [b]
Below grade	R-19 [c]	R-19	R-19
Floors:			
Crawlspaces and unheated basements	R-30(U-0.03)	R-30(U-0.03)	R-30(U-0.03)
Slab-on-grade perimeters	R-10	R-10	R-10
Glazing [d]	R-2.5 (U-0.40)	R-2.5 (U-0.40)	R-2.5 (U-0.40)
Maximum glazed area (percent floor area)	15	15	15
Exterior doors	R-5(U-0.19)	R-5(U-0.19)	R-5 (U-0.19)
Assumed thermal infiltration rate [e]	0.3 ach	0.3 ach	0.3 ach
Mechanical	ASHRAE	ASHRAE	ASHRAE
Ventilation [f]	62-81	62-81	62-81

[a] R-values listed in this table are for the insulation only. U-values listed in this table are for the full assembly of the respective component.

[b] Multifamily exterior walls above grade in Zone 3 should be insulated to a nominal R-24 (U-0.045).

[c] Only the R-value is listed for below grade insulation. The corresponding U-value is not known with precision.

[d] U-values for glazing shall be the tested values for thermal transmittance due to conduction resulting from either the American Architectural Manufacturers Association (AAMA) 1503.1-1980 test procedure or the American Society for Testing and Materials (ASTM) C236 or C976 test procedures. Testing shall be conducted under established winter horizontal heat flow test conditions using a 15 mph wind speed and product sample sizes specified under AAMA 1503.1-1980. Testing shall be conducted by a certified testing laboratory. *EXCEPTION:* Site-built fixed glazing shall be exempt from the thermal testing requirements; provided the insulating glass is tested and certified under a Society of Insulated Glass Manufacturers of America (SIGMA) approved certification program as class "A" in accordance with ASTM E-744-81; and this insulating glass is installed either in an aluminium frame having a minimum 0.25 inch low conductance thermal break or in wood framing in accordance with SIGMA glazing specifications; and provided further, that site-built double glazed units with fixed panes shall have a dead air space between panes of not less than ½ inch and site-built triple glazed units with fixed panes shall have a dead air space between panes of not less than ¼ inch.

[e] Maximum air changes per hour (ach) allowed for determination of thermal losses due to air leakage.

[f] Indoor air quality should be comparable to levels found in non-MCS dwellings built in 1983. If additional ventilation is needed, it may be achieved through the use of mechanical systems which may or may not incorporate heat recovery. Mechanical ventilation systems shall be installed which are capable of providing the minimum outside air requirements specified in ASHRAE standard 62-81 for residential occupancies. These systems may or may not incorporate heat recovery.

[2] Single family residences are defined to include duplexes. Multifamily residences include triplexes and larger structures up to and including 4-story low-rise residential structures. The standard applies to site-built residences and not to residences which are regulated under the National Manufactured Housing Construction and Safety Standards Act of 1974. 42 U.S.C. 5401 et seq. (1983).

[3] The Council has established climate zones for the region based on the number of heating degree days as follows: Zone 1—4–6,000 heating degree days; Zone 2—6–8,000 heating degree days; and Zone 3—over 8,000 heating degree days.

The MCS for Utility Residential Conservation Programs

The MCS for utility residential conservation programs is that utilities must implement, in accordance with the requirements detailed below, the Bonneville/utility residential MCS program, an equivalent alternative program, or rely on improved building codes to the MCS level. The BPA/utility residential MCS program consists of an aggressive marketing [4] and financial assistance program made available by Bonneville and the local utility to homebuilders.

Financial Assistance

The level of total financial assistance for the Bonneville/utility residential MCS program should be no less than the difference in net present value of life cycle cost to the consumer between a house built to the minimum life cycle cost level and a house built to the full residential MCS level. The maximum value for the range will be the regional cost-effective limit for lost opportunity resources.

Submission of Utility Plans for Compliance With the MCS for Residential Programs

Utilities must, as soon as Bonneville considers practicable, submit to Bonneville an initial plan declaring how then intend to meet the MCS for utility residential conservation programs. The ultimate goal for such programs is to obtain, at least 85 percent of the savings which would have been obtained if all electrically heated residential buildings had been constructed to the residential MCS level.[5] In subsequent years, a utility may change its declaration, subject to the same Bonneville approvals required for the initial plan submissions.

There are several ways utilities can comply with the MCS for utility residential conservation programs. These are:

1. Submit and have approved by the Bonneville a declaration that the MCS for residential buildings has been or will be met no later than a date to be specified by Bonneville,[6] and for each subsequent year, through codes at MCS levels adopted and enforced by a state and/or local government;

2. Agree to adopt and implement the Bonneville/utility residential MCS program by a date to be specified by Bonneville.

3. Submit, an alternative program that will be implemented and enforced by a date to be specified by Bonneville and is initially approved by Bonneville, as being capable of providing savings equivalent to the Bonneville/utility residential MCS program and which does not duplicate the acquisition of other resources that are already in the Council's plan. Alternative programs may include, but are not limited to, state or local government or utility marketing programs, financial assistance, codes that achieve part of the MCS level of savings, or other measures to encourage energy efficient construction of new residential buildings or other lost opportunity conservation resources.

Surcharge Recommendation

The Council recommends that a 10 percent surcharge be imposed, on utilities which have not complied with the deadline established by Bonneville, to submit to Bonneville: (1) An initial plan for implementation of the Bonneville/utility residential MCS program; (2) a plan for implementation of an alternative program which is approved by Bonneville as being equivalent as set forth above; or (3) a declaration, approved by Bonneville, that the MCS for residential buildings will be met by building codes. This surcharge continues in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

Minimum Performance Standard

In Bonneville's public hearings on the surcharge policy, the Council and Bonneville listened to the concerns of utilities over the workability of the Council's performance surcharge. Because of those concerns, and because the Council feels that with this amendment to the MCS, compliance should and will be desirable and voluntary, the council has removed the performance standard from this plan. However, the Council still feels strongly that, given the value of the MCS to the region, utilities should be responsible for working vigorously toward attainment of the MCS in their service territories. Bonneville should measure and report to the council the performance of utilities in attaining the MCS. If it is determined that a performance standard can be designed and implemented and the reports indicate that here are utilities that are not participating in good faith in the MCS programs, the Council will revisit the concept of performance surcharges.

A utility operating the Bonneville/utility residential MCS program or a program approved by Bonneville as equivalent should not be surcharged.

Exemptions

The Council finds there is no need for exemptions at this time. If Bonneville finds that hardship exists, Bonneville should assist in the implementation of the Bonneville MCS program in those jurisdictions.

The Model Conservation Standards for New Commercial Buildings

The Council's model conservation standard for new commercial buildings is as follows: New commercial buildings are to be constructed to achieve savings equivalent to those achievable through constructing buildings to the Council of American Building Officials (CABO) 1983 Model Energy Code, which is based on the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), ASHRAE 90–80, with the following modifications. The ventilation requirements are those set forth in ASHRAE Standard 62–81, and the interior lighting standard for all office buildings and for those retail areas containing over 20,000 square feet is 1.5 watts per square foot. The lighting efficiency requirements for all commercial buildings are as shown in Table I–B–2.

The Council recognizes that in some situations the lighting budgets shown in Table I–B–2 may not provide acceptable lighting. Bonneville should develop, in consultation with the Council and other interested parties, an optional calculation for determining the maximum allowable lighting load. This procedure should be substantially similar to section 1–5342(d)2 of Title 24 of the California non-residential building energy standards, which allows lighting levels to increase in parallel with the documented visual requirements of the task.

Illustrative ways for a commercial building to meet this standard are described in those portions of Bonneville's Model Conservation Standards Equivalent Code Amendments to the Model Energy Code, dated July 1986, or Model Conservation Equivalent Code to Chapter 53 of the Uniform Building Code, dated July 1986, as they will be conformed to this rule

[4] "Super Good Cents" is the current name given to the Bonneville marketing program to encourage residential construction at the MCS level of efficiency. The Council believes the design and features of the Super Good Cents program will, if implemented regionwide, provide a successful mechanism for advancing building practices to the full residential MCS level of savings throughout the region.

[5] 85 percent is the level of compliance that the Council believes is achievable by utility programs.

[6] Bonneville should establish the earliest practicable date for utilities to implement and enforce their plans to implement the residential MCS.

and may be subsequently amended from time to time, which apply to all buildings except low-rise residential buildings. As with the residential MCS, flexibility is encouraged in designing paths to achieve the commercial MCS.

TABLE I-B-2.—INTERIOR LIGHTING POWER BUDGET [a]

Group and occupancy description	Lighting power budget [b] (W/sq ft)
A	
Assembly w/stage	1.1
Stage lighting	Exempt
Assembly w/o stage: other than B and E	1.1
B	
Gasoline service station	2.0
Storage garages	0.3
Office buildings, wholesale stores, police and fire stations	1.5
Retail stores:	
—less than 1,000 squre feet	4.5
—1,000 to 6,000 square feet	3.5
—6,000-20,000 square feet	2.5
—Over 20,000 square feet	1.5
Drinking and dining establishments	1.85
Food preparation task lighting	Exempt
Aircraft hangers	0.7
Process plants	1.0
Factories and workshops	2.0
Storage structures	0.7
E	
Schools and daycare centers	2.0
Audio-visual presentation lighting	Exempt
H	
Storage structures	0.7
Handling areas	2.0
Paint shops	2.5
Paint spray booths	5.0
Auto repair booths	2.0
Aircraft repair hangers	2.0
I	
Institutions	2.0
Administrative support areas	2.0
Nursing areas	0.9
Diagnostic, treatment, food service task lighting	Exempt
R	
Dwelling units	Exempt
Other areas	1.1
Food preparation task lighting	Exempt

[a] Watts/sq. ft. of room may be increased by 2 percent per foot of height above 20 feet.
[b] Emergency exit lighting is exempt from interior lighting budget.

The Council's MCS for new commercial buildings were developed using the ASHRAE 90–80 standard originally issued in 1980. ASHRAE intends to adopt and issue an updated version of Standard 90 (ASHRAE 90.1). The ASHRAE standard serves as the basis for the Council of American Building Officials "Model Energy Code." Therefore, the Council intends to review the updated standard for potential adoption as its MCS. This review process will commence as soon as the ASHRAE standard has been adopted in its final form.

The MCS for Utility Commercial Conservation Programs

The model conservation standard for utility commercial conservation programs is that utilities must: (1) Implement a joint marketing program with Bonneville, which may contain financial assistance payments to developers (the Bonneville/utility commercial MCS program); or (2) Implement an equivalent alternative program; or (3) rely on improved building codes to the MCS levels.

Submission of Utility Plans for Compliance with the MCS for Commercial Programs

Utilities must as soon as Bonneville considers is practicable submit to Bonneville an initial plan declaring how they intend to meet the MCS for utility commercial conservation programs. The ultimate goal for such programs is to obtain, as soon as possible, at least 85 percent of the savings which would have been obtained if all commerical buildings had been constructed to the commercial MCS level.[7] In subsequent years, a utility may change its declaration, subject to the same Bonneville approvals required for the initial plan submission.

There are several ways utilities can comply with the MCS for utility commercial conservation programs. These are:

1. Submit and have approved by Bonneville, a declaration that the MCS for commercial buildings have been or will be met no later than a date to be specified by Bonneville,[8] and for each subsequent year, through codes at the MCS levels adopted and enforced by a state and/or local government;

2. Agree to adopt and implement the Bonneville/utility commercial MCS program, which may contain financial assistance payments by a date to be specified by Bonneville; or

3. Submit an alternative program that will be implemented and enforced by a date to be specified by Bonneville, and is initially approved by Bonneville as being capable of providing savings equivalent to the Bonneville/utility commercial MCS program, and which does not duplicate acquisition of other resources that are already in the Council's plan. Alternative programs may include, but are not limited to, state or local government or utility marketing programs, financial assistance, codes that achieve part of the MCS level of savings, or other measures to encourage energy efficient construction of new commercial buildings or other lost opportunity conservation resources.

Surcharge Recommendation

The Council recommends that a 10 percent surcharge be imposed on utilities which have not complied with the deadline established by Bonneville to submit an initial plan for implementation of the Bonneville/utility commercial MCS program, a plan for implementation of an alternative program which is approved by Bonneville as equivalent, as set forth above, or a declaration, approved by Bonneville, that the MCS for commercial buildings will be met by building codes at the MCS levels. This surcharge continues in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

The total surcharge on a utility for failing to meet the MCS for residential and commercial utility programs should not exceed 10 percent of its rate at any time.

Exemptions

The Council finds there is no need for exemptions at this time. If Bonneville finds that hardship exists, Bonneville should assist in the implementation of the Bonneville MCS program in those jurisdictions.

The Model Conservation Standard for Buildings Converting to Electric Space Conditioning

The Council's Model Conservation Standard for residential and commercial buildings converting to electric space conditioning is that state or local governments or utilities should take actions through codes, alternative programs or a combination thereof the achieve electric power savings from buildings which convert to electrical space conditioning. These savings should be comparable to those savings that would be achieved if each building converting to electric space conditioning were upgraded to include all regionally cost-effective electricity conservation measures. Although the conversion standard is highly recommended, the Council is not recommending, at this time, that a surcharge be imposed for failure to act accordingly.

Surcharge Methodology

Section 4(f)(2) of the Northwest Power Act provides for Council recommendation of a 10 percent to 50 percent surcharge on Bonneville customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to those which would be obtained under the model conservation standards. The purpose of the surcharge is twofold: (1) To recover

[7] 85 percent is the level of compliance that the Council believes is achievable by utility programs.

[8] Bonnevile should establish the earliest practicable date for utilities to implement and enforce their plans to implement the commercial MCS.

costs imposed on the region's electric system by failure to adopt the model conservation standards or achieve equivalent electricity savings, and (2) to provide a strong incentive to utilities and state and local jurisdictions to adopt and enforce the standards or comparable alternatives.

The administrator is responsible for implementing the surcharge in accordance with the Council methodology for the surcharge calculation. The Council recommends that the Bonneville Administrator impose surcharges as specified above. The method is set out below.

A. Identification of Customers Subject to Surcharge

In accordance with the schedule set forth above, the Administrator should identify those customers, states, or political subdivisions which have:

1. Failed to comply with the model conservation standards for utility residential and commercial conservation programs, including meeting all filing deadlines.

B. Calculation of Surcharge

The annual surcharge for noncomplying customers or customers in noncomplying jurisdictions is then calculated by the Bonneville Administrator as follows:

1. If the customer is purchasing firm power from Bonneville under a power sales contract and is not exchanging under a residential purchase and sales agreement, the surcharge is 10 percent of the cost to the customer of all firm power purchased from Bonneville under the power sales contract for that portion of the customer's load in jurisdictions not implementing the MCS or comparable programs.

2. If the customer is not purchasing firm power from Bonneville under a power sales contract but is exchanging (or is deemed to be exchanging) under a residential purchase and sales agreement, the surcharge is 10 percent of the cost to the customer of the power purchased from Bonneville in the exchange (or deemed to be purchased) for that portion of the customer's load in jurisdictions not implementing the MCS or comparable programs.

3. If the customer is purchasing firm power from Bonneville under a power sales contract and also is exchanging (or is deemed to be exchanging) under a residential purchase and sales agreement, the surcharge is: (a) 10 percent of the cost to the customer of firm power purchased under the power sales contract, *plus* (b) 10 percent of the cost to the customer of power purchased from Bonneville in the exchange (or deemed to be purchased) multiplied by the fraction of the utility's exchange load originally served by the utility's own resources.

This calculation of the surcharge is designed to eliminate the possibility of surcharging a utility twice on the same load. In the calculations, the portion of a utility's exchange resource purchased from Bonneville and already surcharged under the power sales contract is subtracted from the exchange resources before establishing a surcharge on the exchange load.

C. Evaluation of Alternatives and Electricity Savings

A method of determining the estimated electrical energy savings of an alternative conservation plan should be developed in consultation with the Council and included in Bonneville's policy to implement the surcharge.

Edward Sheets,

Executive Director.

[FR Doc. 86-26219 Filed 11-19-86; 8:45 am]

BILLING CODE 0000-OD-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 35-24238]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 13, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commssion pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 8, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Pennsylvania Electric Company (70-4549)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed a post-effective amendment to its application pursuant to sections 9(a) and 10 of the Act.

By orders dated November 17, 1967 and December 23, 1981 (HCAR Nos. 15899 and 22335), Penelec was authorized to acquire promissory notes through December 30, 1986 to be issued by Helvetia Coal Company ("Helvetia"), a nonaffiliated mining ccmpany, in an amount not to exceed $12,250,000, representing one-half of the estimated cost of Helvetia's coal mine. The other half of the financing for the coal mine was furnished by the New York State Electric and Gas Corporation ("NYSEG"), a utility not affiliated with Penelec. Currently, Penelec and NYSEG each have loaned Helvetia $11,625,000, or an aggregate of $23,250,000, pursuant to authorization for maximum aggregate loans of $24.5 million through December 30, 1986. Penelec and NYSEG currently have outstanding loans to Helvetia of $7,775,000, or an aggregate of $25,550,000. Penelec now seeks authority to acquire Notes ("Notes") of Helvetia up to the previously authorized limit of $12,250,000 until December 30, 1991 and to extend the maturity of such Notes until December 31, 1991.

Associated Natural Gas Company (70-6811)

Associated Natural Gas Company ("Associated"), 40 West Park Street, Blytheville, Arkansas 72315, a gas utility subsidiary of Arkansas Power & Light Company, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a further post-effective amendment to its declaration is this matter pursuant to section 6(a) and 7 of the Act.

By orders in this matter dated December 15, 1982, December 8, 1983, December 18, 1984, and January 10, 1986 (HCAR Nos. 22780, 23157, 23535, and 23990), Associated was authorized to make unsecured, short-term borrowings from Farmers Bank & Trust Co. ("Bank"), Blytheville, Arkansas, from time to time through January 10, 1987, in an aggregate principal amount not to

exceed $3 million at any one time outstanding. At November 3, 1986, no such borrowings were outstanding.

Associated wants to extend this authorization and proposes to issue to the Bank its unsecured promissory notes payable not more than 270 days from the date of issuance. The notes may be renewed from time to time but will mature not later than one year from the effective date of the Commssion's order. They will bear interest at a rate per annum equal to the prime commercial loan rate (presently 7½%) of The Chase Manhattan Bank (N.A.), New York, New York, from time to time in effect, and, at the option of Associated, will be prepayable, in whole or in part, at any time without premium or penalty. Associated will not be required to maintain compensating balances with the Bank or to pay any commitment fees.

Consolidated Natural Gas Company (70–7295)

Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act.

Consolidated proposes to borrow up to $50,000,000 for a period not exceeding eight years under a credit agreement with The Chase Manhattan Bank, N.A., acting for itself and as agent for certain foreign banks. The bank loans will be in the form of revolving credits through December 31, 1991, during which period, each bank will make loans to Consolidated from time to time up to the maximum of its commitment under the credit agreement. During the revolving-credit period, Consolidated may borrow, pay, or prepay and reborrow up to each bank's commitment. Under the terms of the credit agreement, each bank agrees to make a three-year term loan to Consolidated on December 31, 1991, in an amount not exceeding its commitment on the date of that loan. Each term loan will be evidenced by Consolidated's note payable in six equal semi-annual installments, with the final maturity no later than December 31, 1994.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–26163 Filed 11–19–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 161—Minimum Aviation System Performance Standard for Radio Determination Satellite System; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of RTCA Special Committee 161 on Minimum Aviation System Performance Standard for Radio Determination Satellite System to be held on December 9–10, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review Terms of Reference; (3) Briefings on Radio Determination Satellite System (RDSS); (4) Open Discussion of RDSS, (5) Develop Initial Work Program and Schedule of Accomplishments; (6) Task Assignments; (7) Other Business; and (8) Time and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 12, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86–26140 Filed 11–19–86; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance; Grafton and Upton Railroad Co. et al.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–84–21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before January 8, 1987, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Grafton and Upton Railroad Company

Waiver Petition Docket Numbers LI–86–2 and SA–86–2

The Grafton and Upton Railroad Company (GU) seeks a permanent waiver of compliance with certain provisions of the Locomotive Safety Standards (49 CFR Part 229) and the Safety Appliance Standards (49 CFR Part 231) for a General Electric 44 ton, 380 horsepower switching locomotive numbered NEC 10.

The GU is a 15.5 mile, Class 1—10 mph shortline railroad that presently operates three trains per week in the Grafton, Massachusetts, area. The locomotive is not equipped with a slip/slide device as required by § 229.115, and the railroad states that because of their operation at low speed, one is not necessary. The NEC 10 is not equipped with side switching steps that conform to § 231.30. The railroad states that the locomotive can not be easily equipped with such steps because of clearance problems at customer locations.

Tennessee Valley Railroad Museum, Inc.

Waiver Petition Docket Number RSGM–86–21

The Tennessee Valley Railroad Museum, Inc. (TVRM) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for three ALCO–GE diesel locomotives. The TVRM currently operates only under the jurisdiction of the Tennessee Department of Elevator and Boiler Inspection concerning boilers. The locomotives will operate mainly within the Chattanooga city limits through areas of light industry and residences. The petitioner indicates they have not had problems with vandalism concerning glazing. They desire to maintain the original appearance of these three locomotives and, therefore, are requesting a waiver for the cab window glazing.

Canadian National Railway

Waiver Petition Docket Number SA–86–6

The Canadian National Railway seeks a permanent waiver of compliance with § 231.6(c)(3) of the Safety Appliance Standards (49 CFR 231.6(c)(3)) for 390 five-unit container well cars. The horizontal side handhold has been the vertical handholds have been located to permit train crewmembers to hold on securely while standing on the sill step or while boarding the car.

Issued in Washington, DC, on November 12, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86–26138 Filed 11–19–86; 8:45 am]

BILLING CODE 4910–06–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 224
Thursday, November 20, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:37 p.m. on Friday, November 14, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution: (1) Making funds available for the payment of insured deposits made in First National Bank of Temple, Temple Oklahoma, which was closed by the Deputy Comptroller of the Currency on Friday, November 14, 1986, (2) accepting the bid of Union National Bank of Oklahoma, Temple, Oklahoma, a newly-chartered national bank subsidiary of The Union of Arkansas Corp., Little Rock, Arkansas, for the transfer of the insured and fully secured or preferred deposits of the closed bank, and (3) designating Union National Bank of Oklahoma as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank.

At that same meeting, the Board of Directors also: (1) Accepted the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for the purchase of assets of end the assumption of the liability to pay deposits made in The Bank of Northern California, San Jose, California, an insured State nonmember bank scheduled for closing later in the day by the Superintendent of Banks for the State of California, or (2) in the event no acceptable bid for a purchase and sssumption transaction is submitted, accepted the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, made funds available for the payment of the insured deposits of the closed bank.

In calling the meeting, the board determined, on motin of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(g)(A)(ii), and (c)(9)(B)).

Dated: November 17, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-26256 Filed 11-18-86; 12:06 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 17, 1986.

TIME AND DATE: 10:00 a.m., Thursday, December 18, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Cases heard for oral argument on December 16, 1986, and December 17, 1986, including: NACCO Mining Co., LAKE 85-87-R, Greenwich Collieries, PENN 85-188-R, White County Coal Corporation, LAKE 86-58-R, and Emerald Mines Corporation, PENN 85-298-R. (Issues include whether an enforcement action under section 104(d) of the Mine Act, 30 U.S.C. 814(d), can be taken only when a violation is discovered during the course of an investigation and where the inspector actually observes the violation.)

It was determined by a unanimous vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-26238 Filed 11-18-86; 10:24 am]

BILLING CODE 6735-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (51 FR 40370 November 6, 1986).

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, October 31, 1986.

CHANGES IN THE MEETING: Additional meetings.

A closed meeting was held on Wednesday, November 12, 1986, at 9:15 a.m., to consider the following items.

Formal orders of investigation.
Administrative matter.

A closed meeting was held on Thursday, November 13, 1986, following the 10:00 a.m. open meeting, to considered the following item.

Consideration of *amicus* participation.

Chairman Shad and Commissioners Cox, Peters, Grundfest and Fleischman, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272-3077.

Jonathan G. Katz,

Secretary.

November 14, 1986.

[FR Doc. 86-26216 Filed 11-17-86; 4:18 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 24, 1986:

An open meeting will be held on Tuesday, November 25, 1986, at 10:00 a.m., followed by a closed meeting.

The Commissioners, Counsel to the Commissioner, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 25, 1986, at 10:00 a.m., will be:

1. Consideration of whether to adopt final amendments to the Industry Guides, "Statistical Disclosure by Bank Holding Companies". The amendments would call for disclosures regarding certain outstanding credits to borrowers in foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest, and certain restructurings of those outstanding credits. For further information, please contact Wayne G. Pentrack at (202) 272–2130.

2. Consideration of whether to issue an interpretive release regarding accounting for loan losses by registrants engaged in lending activities. The release would provide interpretive guidance regarding: (a) The need for procedural discipline in determining amounts of loan losses to be reported; (b) the requirement to account for loan collateral as repossessed, whether it is repossessed substantively or formally; and (c) valuation of substantively or formally repossessed loan collateral. For further information, please contact Wayne G. Pentrack at (202) 272–2130.

3. Consideration of whether to proposed for public comments Rules 11a–3 and 11c–1 under the Investment Company Act of 1940. Rule 11a–3 would allow open-end investment companies and their principal underwriters to make certain exchange offers to their own shareholders or to shareholders of another fund in the same family of funds. Rule 11c–1 would allow unit investment trusts and their sponsors to make certain exchange offers to unitholders of the same series or another series of the same trust or to unitholders of another unit investment trust having the same sponsor. For further information, please contact Brian P. Kindelan at (202) 272–2048.

4. Consideration of whether to adopt: (1) New Rule 14b–2, relating to banks' obligations in connection with forwarding communications to beneficial owners and supplying beneficial owners' names, addresses and securities positions to registrants; (2) corresponding and clarifying amendments to Rules 14a–1, 14a–13, 14b–1, 14c–1 and 14c–7; (3) a provision to new Rule 14b–2 and amendments to Rule 14b–1 excluding employee benefit plan participants from coverage of the shareholder communications rules; and (4) amendments to Rule 14a–3 regarding when and under what conditions registrants are no longer obligated to deliver annual reports or proxy statements to security holders. For further information, please contact Sarah A. Miller at (202) 272–2589.

The subject matter of the closed meeting scheduled for Tuesday, November 25, 1986, following the 10:00 a.m. open meeting, will be:

Formal order of investigation.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive actions.

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: David Mahaffey at (202) 272–2091.

Jonathan G. Katz,

Secretary.

November 14, 1986.

[FR Doc. 86–26217 filed 11–17–86; 4:18 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 51, No. 224
Thursday, November 20, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ACTION

Student Service-Learning Projects; Availability of Funds

Correction

In notice document 86-24885 beginning on page 40234 in the issue of Wednesday, November 5, 1986, make the following correction:

On page 40234, third column, twenty-third line from the bottom, "43,000" should read "3,000".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-356]

Availability of a Draft Environmental Impact Statement on the Rangeland Grasshopper Cooperative Management Program

Correction

In notice document 86-25392 appearing on page 40470 in the issue of Friday, November 7, 1986, make the following correction: In the second column, insert an asterisk after the fifteenth, twenty-first and twenty-seventh lines.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51646; FRL-3100-7]

Toxic and Hazardous Substances Control; Certain Chemicals Premanufacture Notices

Correction

In notice document 86-24211 beginning on page 37969 in the issue of Monday, October 27, 1986, make the following corrections:

1. On page 37969, in the second column, in the fifth line under the caption **P 87-41**, "carbomonocyclic" was misspelled.

2. In the same column, in the eleventh line under the caption **P 87-42**, "date" should read "data".

3. On the same page, in the third column, the fourth line under the caption **P 87-44** should read "sulfo-6[(2-(sulfooxy)ethyl)sulfonyl],".

4. In the same column, in the last line under the caption **P 87-47**, insert a period after "oxo-".

5. On page 37970, in the second column, in the third line, "Confidential" was misspelled.

6. In the same column, in the sixth line under the caption **P 87-50**, insert ">" after "oral:".

7. On the same page, in the third column, in the first line, insert ">" after "oral:".

8. On page 37971, in the second column, in the eleventh line under the caption **P 87-70**, ">" should read "<".

9. In the same column, in the second line under the caption **P 87-71**, "Chemical" should read "Chemicals".

10. In the same column, in the ninth line under the caption **P 87-72**, insert a period after "submitted".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Wage Coverage

Correction

In proposed rule document 86-24221 beginning on page 39397 in the issue of Tuesday, October 28, 1986, make the following corrections:

On page 39398, in the first column, in the last complete paragraph, in the sixth line, insert "because" between "necessary" and "of"; and on the same page, in the second column, in the first complete paragraph, in the fourth line, "intended" should read "interned".

BILLING CODE 1505-01-D

federal register

Thursday
November 20, 1986

Part II

Securities and Exchange Commission

17 CFR Part 210, Etc.

Proxy Rules; Final Rule and Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 239, 240, 249 and 270

[Release Nos. 33-6676; 34-23789; 35-24236; IC-15403; File No. S7-31-85]

Proxy Rules—Comprehensive Review

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today announced the adoption of amendments to its proxy rules and certain other rules. The amendments bring to the proxy context the benefits of the integrated disclosure system. The amendments also include a compensation plan disclosure item that simplifies the proxy disclosure previously required. The amendments also require new registrants to provide disclosure concerning prior changes in accountants and any related disagreements. In addition, certain changes update the rules to comport with current practice, interpretations and other changes in laws and rules.

DATES: *Effective Date:* These amendments are effective January 20, 1987, for proxy statements filed on or after that date.

Compliance Date: Registrants are permitted, however, to comply with the amendments immediately after publication of this Release in the **Federal Register.** Such compliance must be with the amended rules as a whole.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, Alexander G. Shtofman or Caroline W. Dixon, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. After the effective date, contact Cecelia D. Blye, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of revisions to the proxy and information statement rules [1] under the Securities Exchange Act of 1934 ("Exchange Act").[2] The Commission is adopting revisions to Regulation 14A,[3] including Schedules 14A [4] and 14B,[5] and Regulation 14C,[6] including Schedule 14C.[7] In addition, certain revisions have been made to Regulation S-K,[8] Form S-18,[9] Form S-4 [10] and Form 10-K.[11] Finally, corresponding amendments to a number of other rules, regulations, forms and schedules are being adopted in order to revise or correct references to Regulations and Schedules 14A and 14C.[12]

I. Executive Summary

In July 1985, the Commission proposed amendments to its proxy rules as part of its Proxy Review Program.[13] The proposed revisions were intended to simplify the proxy rules and to update the rules to accord with current practice, staff interpretations, new laws and other changes in Commission rules.[14] The Commission is now adopting certain of the proposals and is publishing for comment related proposals in a companion release, Securities Exchange Act Release No. 33-6675.

Among other things, the amendments adopted today apply the principles of the integrated disclosure system to proxy disclosure, streamline compensation plan disclosure and require disclosure by new registrants of changes in and disagreements with accountants. Consistent with the integrated disclosure system, the amendments as adopted allow certain company-specific (including financial) information required in connection with mergers, consolidations, acquisitions and similar matters to be incorporated by reference by eligible registrants pursuant to a system which is substantially the same as that contained in Form S-4. With respect to the authorization, issuance, modification or exchange of securities, the Commission has determined to retain the existing financial and related requirements applicable to these transactions and has adapted the principles of integrated disclosure in order to bring the proposed benefits to these transactions without an unintended increase in the information required. This has necessitated a modification of the rules as proposed. Pursuant to the modification, S-3 companies may incorporate by reference the required information from previously-filed documents and do not have to incorporate the entire annual report on Form 10-K and subsequent reports. The new rules also permit any registrant to incorporate by reference to documents delivered with the proxy statement.

Information with regard to compensation plans previously contained in three items is now condensed in a single item [15] and the disparities in disclosure requirements among different types of plans have been eliminated. The information required with respect to plans previously in effect is required only for plans in effect within the last three years, rather than five years. Registrants will no longer be required to disclose information concerning sales of securities subsequent to the exercise of options.

The Commission also is adopting proposals to require disclosure concerning changes in accountants and any related disagreements if a registrant was not subject to Exchange Act reporting requirements at the time a change in accountants occurred.[16] This would principally affect initial public offering registration statements and proxy statements of issuers newly registered under the Exchange Act.

The Commission has deferred consideration of the proposed requirement that a registrant disclose whether its independent auditor is a member of a voluntary self-regulatory organization which has both a peer review program and an independent oversight function. The Commission will reconsider this proposal after the completion of related private sector initiatives and review of the concept of mandatory peer review.

Part II of this release provides a synopsis of each of the proposed amendments to the proxy rules, which follows the structure of the regulations

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[1] 17 CFR 240.14a-1 through 240.14c-101.

[2] 15 U.S.C. 78a-78kk (1982).

[3] 17 CFR 240.14a-1 through 240.14b-1.

[4] 17 CFR 240.14a-101.

[5] 17 CFR 240.14a-102.

[6] 17 CFR 240.14c-1 through 240.14c-101.

[7] 17 CFR 240.14c-101.

[8] 17 CFR Part 229.

[9] 17 CFR 239.28.

[10] 17 CFR 239.25.

[11] 17 CFR 249.310.

[12] The corresponding amendments affect: Rule 3-05(b) of Regulation S-X (17 CFR 210.3-05(b)), Rule 14f-1 (17 CFR 240.14f-1), Rule 13e-3 (17 CFR 240.13e-3) and Schedule 13E-3 (17 CFR 240.13e-100) under the Exchange Act; Forms N-14, S-4 and F-4 (17 CFR 239.23, 239.25 and 239.34) under the Securities Act of 1933; and Rule 20a-3 (17 CFR 270.20a-3) under the Investment Company Act of 1940.

[13] Release No. 33-6592 (July 19, 1985) [50 FR 29409].

[14] The proposals generated 52 comment letters. The letters of comment, as well as a copy of the summary of the comment letters prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room (File No. S-731-85).

[15] New Item 10 of Schedule 14A contains requirements previously contained in Items 9, 10 and 11.

[16] These changes are contained in Item 9 of Schedule 14A, Item 304 of Regulation S-K (17 CFR 229.304) and Form S-18.

and schedules, and the Commission's action on such proposals.[17]

II. Discussion

A. Regulations 14A and 14C

1. Registrant/Issuer; Security Holder/Shareholder

The Commission is replacing the term "issuer" with "registrant" and "shareholder" with "security holder," as proposed.

2. Executive Officer/Officer

In order to be consistent with Regulation S-K the Commission is, as proposed, replacing "officer" with "executive officer" in Item 5, Interest of Certain Persons in Matters to be Acted Upon, and Item 8, Compensation of Directors and Executive Officers, of Schedule 14A.

B. Rule 14a-1, Definitions

1. Technical Revision

The Commission has adopted, as proposed, a technical amendment to the first paragraph of Rule 14a-1 [18] to replace the phrase "terms used in §§ 240.14a-1 to 240.14a-10 and in Schedule 14A" by "terms used in this regulation" to clarify that the definitions are intended to apply to Regulation 14A in its entirety.

2. Last Fiscal Year

The Commission has adopted the proposed definition of "last fiscal year" to clarify the applicability of the definition to consent solicitations. A registrant's last fiscal year will not only be defined in terms of the date of the meeting, as in former rules, but also in terms of the date as of which consents or authorizations may be used to effect corporate action.

3. Record Date

A new defined term, "record date," has been adopted as proposed.

4. Solicitation

After consideration of a proposed revision to the definition of "solicitation", the Commission has concluded that the current definition and its judicial construction have worked well and that there is no need to revise the existing definition.

C. Rule 14a-2, Solicitations to Which § 240.14a-3 to § 240.14a-13 Apply

1. Solicitation Pursuant to Chapter 11 of Bankruptcy Reform Act

The Commission has amended Rule 14a-2 [19] as proposed to conform to changes in bankruptcy laws pursuant to the Bankruptcy Reform Act of 1978.[20] The revision to paragraph (a)(4) of Rule 14a-2 [21] will exempt a solicitation pursuant to a reorganization under Chapter 11, if such solicitation is made subsequent to or concurrently with the transmittal of a court approved disclosure statement.

D. Rule 14a-3, Information to be Furnished to Security Holders

1. Technical Revisions

The Commission has amended paragraph (b) of Rule 14a-3 [22] (and Rule 14c-3(a),[23] with regard to information statements) as proposed to clarify that the annual report to security holders is required whether the registrant is soliciting proxies or consents in connection with the annual election of directors.[24]

The proposed relocation of Paragraph (d) of Rule 14a-3 [25] to Rule 14a-13, Obligations of Registrants in Communicating with Beneficial Owners,[26] was adopted in a prior release with respect to the shareholder communications rules.[27]

2. Annual Report to Security Holders

The Commission is adopting, with a minor revision,[28] the proposed amendment to paragraph (b) of Rule 14a-3, to clarify that, if the registrant convenes a special meeting to elect directors in lieu of an annual meeting, the registrant must furnish an annual report to security holders in connection with such special meeting. This provision is intended to assure that the annual report be furnished in connection with the first meeting held during the year to elect directors. The Commission also solicited comment as to whether the rule should be modified to apply to elections of directors that take place either before or after the annual election in a given year. After consideration of the current requirement and of the public comment, the Commission believes that furnishing the annual report more than once per year is not necessary.

3. Rule 14a-3(b)(10), Furnishing of Information in Documents Filed Pursuant to Exchange Act Section 13(a) Subsequent to the Form 10-K .

The proposed amendments to Rule 14a-3 would have required an undertaking in the annual report to security holders or in the registrant's proxy statement for an annual meeting (or special meeting in lieu of the annual meeting) to provide, upon written request, information in addition to a copy of the annual report on Form 10-K.[29] A registrant would have been required to provide a copy of any information contained in Exchange Act Section 13(a) [30] reports filed during the period between the filing of the Form 10-K and the date a response was made to the request. Upon further consideration, the Commission has determined that the current requirement in Note D.2 of Schedule 14A that the registrant must undertake to furnish, upon request, copies of information incorporated by reference is adequate and responsive to investors' needs.

E. Rule 14a-4, Requirements as to Proxy

1. Rule 14a-4(d)(3)

As proposed, the Commission has added paragraph (d)(3) to Rule 14a-4 [31] to codify current interpretations that a proxy may not confer authority to vote at more than one meeting or consent solicitation.

2. Rule 14a-4(d)(4)

The Commission has revised Rule 14a-4 [32] to clarify that paragraph (d) applies to consent solicitations. The language of proposed paragraph (d)(4) has been revised to avoid any possible conflict with Rule 14a-4(c).[33] This

[17] The discussion of Schedule 14A includes changes to Items 304 and 403 of Regulation S-K (17 CFR 229.403) and Form S-18, as well as of a clarifying instruction to Item 11 of Form 10-K. Technical revisions to Items 202 and 601 of Regulation S-K (17 CFR 229.202, 601) and to Forms S-4 and F-4 are noted in the last paragraph of Part II.

[18] 17 CFR 240.14a-1.

[19] 17 CFR 240.14a-2.

[20] 11 U.S.C. 101-151326, as amended by Act of November 6, 1978, Pub. L. No. 95-598, 92 Stat. 2549 (1978).

[21] 17 CFR 240.14a-2(a)(4).

[22] 17 CFR 240.14a-3(b).

[23] 17 CFR 240.14c-3(a).

[24] Because paragraph 11 of Rule 14a-3(b) repeats the substance of the note following paragraph 7, the note has been deleted as proposed.

[25] 17 CFR 240.14a-3(d).

[26] 17 CFR 240.14a-13.

[27] Securities Exchange Act Release No. 34-22533 (October 15, 1985) [50 FR 42672].

[28] The references to "special" meetings have been rephrased, but the substance remains the same.

[29] The registrant is currently required to provide an undertaking to furnish the Form 10-K upon request to security holders of record as of the date of the annual meeting. This remains unchanged.

[30] 15 U.S.C. 78m(a).

[31] 17 CFR 240.14a-4.

[32] 17 CFR 14a-4(d)(4).

[33] 17 CFR 240.14a-4(c). Rule 14a-4(c) permits the proxy to be drafted to give the proxy holder discretionary power to vote on certain matters enumerated in the provision. As proposed, the amendment to Rule 14a-4(d) would have provided in pertinent part that "no proxy shall confer authority . . . to consent to or authorize any action other than action proposed to be taken in the proxy

Continued

addresses a concern raised by commentators.

Questions also have been raised about paragraph 14a–4(c)(1),[34] which permits a proxy statement or form of proxy to confer discretionary authority with respect to matters that the soliciting party does not know, a reasonable time prior to the solicitation, will be presented at the meeting. The purpose of this provision is only to allow the party filing the proxy statement to respond to proposals initiated by others.

3. Sufficiency of Current Requirements With Respect to Telegraphic Proxies

Rule 14a–4 applies to any form of written proxy, authorization or consent, including telexes, telegrams or cablegrams.[35] The Commission requested comment as to whether the current proxy card requirements are sufficient with respect to telegraphic proxies. After weighing various suggestions made by commentators and the fact that there is no indication of problems today, the Commission has determined not to change the current proxy card requirements.

F. Rule 14a–5, Presentation of Information in Proxy Statement

1. Technical Revision

As proposed, the requirements of paragraph (e) of Rule 14a–5 [36] have been moved to new Item 1 of Schedule 14A.

2. Standard With Regard to Information in Proxy Statement Not Known to Soliciting Persons

In the proposing release, the Commission inquired whether the standard in Rule 14a–5(b),[37] concerning information required in the proxy statement but not known to persons making a solicitation, should be revised to conform to the standard applied to Exchange Act reports [38] and registration statements filed pursuant to the Securities Act of 1933 ("Securities Act").[39] The Commission has determined not to change Rule 14a–5(b) because the current standard has worked well and there was little commentator support for the change.

G. Rule 14a–6, Filing Requirements

1. Technical Revisions [40]

Former paragraph (e) of Rule 14a–6 [41] has been divided as proposed into two paragraphs—paragraph (e), Release Dates, and paragraph (f), Public Availability of Information.

Paragraph (h),[42] Speeches, Press Releases and Scripts, has been amended as proposed to clarify that it also applies to material filed pursuant to Rule 14a–12, Solicitation Prior to Furnishing Required Proxy Statement.[43]

The proposed amendment to implement provisions of Exchange Act Section 14(g) (statutory filing fees for proxy solicitation material involving business combinations)[44] was adopted in an earlier release.[45] Pursuant to the amendment, paragraph (j), filing fees, refers to Rule 0–11 of the Securities Exchange Act.[46]

A new paragraph (1), Computing Time Periods, has been added as proposed to notify registrants that the filing date of a document shall be counted as the first day of the time period and that midnight of the last day shall constitute the end of the period.

2. New Note—Fundamental Changes in Preliminary Material

The Commission is adopting a proposed note to Rule 14a–6 [47] to make clear that the filing of revised preliminary proxy material will not recommence the ten day time period for which information must be on file with the Commission prior to the date definitive copies of such material are first sent or given to security holders, unless such revised material contains fundamental changes.

While Rule 14a–6 deals with the time periods for filing information with the Commission, questions have also been raised concerning time periods required for adequate dissemination of material changes. When there have been material changes in the proxy soliciting material or material subsequent events (in contrast to routine updating), an additional proxy card, along with revised or additional proxy soliciting material, should be furnished to security holders.[48] A sufficient period of time should be allowed for adeqluate dissemination of the material information to security holders prior to the meeting of security holders or the date on which the consents or authorizations may be used to effect the proposed action to permit security holders to assess the information and to change their voting decisions if desired.[49]

If a registrant is furnishing information at the S–3 level and incorporates by reference subsequently-filed documents, it may provide material information through such forward incorporation unless the incorporated information is a change to information previously delivered to all security holders.[50] However, the registrant must

statement." Commentators suggested that the proposal be revised to make clear that paragraph (d) is not intended to prohibit a registrant's management from voting proxies on matters for which discretionary authority may be given pursuant to 14a–4(c), such as a matter presented at a meeting by a security holder. The language has been refined to provide that "no proxy shall confer authority . . . to consent to or authorize any action other than the action proposed to be taken in the proxy statement or matters referred to in paragraph (c) of this rule."

[34] 17 CFR 240.14a–4(c)(1).

[35] The validity of these forms, however, is a matter of state law.

[36] 17 CFR 240.14a–5(e).

[37] 17 CFR 240.14a–5(b).

[38] Rule 12b–21, 17 CFR 240.12b–21.

[39] Rule 409, 17 CFR 230.409 (identical to Rule 12b–21).

[40] The technical revisions made to Rule 14a–6 also include changing the title from "Material to be Filed" to "Filing Requirements" and adding captions to clarify the rule and make it easier to read. These changes are being adopted as proposed.

[41] 17 CFR 240.14a–6(e).

[42] Paragraph (g) has been redesignated Paragraph (h).

[43] 17 CFR 240.14a–12.

[44] 15 U.S.C. 78n(g) (1982).

[45] Securities Exchange Act Release No. 22781 (January 9, 1986) [51 FR 2472].

[46] 17 CFR 240.0–11.

[47] 17 CFR 240.14a–6.

[48] Where additional proxy soliciting material relating to the same meeting or subject matter is furnished to security holders subsequent to the proxy statement, Rule 14a–6(b) requires that such material be furnished to the Commission at least two business days prior to the date of furnishing the material to security holders.

[49] *See Bear, Stearns & Co. v. Anderson Clayton & Co.*, No. 8501, Del. Ch. Ct. (June 10, 1986) (three business day solicitation period not sufficient to allow security holders a reasonable opportunity to receive and consider additional soliciting material prior to the meeting). *See also, Smith v. Van Gorkom*, 488 A.2d 858, 893 (Del. 1985) ("in an appropriate case, an otherwise candid proxy statement may be so untimely as to defeat its purpose of meeting the needs of a fully informed electorate"). *Cf. Electronic Specialty Co. v. International Controls Corp.*, 409 F.2d 937, 944 (2d Cir. 1969) (describing district court opinion declining to order divestiture of shares acquired in tender offer or to enjoin voting and holding that withdrawal offer lasting for eight days afforded equivalent relief to rescission offer); *Allied Stores Corporation v. Campeau Acquisition Corp., et. al.*, No. 86 Civ. 7841 (S.D.N.Y. Oct. 10, 1986) (temporary restraining order issued for period of 10 days to allow shareholders reasonable opportunity to make informed choice in light of change in terms of tender offer); *Nicholson File Co. v. H.K. Porter Co.*, 341 F. Supp. 508, 513–514, 522 (D.R.I. 1972) aff'd 482 F.2d 421 (1st Cir. 1973) (curative letter and rescission offer mailed within seven days of a tender offer withdrawal date sufficient to counter any effect of misstatement); Securities Exchange Act Release No. 16343 (November 15, 1979) (Commission report under Exchange Act Section 21(a), stating that when facts change prior to meeting, appropriate steps should be taken to disseminate complete and accurate information to security holders; possibilities to be considered include postponing the meeting, sending a letter to all security holders advising them of the changes that have been made, revising the proxy statement and resoliciting proxies, and/or offering new proxy cards).

[50] See discussion in companion release of proposed Rule 14a–14.

furnish security holders with an additional proxy card, accompanied by a brief identification of the material information. While the entire 20 business day period specified in Note D.3 to Schedule 14A need not recommence, the registrant must allow sufficient time to afford security holders an opportunity to obtain and then consider the document containing the information incorporated by reference. It would not be necessary to provide as much time if the additional information is set forth in full in the material accompanying the proxy card.[51]

3. Identification of Changes From Prior Year

The Commission has determined to modify Note 1 to paragraph (a) of Rule 14a–6 [52] and Note 2 to paragraph (a) of Rule 14c–5 (with respect to information statements).[53] These modifications, suggested by a commentator, will eliminate the administrative requirement to submit a marked copy of the preliminary proxy statement identifying the changes from the prior year's proxy statement and the requirement that a cover letter indicate whether the current preliminary material includes material changes from the prior year's material. These requirements have not proved useful to the staff in reviewing proxy materials and elimination of the requirement should benefit registrants. Registrants must continue to comply with paragraph (i) of Rule 14a–6 [54] or paragraph (e) of Rule 14c–5,[55] which provide that, where amendments or revisions alter the text of the preliminary material, the changes are to be indicated by means of underscoring or in some other appropriate manner.

4. Proposed Rules 14a–6(f) and 14c–5(d), Public Availability of Released or Abandoned Proxy Material

The Commission had proposed to revise paragraph (f) of Rule 14a–6 [56] and paragraph (d) of Rule 14c–5 [57] to provide that preliminary proxy material "may be deemed available for public inspection when the staff determines that the registrant has released the proxy material to security holders or has abandoned the intention of releasing the proxy material." As the substance of the proposal is already mandated by the Freedom of Information Act ("FOIA"),[58] the Commission has determined that the proposed revisions are unnecessary. Under the FOIA, the Commission maintains that preliminary proxy material is confidential until definitive material is filed, the material has been released to security holders or no filing of definitive material is anticipated.[59] After definitive material has been filed, or in instances in which no filing of definitive material is anticipated, preliminary proxy material is made available to persons requesting the information under the FOIA.

H. Rule 14a–7, Mailing Communications for Security Holders .

The first paragraph of Rule 14a–7 [60] has been revised as proposed to make clear that the rule applies to Regulation 14A in its entirety.

I. Rule 14a–8, Proposals of Security Holders

1. Eligibility

Rule 14a–8(a)(1) [61] has been revised as proposed to make clear that the securities owned by the proponent must be entitled to be voted "on the proposal."

2. Six Copies

Paragraph (d) of Rule 14a–8 [62] has been amended as proposed to require the registrant to submit six instead of five copies of security holder proposals, no-action requests and all related materials.

J. Rule 14a–13, Obligations of Registrants in Communicating with Beneficial Owners

The proposed amendment to Rule 14a–13 to address the specific circumstances of solicitations and the election of directors at special meetings in lieu of annual meetings was adopted in a prior release.[63]

K. Headnotes to Schedule 14A, Information Required in Proxy Statement

Note A to Schedule 14A is being adopted as proposed. The first sentence continues to provide that where any item calls for information with respect to any matter to be acted upon and such matter involves other matters with respect to which information is called for by other items of Schedule 14A, registrants are required to give the information called for by such other items. A new example concerning authorization of securities in connection with an acquisition has been added to better illustrate application of the headnote.

New Note D, concerning incorporation by reference, has been adopted substantially as proposed. A revision based on a commentator's suggestion has been made to require a statement, located on the last page(s) of the proxy statement, listing all of the documents or portions of documents that are incorporated by reference. Listing the information in one place should facilitate security holder requests for information. Such treatment is consistent with Form S–4.

The Commission has adopted Note E substantially as proposed with a change in language to retain consistency with Forms S–2–3–4. The Commission notes that investment companies, and business development companies as defined in Section 2(a)(48) of the Investment Company Act of 1940,[64] are required to file on registration forms other than Forms S–2 and S–3. These companies, therefore, would not be considered to "meet the requirements" of Form S–2 or S–3 within the meaning of Note E, for purposes of Items 13(b)(1), 14(b)(1) and 14(b)(2).

L. Item 1, of Schedule 14A, Date, Time and Place Information [65]

1. Date, Time, Place and Mailing Address

The first sentence of paragraph (a) of Item 1 has been adopted as proposed to require a statement of the date, time and place of the security holders' meeting, and mailing address of registrant's executive offices.

2. Deadline for Submission of Consents

As proposed, the second sentence of paragraph (a) of Item 1 would have required the registrant to state the date, time and place of counting consents, if action was to be taken by written consent. This sentence, as adopted, has been clarified to require instead that the registrant specify the deadline for submitting consents, if state law requires that such a date be set or if the soliciting person intends to set such a date. The modification is intended to better reflect the actuality of consent solicitations and to make clear that Item

[51] See supra n. 49.
[52] 17 CFR 240.14a–6(a).
[53] 17 CFR 240.14c–5(a).
[54] 17 CFR 240.14a–6(i).
[55] 17 CFR 240.14c–5(e).
[56] 17 CFR 240.14a–6(f).
[57] 17 CFR 240.14c–5(d).
[58] 5 U.S.C. 552 (1977 and Supp. 1986).
[59] *See* Securities Exchange Act Release No. 13030 (December 2, 1976) [41 FR 53784].
[60] 17 CFR 240.14a–7.
[61] 17 CFR 240.14a–8(a)(1).
[62] 17 CFR 240.14a–8(d).
[63] Securities Exchange Act Rel. No. 22533, October 15, 1985 [50 FR 42672].
[64] 15 U.S.C. 80a–2(a)(48).
[65] The addition of this new Item has neccessitated redesignation of former Items 1–8 as Items 2–9.

1 does not require that a deadline be set in the absence of a state law requirement to do so.

3. Date of Mailing Proxy Statement and Form of Proxy and Date for Receipt of Security Holder Proposals

New paragraphs (b) (requiring a statement of the approximate date on which the proxy statement and form of proxy are first sent or given to security holders) and (c) (requiring a statement of the date by which security holder proposals must be received) have been relocated from Rule 14a–5(e) to Item 1 as proposed.

M. Item 2, Revocability of Proxy

In the proposing release, comment was solicited as to whether a specific note with regard to the revocability of written consents was necessary. The Commission believes that Item 2 adequately addresses questions of disclosure with regard to consents and thus has determined that no change to Item 2 is necessary.

N. Item 6, Voting Securities and Principal Holders Thereof; Item 403 of Regulation S–K, Securities Ownership

1. Technical Revision

Paragraphs (d), (e) and (g) of Item 6 have been consolidated as proposed and paragraph (d) has been corrected to call for information required by "Item 403," rather than "Item 403(a)," of Regulation S–K.[66]

2. Item 6(b), Criteria for Entitling Security Holders To Vote or Give Consent

A revision to the first sentence of Item 6(b) is being adopted as proposed. The previous reference to the record date for security holders entitled to vote "at the meeting" has been changed to a reference to the record date "with respect to this solicitation."

A commentator recommended, and the Commission is adopting, a similar refinement to the language of the second sentence of Item 6(b) to clarify the required disclosure. The second sentence of Item 6(b) formerly required disclosure of the "conditions" under which security holders other than holders on the record date were entitled to vote. The sentence has been revised to refer specifically to consents. It provides that, if the right to vote or give consent is not to be determined, in whole or in part, by reference to a record date, the registrant should indicate the criteria for determining which security holders are entitled to vote or give consent.[67]

3. Directors and Officers

The Commission has retained the reference in Item 403 of Regulation S–K to beneficial ownership by "directors and officers of the registrant," rather than amend the rule to apply to "directors and executive officers of the registrant." [68] For purposes of determining security ownership that management may be in a position to influence or control, the Commission believes that it is appropriate to continue to include all officers.

4. Address of Beneficial Owner

The Commission has amended Item 403 of Regulation S–K as proposed to permit a beneficial owner of more than 5% of a registrant's voting securities to provide a business or mailing address when an address must be disclosed.

O. Item 7, Directors and Executive Officers

1. Technical Revisions

Information required by Instruction 4 to Item 103 of Regulation S–K, Legal Proceedings,[69] has been relocated from Item 8, Compensation of Directors and Executive Officers, to Item 7 as proposed. Paragraphs (b) and (c) of Item 7 have been consolidated into one paragraph (c), as proposed. In addition, an inadvertent error, whereby it appeared that investment companies no longer had to disclose the information required by paragraphs (a), Transactions with Management and Others, and (c), Indebtedness of Management, of Item 404 of Regulation S–K,[70] was corrected.

2. Item 7 (e) and (f), Committees of Board of Directors; Number of Meetings and Directors Attendance

Although the Commission proposed no substantive change, it solicited comment as to whether the disclosure called for by paragraphs (e) and (f) of Item 7 (committees of the Board of Directors; number of meetings and director attendance) should be revised. As there was little support for such revision, no indication of undue burden and a number of comments supporting the interest of investors in such information, the current requirements have not been revised.

3. Item 7(h), Votes Cast Against or Withheld From Directors

In the proposing release, the Commission solicited comment as to whether the disclosure required by paragraph (h) of Item 7 (regarding directors with respect to whom 5% or more of the security holder vote was cast against or withheld) should be revised or should be retained. After consideration of the commentator response and review of the disclosure obtained pursuant to this requirement, the Commission has concluded that the information is not particularly useful to security holders and has determined to eliminate the requirement.

P. Item 8, Compensation of Directors and Executive Officers

1. Technical Revision

The title has been changed as proposed to reflect a previous change from "remuneration" to "compensation" in Item 402 of Regulation S–K.[71]

2. Compensation Plan Payment

As suggested by a commentator, an instruction has been added to Item 8 to codify a staff interpretation concerning the disclosure required by Item 402(b) of Regulation S–K (description of a compensation plan to which cash or noncash compensation was paid or distributed during the last fiscal year to executive officers).[72] The instruction provides that, where: (1) The plan became subject to disclosure because of an acquisition or merger and (2) within one year of the acquisition or merger such plan was terminated for purposes of prospective eligibility, the registrant need not provide a full description of the plan but instead may furnish disclosure limited to its obligations to individuals under the compensation plan.

Q. Item 9, Independent Public Accountants Peer Review

The Commission has determined not to adopt at this time the proposed revisions to Item 9 concerning disclosure with regard to the membership of the registrant's auditor in an organization that has a peer review program and an independent oversight function. This proposal as well as others are being examined in light of related private sector initiatives under consideration.[73]

[66] 17 CFR 229.403(a).

[67] While the definition of "proxy" includes "consent", the Commission has added specific references to "consents" in instances where the absence of such language could cause confusion, as in Item 6(b).

[68] Commentary was solicited on the advisability of such a change.

[69] 17 CFR 229.103.

[70] 17 CFR 229.404 (a) and (c).

[71] 17 CFR 229.402.

[72] 17 CFR 229.402(b).

[73] The report of the Special Committee on Standards of Professional Conduct for Certified

Continued

R. Item 304 of Regulation S–K; Item 9, Independent Public Accountants

1. Item 304 of Regulation S–K

Prior to the proposal, Item 304 of Regulation S–K only required disclosure of recurring transactions or events that were the subject of a disagreement with a previous accountant. As proposed, the existing provisions of Item 304 have been designated as 304(b) [74] and new paragraph (a) has been added to the Item.[75] Pursuant to new paragraph (a), information concerning changes in and disagreements with accountants will now be provided wherever Item 304 disclosure is required, unless disclosure has previously been made. As proposed, these requirements will extend to those engaging in initial public offerings [76] and registrants newly subject to Exchange Act reporting requirements.[77]

2. Item 9 of Schedule 14A

In addition to requiring information concerning changes in accountants, Item 9 [78] of Schedule 14A required proxy statement disclosure concerning disagreements previously reported on Form 8–K. The Item called for a description of such disagreement and provided that the former accountant be afforded an opportunity to respond to the registrant's description.

The Commission proposed to amend Item 9 to require disclosure of disagreements in connection with changes in accountants since the last proxy statement for the most recent annual meeting, even though they have not been previously reported on Form 8–K.[79] The Commission has adopted that proposal and further modified the language to simply refer to the requirements of Item 304(a).[80]

Item 9 as proposed required disclosure of disagreements, notwithstanding prior disclosure. In contrast, proposed Item 304, which also required disclosure of disagreements, specified that the disclosure need not be provided if previously reported. Because the proposal called for information pursuant to both Item 9 and Item 304 in connection with proposed actions requiring financial statements, there was an ambiguity. The Commission is clarifying that the information need not be furnished if previously disclosed.[81] Accordingly, Item 9 as adopted no longer calls for information concerning disagreements because a proposed action requires the furnishing of financial statements.[82] Item 9 continues, however, to require the information, notwithstanding prior disclosure, when the annual election of directors or the election, approval or ratification of the accountant is involved.[83]

T. Item 10, Compensation Plans

1. Major Revisions

Former Items 9, 10 and 11 have been consolidated and simplified. Information with respect to plans previously in effect is to be required only for plans in effect within the last three years, rather than five years. In addition, the Commission has deleted the requirement to disclose information concerning the sale of securities subsequent to the exercise of options as unnecessary and unduly burdensome.

2. Clarifying Revisions

Certain clarifying revisions have been made throughout Item 10 to clarify that the disclosure required with respect to: (1) Directors who are not executive officers and (2) all employees is to be made on a group rather than individual basis. In addition, disclosure concerning executive officers is required only as to those in office at the time the proxy statement is distributed.

3. Disclosure of Accounting Treatment of Compensation Plan

In the proposing release, the Commission solicited comment on whether Item 10 should require disclosure of the accounting treatment to be accorded a compensation plan subject to approval. The Commission believes it is appropriate to await completion of the Financial Accounting Standards Board's project evaluating the measurement of compensation costs for stock option or stock award plans and accordingly has not amended Item 10 to require such disclosure.

4. Item 10(a)(3) of Schedule 14A; Item 11 of Form 10–K; Item 402(b) of Regulation S–K

Certain commentators highlighted a potential conflict between disclosure requirements of Item 10 of Schedule 14A and Item 11 of Form 10–K.

Item 10(a)(3) of Schedule 14A requires disclosure of the executive compensation information called for by Item 402(b) of Regulation S–K with respect to compensation plans currently in effect or in effect during the last three years, with certain specified exceptions. The information to be provided is aggregated for the three year period.

Public Accountants ("Anderson Committee"), entitled "Restructuring Professional Standards to Achieve Professional Excellence in a Changing Environment," included a recommendation to the American Institute of Certified Public Accountants ("AICPA") that, in effect, would require peer review of member firms. On October 18, 1986, the AICPA Council voted in favor of submitting the recommendation to the AICPA membership. The full membership of the AICPA will have to vote to approve the proposal before it can be implemented. In addition, Price Waterhouse has suggested that there be mandatory membership in a new statutory self-regulatory organization that would operate the peer review program currently being conducted by the SEC Practice Section of the AICPA. Other major accounting firms, in a document entitled "Recommendations to the AICPA Board of Directors," have recommended that all auditors of registrants filing with the Commission be members of the AICPA's SEC Practice Section and be subject to its peer review requirements. Finally, the National Commission on Fraudulent Financial Reporting has initially concluded that mandatory membership in a professional quality assurance program should be required by the SEC.

[74] Item 304(b) requires disclosure of the financial statement effect of subsequently accounting for similar transactions in a manner different than that preferred by the former accountant. This requirement has been amended as proposed to remove the threshold requirement of prior disclosure of the disagreement on Form 8–K.

[75] Item 304(a) requires the information called for by Item 4 of Form 8–K, if a change in accountants has taken place within 24 months prior to, or in any period subsequent to, the most recent financial statements. The changes subject to the disclosure requirements of Item 304 are those described in Form 8–K.

[76] As proposed, Form S–18 has been amended to require Item 304 disclosure. Item 11 of Form S–1 continues to require Item 304 information.

[77] Item 304 disclosure is required by Item 14 of Form 10 and Item 9 of Form 10–K.

[78] Item 9 was formerly designated Item 8.

[79] Removal of the 8–K trigger results in disclosure by those registrants that reported the disagreement on Forms 10–Q or N–SAR and those not subject to Exchange Act reporting requirements at the time the change occurred.

[80] The revised Item extends the rule to those registrants that have not previously engaged in solicitations subject to Regulation 14A, notwithstanding the fact that they may have held annual meetings previously or solicited proxies not subject to the Regulation. Thus, registrants having their first meeting subject to Regulation 14A must provide disclosure concerning disagreements that occurred in the most recent fiscal year and any subsequent period.

[81] Similar clarifying amendments have been made to Form S–4.

[82] Because Item 9 contains the requirement to state whether or not representatives of the accountants are expected to be present at the security holders' meeting with the opportunity to make a statement and to respond to appropriate questions, the Commission is adding the provision to items requiring financial statements (Items 13 and 14). This will assure that the information concerning the accountant's presence at the meeting will continue to be provided in the event that financial statements are required in connection with the action to be taken. This requirement also will continue to be required pursuant to Item 9(d), as adopted.

[83] Because Item 9 requires disclosure pursuant to Item 304(a), a sentence has been added to the instructions to Item 304 to clarify that, when required by Item 9, the disclosure is needed notwithstanding prior disclosure.

Item 11 of Form 10–K also calls for disclosure of Item 402(b) information. The information required by Item 11 is ordinarily incorporated by reference from the registrant's definitive proxy statement or definitive information statement. Because the Form 10–K information is required for the most recent fiscal year, a question has arisen as to whether separate disclosure of plan payments for the last fiscal year only would be required even when Item 10 of Schedule 14A has been complied with. However, the instruction to Item 11 of Form 10–K will make clear that a registrant incorporating by reference the three year aggregated history of plan compensation required by Item 10(a)(3) of Schedule 14A will be deemed to have complied with the requirement of Item 11 of Form 10–K.

U. Item 11, Authorization or Issuance of Securities Otherwise than for Exchange, and Item 12, Modification or Exchange of Securities

No substantive changes have been made to these Items as proposed, except that the proposed requirement to provide the disclosure called for by Item 201 of Regulation S–K [84] has not been adopted.

V. Item 13, Financial and Company Information, and Item 14, Mergers, Consolidations, Acquisitions and Similar Matters

As proposed, Item 13 would have specified disclosure requirements for mergers, consolidations and acquisitions, and Item 14 would have specified the company specific requirements (including financial statements), common to Items 11, 12 and 13.

The Commission, upon reconsideration, has determined that the proposed Item 14 requirements unintentionally and unduly increased the disclosure requirements for registrants electing S–2 or S–3 level disclosure for Item 11 and 12 transactions. Therefore, the Commission has restructured Items 13 and 14.

Item 13, as adopted, provides the financial and other company-specific information required for Items 11 and 12 transactions, which parallel those formerly required by Item 15 of Schedule 14A. Item 13 also specifies the extent to which such information may be incorporated by reference from previously-filed documents or from the annual report to security holders. To avoid increasing substantially the disclosure obligations of registrants incorporating by reference, the proposal has been modified so that a registrant need not incorporate an entire document, but rather only those specific sections that provide the required information. Nor will Item 13 require a registrant incorporating by reference from a Form 10–K to incorporate subsequently filed reports.

New Item 13 also permits a registrant to incorporate by reference information meeting the requirements from its annual report to security holders or any previously-filed document, if the report or document is delivered with the proxy statement. Registrants meeting the requirements of Form S–3 may incorporate by reference without delivery of documents.[85]

New Item 14, Mergers, Consolidations, Acquisitions and Similar Matters, specifies both the required transaction-related disclosure (proposed in Item 13) and the financial and other company-specific information (proposed in Items 13 and 14) for such transactions.[86] The requirements are not materially different from those proposed, and are intended to bring the proxy disclosures into conformity with the Form S–4 disclosures [87] for the same types of transactions.[88] Consistent with Forms S–2–3–4, registrants electing to incorporate by reference must incorporate into the proxy statement the entire annual report on Form 10–K and subsequently filed reports.[89]

The Commission has, as proposed, retained the ability of registrants to incorporate by reference the required information from an annual report sent to security holders pursuant to Rule 14a–3 with respect to the same meeting as that to which the proxy statement relates. Thus, registrants providing information at the S–1 level may incorporate any of the required company-specific information contained in such an annual report.

An instruction to both Items 13 and 14 has been added that requires a registrant to furnish a draft of the financial statements incorporated in preliminary proxy material if the document containing the financial statements (*e.g.*, annual report on Form 10–K) has not yet been filed with or furnished to the Commission.[90]

W. Item 19, Amendment of Charter, Bylaws or Other Documents

As proposed, an instruction has been added that directs the registrant's attention to Release No. 34–15230 [91] regarding proxy disclosure of defensive corporate charter and bylaw amendments.

X. Schedule 14B

As proposed, the Commission is substituting in Schedule 14B the term "registrant" for "issuer" and is permitting the use of a business or mailing address rather than a residence address.

Y. Regulation 14C

The revisions being adopted as proposed to Regulation 14C correspond to revisions to Regulation 14A with the following exceptions:

(1) Rule 14c–2, Distribution of Information Statement

The Commission is adopting a proposed revision to paragraph (a) of Rule 14c–2 [92] that modifies the language

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[84] 17 CFR 229.201, Market price of and dividends on the registrant's common equity and related stockholder matters.

[85] If Rule 14a–3 applies to the solicitation, S–3 registrants must continue to deliver the annual report to security holders.

[86] Questions have been raised with respect to the applicability of Rule 3–12 of Regulation S–X, 17 CFR 210.3–12, "Age of financial statements at effective date of registration statement or at mailing date of proxy statement" to the incorporation by reference of financial statements in satisfaction of a requirement to provide S–X financials. It is the Commission's view that whenever financial statements are so incorporated, including Forms S–2–3–4 as well as Items 13 and 14 of Schedule A, Rule 3–12 is deemed to apply.

[87] While Item 14 does not specifically require the description of the securities that would be required by Item 202 of Regulation S–K (17 CFR 229.202) if securities were being registered, in the event that a transaction subject to Item 14 involves the issuance of securities exempt from registration, a description of the new securities can be information material to the plan and thus required by Item 14. The Commission is today seeking comment as to whether Item 14 should be amended to specifically require Item 202 information. *See* companion Release 33–6675.

[88] If a preliminary proxy statement is filed meeting the requirements of Item 14 and the filing of a Form S–4 is contemplated for the transaction, the requirements of Form S–4 must be satisfied. The Commission is today proposing to amend Item 14 to conform its requirements to those of Form S–4 for S–1 level disclosure. *See* companion Release 33–6675.

[89] These requirements do not apply to registrants incorporating from an annual report sent to security holders pursuant to Rule 14a–3 with respect to the same meeting.

[90] The Commission has determined not to adopt a proposed instruction to proposed Item 14 that would have required a statement that the accountant was aware its report was to be made part of the proxy material, when that report was incorporated by reference. The Commission is clarifying the application of the existing requirement to file one manually signed copy of the accountant's report to situations where the financial statements are incorporated by reference. One manually signed copy of the report must be filed with the definitive proxy material, notwithstanding the fact that the financial statements do not appear in the proxy statement itself. The accountant's review obligations are unchanged.

[91] (October 13, 1978) [43 FR 49863].

[92] 17 CFR 240.14c–2(a).

to state more clearly its position that a registrant must furnish an information statement to every holder of a class of securities registered under Securities Exchange Act Section 12 [93] that is entitled to vote or to give consents or authorizations, if a proxy is not solicited from the security holder. The amendment makes clear that if the registrant solicits consents from a few security holders who have enough shares to approve the transaction, the registrant must furnish information statements to the remaining security holders as required by Rule 14c–2.[94]

(2) Rule 14c–3, Annual Report To Be Furnished Security Holders

As proposed, to avoid needless repetition, paragraphs (a)(1) through (a)(11), which formerly set forth the required annual report to security holders disclosure, will now require that the information specified in paragraph (b)(1) through (b)(11) of Rule 14a–3 [95] be provided in the annual report. As proposed, conforming references have been made to indicate which paragraphs are applicable to investment companies registered under the Investment Company Act of 1940.

Z. Schedule 14C, Information Required in Information Statement

Technical revisions to Schedule 14C that are being adopted as proposed are: (1) Renumbering of items to reflect deletion of Item 3, which is now part of new Item 1 of Schedule 14A; (2) revision of the list of Schedule 14A items that are not required in information statements to reflect new numbering of Schedule 14A items; (3) addition of Item 1(c) of Schedule 14A to the list of Schedule 14A items excluded from Schedule 14C; and (4) addition of a note to Item 1, stating that the notes at the beginning of Schedule 14A also apply to Schedule 14C.

AA. Other Technical Revisions

The Commission also is adopting additional technical changes: (1) The references to provisions of the Internal Revenue Code ("Code") in Item 202 of Regulation S–K are being changed to conform to corresponding changes in the Code; (2) certain portions of the exhibit table in Item 601 of Regulation S–K are being corrected to reflect accurately which exhibits should be supplied in connection with various filings or to clarify language used in the footnotes; and (3) references to Item 1 of Schedule 14A have been added to Item 18 of Form S–4 and to Item 18 of Form F–4.

III. Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis, which relates to amendments to the proxy rules and certain other rules, has been prepared in accordance with 5 U.S.C. 604. The corresponding Initial Regulatory Flexibility Analysis is contained in the proposing release.

The Need for, and Objectives of the Comprehensive Revisions to the Proxy Rules

The Commission has recognized the need to clarify, to provide certainty by codifying staff interpretation, and to simplify the proxy rules. The principal purpose of the proxy rules, to ensure that information is made available to security holders being asked to vote on or consent to corporate action, is furthered by such clarification, codification and simplification. In addition, the revisions to Item 9 of Schedule 14A, Form S–18 and to Item 304 of Regulation S–K will assure that disclosure concerning changes in accountants and any related disagreements will be made in registration statements by registrants engaged in initial public offerings and in proxy statements and periodic filings by registrants not subject to Exchange Act filing requirements at the time a change in accountants occurred.

Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis

One commentator, the American Bar Association, commented on the Initial Regulatory Flexibility Analysis contained in the proposing release. This commentator expressed the view that the proposed provisions, if adopted, would not have an adverse effect on competition or impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act.

The commentator also noted that, whereas it was conscious of the benefits of encouraging small businesses by minimizing their regulatory burden, it shared the Commission's view that exemption from the provisions of the proxy rules or Item 304 of Regulation S–K would not be justified. This commentator stated:

> It is fundamental to the capital formation process that investors who fund new enterprises be treated fairly and be given reasonable information concerning the businesses in which they invest. Moreover, requiring small businesses to live with appropriate regulations as a *quid pro quo* for access to public markets will doubtless have the salutary side effect of accustoming their managers to an ordered approach to the conduct of their businesses thus facilitating their future access to the capital markets.

Significant Alternatives

Pursuant to section 604 of the Regulatory Flexibility Act, the following types of alternatives were considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The clarification, consolidation or simplification of compliance and reporting requirements under the rules for such small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of the rules, or any part thereof, for small entities.

The Commission does not believe that the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities would be consistent with the Commission's statutory mandate to protect investors. The revisions to the proxy rules will, however, streamline and simplify reporting requirements under these rules for such small entities as well as for large entities. With respect to the amendments to Item 9 of Schedule 14A, Form S–18 and to Item 304 of Regulation S–K, an alternative would have been to exempt small entities that were not subject to Exchange Act filing requirements at the time of a change in accountants from furnishing the disclosure. Such an exemption, however, would not serve the purposes of the Commission's statutory mandate to protect investors. In the Commission's view, alternative (3) is not appropriate since the amendments are not related to either performance or design standards. Similarly, the Commission does not believe that other alternatives, such as exempting small entities from all or part of the proxy rules, would be consistent with the objectives of investor protection.

IV. Statutory Basis and Text of Amendments

The amendments to Items 202, 304, 403 and 601 of Regulation S–K, Rule 3–05 of Regulation S–X, Forms S–4, F–4, N–14, 10–K and S–18, Rule 13e–3, Schedule 13E–3, Rule 14f–1, Rule 20a–3 of the Investment Company Act of 1940 and to the proxy and information statement rules are being adopted by the Commission pursuant to Sections 6, 7, 8, 10, and 19(a) of the Securities Act of

[93] 15 U.S.C. 78*l*.

[94] 17 CFR 240.14c–2.

[95] 17 CFR 240.14a–3(b)(1) through 240.14a–3(b)(11).

1933, Sections 3, 10, 12, 13, 14, 15(d), 17 and 23(a) of the Securities Exchange Act of 1934, and Sections 20(a) and 38(a) of the Investment Company Act of 1940.

List of Subjects in 17 CFR Parts 210, 229, 239, 240, 249 and 270

Reporting and recordkeeping requirements, Securities.

V. Text of Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for Part 210 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 12, 13, 15, 19, 23, 48 Stat. 78, 79, amended, 81, as amended, 85, as amended, 892, as amended, 894, 895, as amended, 901, as amended, secs. 5, 14, 20, 49 Stat. 812, 827, 833, secs. 8, 30, 31, 38, 54 Stat. 803, 836, 838, 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 781, 78m, 78o, 78w, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, § 210.3–05 also issued under 15 U.S.C. 77aa, 78n and 80a–20.

§ 210.3–05 [Amended]

2. In paragraph (b)(1), introductory text, of § 210.3–05 the reference to "Item 15" is removed and replaced with the words "Item 14."

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER THE SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

3. The authority citation for Part 229 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 781, 78m, 78n, 78l(d), 78w(a). * * *

4. In § 229.202, paragraph (b)(9) is revised to read as follows:

§ 229.202 (Item 202) Description of registrant's securities.

* * * * *

(b) * * *

* * * * *

(9) If debt securities are to be offered at a price such that they will be deemed to be offered at an "original issue discount" as defined in paragraph (a) of section 1273 of the Internal Revenue Code (26 U.S.C. 1273), or if a debt security is sold in a package with another security and the allocation of the offering price between the two securities may have the effect of offering the debt security at such an original issue discount, the tax effects thereof pursuant to sections 1271–1278;

* * * * *

5. By revising § 229.304 to read as follows:

§ 229.304 (Item 304) Changes in and disagreements with accountants on accounting and financial disclosure.

(a) If a change in accountants has taken place within 24 months prior to, or in any period subsequent to, the date of the most recent financial statements, the information called for by Item 4 of Form 8–K (§ 249.308 of this chapter) or, with respect to registered investment companies, Items 77K or 102J of Form N–SAR (§ 274.101 of this chapter) shall be disclosed.

(b) If, (1) in connection with a change in accountants subject to paragraph (a) of this section, there was any disagreement of the type described in Item 4(b) of Form 8–K or Item 77K or 102J of Form N–SAR; (2) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved such disagreement; and (3) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Instructions to Item 304: 1. The disclosure called for by paragraph (a) of this section need not be provided if it has been previously reported (as that term is defined in Rule 12b–2 under the Exchange Act (§ 240.12b–2 of this chapter)); the disclosure called for by paragraph (a) must be provided, however, notwithstanding prior disclosure, if required pursuant to Item 9 of Schedule 14A (§ 240.14a–101 of this chapter). The disclosure called for by paragraph (b) of this section must be furnished, where applicable, notwithstanding any prior disclosure about accountant changes or disagreements.

2. When disclosure is required by paragraph (a) of this section the accountant's letter referred to in Item 4(d) of Form 8–K or Item 77K or 102J of Form N–SAR shall be filed as an exhibit to the report or registration statement. When the document is an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter), or is a proxy or information statement filed pursuant to the requirements of Schedules 14A or 14C (§ 240.14a–101 and § 240.14c–101 of this chapter), no such exhibit shall be required, and in lieu of a letter pursuant to Item 4(d) of Form 8–K or Item 77K or 102J of Form N–SAR, the registrant, prior to filing such materials with or furnishing such materials to the Commission, shall furnish the disclosure required by this section to any former accountant engaged by the registrant during the period set forth in paragraph (a) of this section. If that accountant believes that the statements made in response to this section are incorrect or incomplete, he may present his views in a brief statement, ordinarily expected not to exceed 200 words, to be included in the annual report or proxy or information statement. This statement shall be submitted to the registrant within ten business days of the date the accountant receives the registrant's disclosure.

3. The information required by this section need not be provided for companies being acquired by the registrant that are not subject to the filing requirements of either section 13(a) or 15(d) of the Exchange Act.

6. By amending paragraph (a) of § 229.403 by adding a sentence after the first complete sentence. The first complete sentence is republished.

§ 229.403 (Item 403) Security ownership of certain beneficial owners and management.

(a) *Security ownership of certain beneficial owners.* Furnish the following information, as of the most recent practicable date, substantially in the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Exchange Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. The address given in column (2) may be a business, mailing or residence address. * * *

* * * * *

7. By revising the Exhibit Table of § 229.601 to read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

EXHIBIT TABLE

	Securities Act forms											Exchange Act forms			
	S-1	S-2	S-3	S-4 [3]	S-8	S-11	S-18	F-1	F-2	F-3	F-4 [3]	10	8-K	10-Q	10-K
(1) Underwriting agreement	X	X	X	X		X	X	X	X	X	X		X		
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X	X		X		X	X	X	X	X	X	X	
(3) Articles of incorporation and by-laws	X			X		X	X			X	X			X	
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X	X	X	X				
(6) Opinion re discount on capital shares	X	X		X		X	X	X	X		X	X			
(7) Opinion re liquidation preference	X	X		X		X	X	X	X		X	X			
(8) Opinion re tax matters	X	X	X	X		X	X	X	X	X	X				
(9) Voting trust agreement	X			X		X	X	X			X	X			X
(10) Material contracts	X	X		X		X	X	X	X		X	X			X
(11) Statement re computation of per share earnings	X	X		X		X		X	X		X	X		X	X
(12) Statements re computation of ratios	X	X	X	X		X		X	X		X	X			X
(13) Annual report to security holders, Form 10-Q or quarterly report to security holders [1]		X		X											X
(14) Material foreign patents	X			X			X	X			X	X			
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X	X	X	X	X			X	
(16) Letter re change in certifying accountant	X [4]	X [4]		X [4]		X [4]	X [4]					X [4]	X		X [4]
(17) Letter re director resignation													X		
(18) Letter re change in accounting principles														X	X
(19) Previously unfiled documents														X	X
(20) Report furnished to security holders														X	
(21) Other documents or statements to security holders													X		
(22) Subsidiaries of the registrant	X			X		X		X			X	X			X
(23) Published report regarding matters submitted to vote of security holders														X	X
(24) Consents of experts and counsel	X	X	X	X	X	X	X	X	X	X	X		X [2]	X [2]	X [2]
(25) Power of attorney	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(26) Statement of eligibility of trustee	X	X	X	X		X	X	X	X	X	X				
(27) Invitations for competitive bids	X	X	X	X			X	X	X	X	X				
(28) Additional exhibits	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(29) Information from reports furnished to State insurance regulatory authorities	X	X	X	X	X							X			X

[1] Where incorporated by reference into the text of the prospectus and delivered to security holders along with the prospectus as permitted by the registration statement; or, in the case of the Form 10-K, where the annual report to security holders is incorporated by reference into the text of the Form 10-K.
[2] Where the opinion of the expert of counsel has been incorporated by reference into a previously filed Securities Act registration statement.
[3] An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Forms S-4 of F-4 to provide information about such company at a level prescribed by Forms S-2, S-3, F-2 or F-3 and (2) the form, the level of which has been elected under Forms S-4 or F-4, would not require such company to provide such exhibit if it were registering a primary offering.
[4] If required pursuant to Item 304 of Regulation S-K.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

8. The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, et seq., * * *

9. Paragraph (i) of Item 11 of Form S-1 (§ 239.11) is revised to read as follows [note that the text of Form S-1 does not appear in the Code of Federal Regulations]:

§ 239.11 Form S-1, General form of registration statement.

* * * * *

Form S-1

* * * * *

Part I. Information Required in Prospectus.

* * * * *

Item 11. Information With Respect to the Registrant.

* * * * *

(i) Information required by Item 304 of Regulation S-K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure;

* * * * *

10. Paragraph (b)(8) of Item 11 of Form S-2 (§ 239.12) is revised to read as follows [note that the text of Form S-2 does not appear in the Code of Federal Regulations]:

§ 239.12 Form S-2, For registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Form S-2

* * * * *

Part I. Information Required in Prospectus.

* * * * *

Item 11. Information With Respect to the Registrant.

* * * * *

(b) * * *

(8) Furnish information concerning changes in and disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S-K (§ 229.304) of this chapter.

* * * * *

11. Item 27 of Form S-11 (§ 239.18) is revised to read as follows [note that the text of Form S-11 does not appear in the Code of Federal Regulations]:

§ 239.18 Form S-11, For securities of certain real estate companies.

* * * * *

Form S-11

* * * * *

Part I. Information Required in Prospectus.

* * * * *

Item 27. Financial Statements and Information

Include in the prospectus the financial statements required by Regulation S-X, the supplementary financial information required by Item 302 of Regulation S-K (§ 229.302 of this chapter) and the information concerning changes in and disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S-K (§ 229.304 of this chapter). * * *

* * * * *

12. Section 239.23 is amended by revising Item 7 of Form N-14 (§ 239.23) to read as follows (the Instruction following (c)(1) remains unchanged) [note that the text of Form N-14 does not appear in the Code of Federal Regulations]:

§ 239.23 Form N-14, for the registration of securities issued in business combination transactions.

* * * * *

Form N-14

* * * * *

Item 7. Voting Information

(a) If proxies are to be solicited, include, where applicable, the information called for by Items 2 and 4 of Schedule 14A (17 CFR

240.14a–101) of Regulation 14A under the 1934 Act.

(b) If the transaction is an exchange offer or if proxies are not to be solicited, include, where applicable, the information called for by Item 2 of Schedule 14C (17 CFR 240.14c–101) under the 1934 Act, and state the date, time and place of the meeting of the security holders, unless such information is otherwise disclosed in material furnished to security holders with the information statement.

(c) In addition to the information called for by paragraphs (a) and (b) above, include:

(1) the information called for by Item 3 of Schedule 14A (17 CFR 240.14a–101) of Regulation 14A under the 1934 Act; * * *

(2) the information called for by Item 21 of Schedule 14A (17 CFR 240.14a–101) of Regulation 14A under the 1934 Act about both the registrant and the company being acquired;

(3) the information called for by Items 6(a) and (b) of Schedule 14A (17 CFR 240.14a–101) of Regulation 14A under the 1934 Act about both the registrant and the company being acquired;

* * * * *

13. Section 239.25 is amended by revising paragraph (b)(3)(vi) of Item 12, paragraphs (a)(1)–(6) of Item 18 and paragraphs (a)(2), (3), and (5)–(7) of Item 19 of Form S–4 (§ 239.25) to read as follows [note that the text of Form S–4 does not appear in the Code of Federal Regulations]:

§ 239.25 Form S–4, for the registration of securities issued in business combination transactions.

* * * * *

Form S–4

* * * * *

Part I. Information Required in the Prospectus.

* * * * *

Item 12. Information with Respect to S–2 or S–3 Registrants.

* * * * *

(b) * * *

(3) * * *

(vi) Item 304 of Regulation S–K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

D. Voting and Management Information

Item 18. Information if Proxies, Consents or Authorizations are to be Solicited.

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 1 of Schedule 14A, date, time and place information;

(2) The information required by Item 2 of Schedule 14A, revocability of proxy;

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(4) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(5) With respect to both the registrant and the company being acquired, the information required by:

(i) Item 5 of Schedule 14A, interest of certain persons in matters to be acted upon; and

(ii) Item 6 of Schedule 14A, voting securities and principal holders thereof;

(6) The information required by Item 21 of Schedule 14A, vote required for approval; and

(7) With respect to each person * * *

* * * * *

Item 19. Information if Proxies, Consents or Authorizations are not to be Solicited or in an Exchange Offer.

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (c) of this Item;

(1) The information required by Item 2 of Schedule 14C, statement that proxies are not to be solicited;

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof;

(6) The information required by Item 21 of Schedule 14A, vote required for approval; and

(7) With respect to each person * * *

* * * * *

14. Section 239.28 is amended by revising Item 21 of Form S–18 (§ 239.28) to add new paragraph (k) to read as follows [note that the text of Form S–18 does not appear in the Code of Federal Regulations]:

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $7,500,000.

* * * * *

Form S–18

* * * * *

Item 21. Financial statements

* * * * *

(k) Furnish the information required by Item 304 of Regulation S–K (§ 239.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

15. Section 239.34 is amended by revising paragraphs (a) (1)–(6) including the Instruction following paragraph (a)(4) of Item 18 and paragraphs (a) (2), (3) and (5)–(7), including the Instruction following paragraph (a)(5) of Item 19 of Form F–4 (§ 239.34 of this chapter) to read as follows [note that the text of Form F–4 does not appear in the Code of Federal Regulations]:

§ 239.34 Form F–4, for registration of securities of certain foreign private issuers issued in certain business combination transactions.

* * * * *

Form F–4

* * * * *

D. *Voting and Management Information.*

* * * * *

Item 18. Information if Proxies, Consents or Authorizations Are To Be Solicited

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 1 of Schedule 14A, date, time and place information;

(2) The information required by Item 2 of Schedule 14A, revocability of proxy;

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(4) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(5) With respect to both the registrant and the company being acquired, the information required by;

(i) Item 5 of Schedule 14A, interests of certain persons in matters to be acted upon; and

(ii) Item 6 of Schedule 14A, voting securities and principal holders thereof.

Instruction

The information specified in Item 4 of Form 20–F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 9 of Schedule 14A, independent public accountants;

(7) The information required by Item 21 of Schedule 14A, vote required for approval;

* * * * *

Item 19. Information if Proxies, Consents or Authorizations Are Not To Be Solicited in an Exchange Offer

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14C, statement that proxies are not to be solicited:

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with or preceding the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof.

Instruction

The information specified in Item 4 of Form 20–F may be provided in lieu of the

information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 9 of Schedule 14A, independent public accountants;

(7) The information required by Item 21 of Schedule 14A, vote required for approval, and

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

16. The authority citation for Part 240 continues to read, in part, as follows:

Authority: Sec. 23, 48 Stat. 901, as amended U.S.C. 78w. * * *

§ 240.13e-3 [Amended]

17. In § 240.13e-3 in paragraphs (a)(3)(i)(C), (c)(2) and (e)(1) the reference to "240.14a-103" is removed and replaced with the reference "240.14b-1" and in paragraph (f)(1)(ii) the reference to "Rule 14a-3(d) [§ 240.14a-3(d)]" is removed and replaced with "Rule 14a-13(a) [§ 240.14a-13(a)]."

§ 240.13e-100 [Amended]

18. By amending § 240.13e-100 by removing the reference to "240.14a-103" and replacing it with "240.14b-1" in paragraph (a) and General Instructions F and G.

19. By revising § 240.14a-1 to read as follows:

§ 240.14a-1 Definitions.

Unless the context otherwise requires, all terms used in this regulation have the same meanings as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply unless the context otherwise requires:

(a) *Associate.* The term "associate," used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

(b) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting for which proxies are to be solicited or, if the solicitation involves written authorizations or consents in lieu of a meeting, the earliest date they may be used to effect corporate action.

(c) *Proxy.* The term "proxy" includes every proxy, consent or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(d) *Proxy statement.* The term "proxy statement" means the statement required by § 240.14a-3(a) whether or not contained in a single document.

(e) *Record date.* The term "record date" means the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of the securities in respect of which proxies are to be solicited.

(g) *Solicitation.* (1) The terms "solicit" and "solicitation" include:

(i) Any request for a proxy whether or not accompanied by or included in a form of proxy;

(ii) Any request to execute or not to execute, or to revoke, a proxy; or

(iii) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(2) The terms do not apply, however to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, the performance by the registrant of acts required by § 240.14a-7, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

20. Section 240.14a-2 is amended by revising the section heading, introductory paragraph, and paragraphs (a) introductory text, (a)(4), (a)(6),(b) introductory text, (b)(1) and (b)(2)(ii) to read as follows:

§ 240.14a-2 Solicitations to which § 240.14a-3 to § 240.14a-13 apply.

Sections 240.14a-3 to 240.14a-13 apply to every solicitation of a proxy with respect to securities registered pursuant to section 12 of the Act, whether or not trading in such securities has been suspended, except that:

(a) Sections 240.14a-3 to 240.14a-13 do not apply to the following:

* * * * *

(4) Any solicitation with respect to a plan of reorganization under Chapter 11 of the Bankruptcy Reform Act of 1978, as amended, if made after the entry of an order approving the written disclosure statement concerning a plan of reorganization pursuant to section 1125 of said Act and after, or concurrently with, the transmittal of such disclosure statement as required by section 1125 of said Act;

* * * * *

(6) Any solicitation through the medium of a newspaper advertisement which informs security holders of a source from which they may obtain copies of a proxy statement, form of proxy and any other soliciting material and does no more than (i) name the registrant, (ii) state the reason for the advertisement, and (iii) identify the proposal or proposals to be acted upon by security holders.

(b) Sections 240.14a-3 to 240.14a-8 and 240.14a-10 to 240-14a-13 do not apply to the following:

(1) Any solicitation made otherwise than on behalf of the registrant where the total number of persons solicited is not more than ten; and

(2) * * *

(ii) The advisor discloses to the recipient of the advice any significant relationship with the registrant or any of its affiliates, or a security holder proponent of the matter on which advice is given, as well as any material interests of the advisor in such matter.

* * * * *

21. Section 240-14a-3 is amended by revising paragraph (b) introductory text, revising the heading of "NOTE 1" after paragraph (b)(1) to read "NOTE," revising (b)(4), and (b)(6) through (b)(10), and Notes after (b)(10) and (b)(11), revising (b)(13), (c), and the Note following paragraph (c), removing the Note after paragraph (b)(7), removing paragraph (d) and redesignating and revising paragraphs (e) and (f) as paragraphs (d) and (e) to reads as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(b) If the solicitation is made on behalf of the registrant and relates to an annual (or special meeting in lieu of the annual) meeting of security holders, or written consent in lieu of such meeting, at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to security holders as follows:

* * * * *

(4) The report shall contain information concerning changes in and disagreements with accountants on accounting and financial disclosure

required by Item 304 of Regulation S-K (§ 229.304 of this chapter).

* * * * *

(6) The report shall contain a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the registrant and its subsidiaries.

(7) The report shall contain information relating to the registrant's industry segments, classes of similar products or services, foreign and domestic operations and exports sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S-K (§ 229.101 of this chapter).

(8) The report shall identify each of the registrant's directors and executive officers, and shall indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is employed.

(9) The report shall contain the market price of and dividends on the registrant's common equity and related security holder matters required by Item 201 of Regulation S-K (§ 229.201 of this chapter).

(10) The registrant's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited upon the written request of any such person, a copy of the registrant's annual report of Form 10-K, including the financial statements and the financial statement schedules, required to be filed with the Commission pursuant to Rule 13a-1 under the Act for the registrant's most recent fiscal year, and shall indicate the name and address (including title or department) of the person to whom such a written request is to be directed. In the discretion of management, a registrant need not undertake to furnish without charge copies of all exhibits to its Form 10-K provided the that copy of the annual report on Form 10-K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the registrant will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the registrant's reasonable expenses in furnishing such exhibit. If the registrant's annual report to security holders complies with all of the disclosure requirements of Form 10-K and is filed with the Commission in satisfaction of its Form 10-K filing requirements, such registrant need not furnish a separate Form 10-K to security holders who receive a copy of such annual report.

Note.—Pursuant to the undertaking required by paragraph (b)(10) of this section, a registrant shall furnish a copy of its annual report on Form 10-K (§ 249.310 of this chapter) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the solicitation requiring the furnishing of the annual report to security holders pursuant to paragraph (b) of this section, the person making the request was a beneficial owner of securities entitled to vote.

(11) * * *

Note.—Registrants are encouraged to utilize tables, schedules, charts and graphic illustrations of present financial information in an understandable manner. Any presentation of financial information must be consistent with the data in the financial statements contained in the report and, if appropriate, should refer to relevant portions of the financial statements and notes thereto.

* * * * *

(13) Paragraph (b) of this section shall not apply, however, to solicitations made on behalf of the registrant before the financial statements are available if a solicitation is being made at the same time in opposition to the registrant and if the registrant's proxy statement includes an undertaking in bold face type to furnish such annual report to all persons being solicited at least 20 calendar days before the date of the meeting or, if the solicitation refers to a written consent or authorization in lieu of a meeting, at least 20 calendar days prior to the earliest date on which it may be used to effect corporate action.

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a-6(a), whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

Note.—To assist the staff, managements of registrants are requested to indicate in a letter transmitting to the Commission copies of their annual reports to security holders or in a separate letter at or about the time the annual report is furnished to the Commission, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

(d) An annual report to security holders prepared on an integrated basis pursuant to General Instruction H to Form 10-K (§ 249.310) may also be submitted in satisfaction of this rule. When filed as the annual report on Form 10-K, responses to the Items of that form are subject to section 18 of the Act notwithstanding paragraph (c).

(e) Notwithstanding paragraphs (a) and (b) of this section:

(1) A registrant is not required to send an annual report to a security holder of record having the same address as another security holder of record, provided that (i) such security holders are not holding such registrant's securities in nominee name, (ii) at least one report is sent to a holder of record at that address and (iii) the holders of record to whom a report is not sent agree thereto in writing; and

(2) Unless state law requires otherwise, a registrant is not required to send an annual report or proxy statement to a security holder if (i) an annual report and a proxy statement for two consecutive annual meetings or (ii) all, and at least two, checks (if sent by first class mail) in payment of dividends or interest on securities during a twelve month period have been mailed to such security holder's address and have been returned undeliverable. However, a registrant's obligation to deliver an annual report or a proxy statement under this section is reinstated once it has such security holder's current address.

22. Section 240.14a-4 is amended by removing the words "issuer's" and "issuer" and replacing them with the words "registrant's" and "registrant" in paragraph (a) and in Instruction 2 after paragraph (b)(2)(iv), by removing the word "shareholder" and replacing it with the words "security holder" in paragraphs (b)(2) (iii) and (iv), by revising paragraphs (c)(4) and (d) to read as follows:

§ 240.14a-4 Requirements as to proxy.

* * * * *

(c) * * *

(4) Any proposal omitted from the proxy statement and form of proxy pursuant to § 240.14a-8 or § 240.14a-9 of this chapter.

* * * * *

(d) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, (2) to vote at any annual meeting other than the next annual

meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders, (3) to vote with respect to more than one meeting (and any adjournment thereof) or more than one consent solicitation or (4) to consent to or authorize any action other than the action proposed to be taken in the proxy statement, or matters referred to in paragraph (c) of this rule. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

* * * * *

23. Section § 240.14a–5 is amended by revising paragraph (c), removing the word "leading" and replacing it with "leaded" in paragraph (d), removing paragraph (e), removing the words "issuer" and "issuer's" and replacing them with "registrant" and "registrant's" in paragraph (f) and redesignating paragraph (f) as paragraph (e) to read as follows:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(c) Any information contained in any other proxy soliciting material which has been furnished to each person solicited in connection with the same meeting or subject matter may be omitted from the proxy statement, if a clear reference is made to the particular document containing such information.

* * * * *

24. Section § 240.14a–6 is amended by revising the section heading, paragraph (a)(1), adding new NOTE 1 after paragraph (a), revising "NOTE:" after (a) to read "NOTE 2:" and revising the word "company" to read "registrant" in Note 2 and removing the last three sentences of Note 2, revising paragraphs (b), (c), and (d), removing the Note after paragraph (c), by redesignating paragraphs (e) through (j) as (f) through (k) and adding a new paragraph (e), revising newly redesignated paragraphs (f), (h), (j) and (k), by adding paragraph headings to newly redesignated paragraphs (g) *"Communications not required to be filed"* and (i) *"Revised material"* and adding new paragraph (l) to read as follows:

§ 240.14a–6 Filing requirements.

(a) *Preliminary proxy statement.* Five preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause thereunder.

Note 1.—The filing of revised material does not recommence the ten day time period unless the revised material contains material revisions or material new proposal(s) that constitute a fundamental change in the proxy material.

Note 2.—The official responsible for the preparation of the preliminary material should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary material should be filed with the Commission at the earliest practicable date.

(b) *Preliminary additional materials.* Five preliminary copies of any additional soliciting material relating to the same meeting or subject matter furnished to security holders subsequent to the proxy statement shall be filed with the Commission at least 2 business days prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as the Commission may authorize upon a showing of good cause therefor.

(c) *Definitive proxy statement.* Eight definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date such material is first sent or given to any security holders. Three copies of such material shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any class of securities of the registrant is listed and registered.

(d) *Personal solicitation materials.* If the solicitation is to be made in whole or in part by personal solicitation, three copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Commission by the person on whose behalf the solicitation is made at least five calendar days prior to the date copies of such material are first sent or given to such individuals, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor.

(e) *Release dates.* All preliminary material filed pursuant to paragraph (a) or (b) of this section shall be accompanied by a statement of the date on which definitive copies therefor filed pursuant to paragraph (c) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (c) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders, or, if not released, the date on which copies thereof are intended to be released. All material filed pursuant to paragraph (d) of this section shall be accompanied by a statement of the date on which copies thereof are intended to be released to the individual who will make the actual solicitation.

(f) *Public availability of information.* All copies of preliminary material filed pursuant to this Regulation shall be clearly marked "Preliminary Copies," shall be for the information of the Commission only and shall not be deemed available for public inspection until definitive material has been filed with the Commission except that such material may be disclosed to any department or agency of the United States Government and to the Congress, and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission.

* * * * *

(h) *Speeches, press releases and scripts.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, of § 240.14a–11(e) and of § 240.14a–12(b), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commission prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commission as required by paragraph (c) of this section not later than the date such material is used or published. The provisions of paragraphs (a) and (b) of this section and of § 240.14a–11(e) and of § 240.14a–12(b) shall apply, however, to any reprints or reproductions of all or any part of such material.

* * * * *

(j) *Fees.* At the time of filing the preliminary proxy solicitation material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, or where an application or declaration under the Public Utility Holding Company Act of 1935 is involved, shall pay to the Commission the following applicable fee: (1) For preliminary proxy material which solicits proxies for election of directors or other business

for which a stockholder vote is necessary, but apparently no controversy is involved, a fee of $125; (2) for proxy material where a contest as set forth in Rule 14a–11 is involved, a fee of $500 from each party to the controversy; and (3) for proxy material involving acquisitions, mergers, spinoffs, consolidations or proposed sales or other dispositions of substantially all the assets of the company, a fee established in accordance with Rule 0–11 (§ 240.0–11 of this chapter) shall be paid. No refund shall be given.

(k) *Merger proxies.* Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form N–14, S–4 or F–4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (j) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form N–14, S–4 or F–4 shall be filed in accordance with this section unless separate copies of such material are required to be filed as an amendment of such registration statement.

(l) *Computing time periods.* In computing time periods beginning with the filing date specified in Regulation 14A (§§ 240.14a–1 to 240.14b–1 of this chapter), the filing date shall be counted as the first day of the time period and midnight of the last day shall constitute the end of the specified time period.

25. Section 240.14a–7 is amended by revising the introductory text, in paragraphs (a) through (c) removing the word "issuer" and replacing it with the word "registrant," and in paragraph (b)(2) removing the word "solicited" and replacing it with the word "soliciting" to read as follows:

§ 240.14a–7 Mailing communications for security holders.

If the registrant has made or intends to make any solicitation subject to this regulation, the registrant shall perform such of the following acts as may be duly requested in writing with respect to the same subject matter or meeting by any security holder who is entitled to vote on such matter or to vote at such meeting and who shall defray the reasonable expenses to be incurred by the registrant in the performance of the act or acts requested.

* * * * *

26. Section 240.14a–8 is amended by revising paragraph (a)(1)(i), (a)(3)(i), (c)(3), and (d), and in the following paragraphs of § 240.14a–8 removing the words "an issuer," "issuer's" and "issuer" and replacing them with the words "a registrant," "registrant's" and "registrant" in paragraphs: (a) introductory text, (a)(1)(ii), (a)(2), (a)(3), the Note following (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c) introductory text, the Note to (c)(1), (c)(2), (c)(4) through (c)(12), (e), and the last paragraph.

§ 240.14a–8 Proposals of security holders.

(a) * * *

Eligibility. (i) At the time he submits the proposal, the proponent shall be a record or beneficial owner of at least 1% or $1000 in market value of securities entitled to be voted on the proposal at the meeting and have held such securities for at least one year, and he shall continue to own such securities through the date on which the meeting is held. If the registrant requests documentary support for a proponent's claim that he is the beneficial owner of at least $1000 in market value of such voting securities of the registrant or that he has been a beneficial owner of the securities for one or more years, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the registrant includes the proponent's proposal in its proxy soliciting material for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the registrant shall not be required to include any proposals submitted by the proponent in its proxy material for any meeting held in the following two calendar years.

* * * * *

(3) * * *

(i) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received at the registrant's principal executive offices not less than 120 calendar days in advance of the date of the registrant's proxy statement released to security holders in connection with the previous year's annual meeting of security holders except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the registrant a reasonable time before the solicitation is made.

* * * * *

(c) * * *

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a–9 [§ 240.14a–9 of this chapter], which prohibits false or misleading statements in proxy soliciting materials;

(d) Whenever the registrant asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 60 calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a–6(a) § 240.14a–6(a) of this chapter], or such shorter period prior to such date as the Commission or its staff may permit, six copies of the following items: (1) The proposal; (2) any statement in support thereof as received from the proponent; (3) a statement of the reasons why the registrant deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The registrant shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the registrant deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

* * * * *

§ 240.14a–11 [Amended]

27. Section 240.14a–11 is amended by removing the word "issuer" and replacing it with the word "registrant" in paragraphs (b)(1), (b)(2), (b)(6), (c)(1), through (c)(3).

28. Section 240.14a–13 is amended by revising paragraph (a) introductory text and paragraphs (a)(1) and (a)(2) to read as follows:

§ 240.14a–13 Obligation of registrants in communicating with beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting (or by written consents or authorizations if no meeting is held) with respect to which the registrant intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(1) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy, and other soliciting material necessary to supply such material to beneficial

owners; and, in the case of an annual (or special meeting in lieu of the annual) meeting, or writtent consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders necessary to supply such material to beneficial owners if such reports are to be distributed by the broker, dealer, bank voting trustee or their nominees;

(2) Make the inquiry at least 20 calendar days prior to the record date of the meeting of security holders, or (i) if such inquiry is impracticable 20 calendar days prior to the record date of a special meeting, as many days before such meeting as is practicable or, (ii) if consents or authorizations are solicited and such inquiry is impracticable 20 calendar days before the earliest date on which they may be used to effect corporate action, as many days as is practicable, or (iii) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; and

* * * * *

29. By revising § 240.14a–101 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Notes.—A. Where any item calls for information with respect to any matter to be acted upon and such matter involves other matters with respect to which information is called for by other items of this schedule, the information called for by such other items also shall be given. For example, where a solicitation of security holders is for the purpose of approving the authorization of additional securities which are to be used to acquire another specified company, and the registrants' security holders will not have a separate opportunity to vote upon the transaction, the solicitation to authorize the securities is also a solicitation with respect to the acquisition. Under those facts, information required by Items 11, 13 and 14 shall be furnished.

B. Where any item calls for information with respect to any matter to be acted upon at the meeting, such item need be answered in the registrant's soliciting material only with respect to proposals to be made by or on behalf of the registrant.

C. Except as otherwise specifically provided, where any item calls for information for a specified period with regard to directors, executive officers, officers or other persons holding specified positions or relationships, the information shall be given with regard to any person who held any of the specified positions or relationships at any time during the period. Information need not be included for any portion of the period during which such person did not hold any such position or relationship, provided a statement to that effect is made.

D. Information may be incorporated by reference only in the manner and to the extent specifically permitted in the items of this schedule. Where incorporation by reference is used, the following shall apply:

1. Any incorporation by reference of information pursuant to the provisions of this schedule shall be subject to the provisions of Rule 24 of the Commission's Rules of Practice (§ 201.24 of this chapter) restricting incorporation by reference of documents which incorporate by reference other information. A registrant incorporating any documents, or portions of documents, shall include a statement on the last page(s) of the proxy statement as to which documents, or portions of documents, are incorporated by reference. Information shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

2. If a document is incorporated by reference but not delivered to security holders, include an undertaking to provide, without charge, to each person to whom a proxy statement is delivered, upon written or oral request of such person and by first class mail or other equally prompt means within one business day of receipt of such request, a copy of any and all of the information that has been incorporated by reference in the proxy statement (not including exhibits to the information that is incorporated by reference unless such exhibits are specifically incorporated by reference into the information that the proxy statement incorporates), and the address (including title or department) and telephone numbers to which such a request is to be directed. This includes information contained in documents filed subsequent to the date on which definitive copies of the proxy statement are sent or given to security holders, up to the date of responding to the request.

3. If a document or portion of a document other than an annual report sent to security holders pursuant to the requirements of Rule 14a–3 (§ 240.14a–3 of this chapter) with respect to the same meeting or solicitation of consents or authorizations as that to which the proxy statement relates is incorporated by reference in the manner permitted by Item 13(b) or 14(b) of this schedule, the proxy statement must be sent to security holders no later than 20 business days prior to the date on which the meeting of such security holders is held, or if no meeting is held, the earlier of 20 business days prior to (1) the date of such vote, consent or authorization, or (2) the date the transaction is consummated or the votes, consents or authorizations may be used to effect the corporate action.

E. In Items 13 and 14 of this Schedule, the reference to "meets the requirements of Form S–2" shall refer to a registrant or to an "other person" specified in Item 14(a) of this Schedule which meets the requirements for use of Form S–2 (§ 239.12 of this chapter) and the reference to "meets the requirement of Form S–3" shall refer to a registrant or to an "other person" specified in Item 14(a) of this Schedule which meets the following requirements:

(1) The registrant or other person meets the requirements of General Instruction I.A. of Form S–3 (§ 239.13 of this chapter); and

(2) One of the following is met:

(i) The registrant or other person meets the aggregate market value requirement of General Instruction I.B.1 of Form S–3; or

(ii) Action is to be taken as described in Items 11, 12 and 14 of this schedule which concerns non-convertible debt or preferred securities which are "investment grade securities" as defined in General Instruction I.B.2 of Form S–3, except that the time by which the rating must be assigned shall be the date on which definitive copies of the proxy statement are first sent or given to security holders; or

(iii) The registrant or other person is a majority-owned subsidiary and one of the conditions of General Instruction I.C. of Form S–3 is met.

Item 1. Date, time and place information. (a) State the date, time and place of the meeting of security holders, and the complete mailing address, including ZIP Code, of the principal executive offices of the registrant, unless such information is otherwise disclosed in material furnished to security holders with or preceding the proxy statement. If action is to be taken by written consent, state the date by which consents are to be submitted if state law requires that such a date be specified or if the person soliciting intends to set a date.

(b) On the first page of the proxy statement, state the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

(c) Furnish the information required to be in the proxy statement by Rule 14a–5(e) (§ 240.14a–5(e) of this chapter).

Item 2. Revocability of proxy. State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 3. Dissenters' right of appraisal. Outline briefly the rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment or other similar act, state whether the persons solicited will be notified of such date.

Instruction. Indicate whether a security holder's failure to vote against a proposal will constitute a waiver of his appraisal or similar rights and whether a vote against a proposal will be deemed to satisfy any notice requirements under State law with respect to appraisal rights. If the State law is unclear, state what position will be taken in regard to these matters.

Item 4. Persons Making the Solicitation—(a) Solicitations not subject to Rule 14a–11 (§ 240.14a–11 of this chapter.) (1) If the solicitation is made by the registrant, so state. Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action intended to be taken by the registrant and indicate the action which he intends to oppose.

(2) If the solicitation is made otherwise than by the registrant, so state and give the

names of the persons by whom and on whose behalf it is made.

(3) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially, engaged employees or paid solicitors, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, and (ii) the cost or anticipated cost thereof.

(4) State the names of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(b) *Solicitations subject to Rule 14a–11 (§ 240.14a–11 of this chapter).* (1) State by whom the solicitation is made and describe the methods employed and to be employed to solicit security holders.

(2) If regular employees of the registrant or any other participant in a solicitation have been or are to be employed to solicit security holders, describe the class or classes of employees to be so employed, and the manner and nature of their employment for such purpose.

(3) If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, state (i) the material features of any contract or arrangement for such solicitation and the identity of the parties, (ii) the cost or anticipated cost thereof and (iii) the approximate number of such employees of employees or any other person (naming such other person) who will solicit security holders).

(4) State the total amount estimated to be spent and the total expenditures to date for, in furtherance of, or in connection with the solicitation of security holders.

(5) State by whom the cost of the solicitation will be borne. If such cost is to be borne initially by any person other than the registrant, state whether reimbursement will be sought from the registrant, and, if so, whether the question of such reimbursement will be submitted to a vote of security holders.

(6) If any such solicitation is terminated pursuant to a settlement between the registrant and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the registrant.

Instructions. 1. With respect to solicitations subject to Rule 14a–11 (§ 240.14a–11 of this chapter), costs and expenditures within the meaning of this Item 4 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation, except that the registrant may exclude the amount of such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of regular employees and officers, provided a statement to that effect is included in the proxy statement.

2. The information required pursuant to paragraph (b)(6) of this Item should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the registrant subsequent to the date of settlement.

Item 5. Interest of certain Persons in Matters To Be Acted Upon—(a) *Solicitations not subject to Rule 14a–11 (§ 240.14a–11 of this chapter).* Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office:

(1) If the solicitation is made on behalf of the registrant, each person who has been a director or executive officer of the registrant at any time since the beginning of the last fiscal year.

(2) If the solicitation is made otherwise than on behalf of the registrant, each person on whose behalf the solicitation is made.

Any person who would be a participant in a solicitation for purposes of Rule 14a–11 (§ 240.14a–11 of this chapter), as defined in paragraph (b) (3), (4), (5) and (6) thereof, shall be deemed a person on whose behalf the solicitation is made for purposes of this paragraph (a).

(3) Each nominee for election as a director of the registrant.

(4) Each associate of any of the foregoing persons.

Instruction. Except in the case of a solicitation subject to this regulation made in opposition to another solicitation subject to this regulation, this sub-item (a) shall not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

(b) *Solicitation subject to Rule 14a–11* (§ 240.14a–11 of this chapter). (1) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each participant as defined in Rule 14a–11 (§ 240.14a–11 of this chapter), paragraph § 240.14a–11(b) (2), (3), (4), (5) and (6) (Rule X–14a–11), in any matter to be acted upon at the meeting, and include with respect to each participant the information, or a fair and adequate summary thereof, required by Items 2(a), 2(d), 3, 4(b) and 4(c) of Schedule 14B (§ 240.14a–102 of this chapter).

(2) With respect to any person, other than a director or executive officer of the registrant acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that he has in any matter to be acted upon at the meeting, and furnish the information called for by Item 4 (b) and (c) of Schedule 14B.

Item 6. Voting securities and principal holders thereof. (a) As to each class of voting securities of the registrant entitled to be voted at the meeting (or by written consents or authorizations if no meeting is held), state the number of shares outstanding and the number of votes to which each class is entitled.

(b) State the record date, if any, with respect to this solicitation. If the right to vote or give consent is not to be determined, in whole or in part, by reference to a record date, indicate the criteria for the determination of security holders entitled to vote or give consent.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights: (1) Make a statement that they have such rights, (2) briefly describe such rights, (3) state briefly the conditions precedent to the exercise thereof, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

(d) Furnish the information required by Item 403 of Regulation S–K (§ 229.403 of this chapter) to the extent known by the persons on whose behalf the solicitation is made.

(e) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the registrant has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the registrant now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Commission.

Instruction. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

Item 7. Directors and executive officers. If action is to be taken with respect to the election of directors, furnish the following information in tabular form to the extent practicable. If, however, the solicitation is made on behalf of persons other than the registrant, the information required need be furnished only as to nominees of the persons making the solicitation.

(a) The information required by instruction 4 to Item 103 of Regulation S–K (§ 229.103 of this chapter) with respect to directors and executive officers.

(b) The information required by Items 401 and 404 (a) and (c) of Regulation S–K (§ 229.401 and § 229.404 of this chapter).

(c) With respect to registrants other than investment companies registered under the Investment Company Act of 1940, furnish the information required by Item 404(b) of Regulation S–K (§ 229.404 of this chapter).

(d) With respect to investment companies registered under the Investment Company Act of 1940, indicate by an asterisk any nominee or director who is or would be an "interested person" within the meaning of

section 2(a)(19) of the Investment Company Act of 1940 and briefly describe the relationships by reason of which such person is deemed an "interested person."

(e)(1) State whether or not the registrant has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the registrant has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees. In the case of investment companies registered under the Investment Company Act of 1940, indicate by an asterisk whether that member is an "interested person" as defined in section 2(a)(19) of that Act. Information concerning compensation committees is not required of registered investment companies whose management functions are performed by external managers.

(2) If the registrant has a nominating or similar committee, state whether the committee will consider nominees recommended by security holders and, if so, describe the procedures to be followed by security holders in submitting such recommendations.

(f) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(g) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of security holders because of a disagreement with the registrant on any matter relating to the registrant's operations, policies or practices, and if the director has furnished the registrant with a letter describing such disagreement and requesting that the matter be disclosed, the registrant shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

If the registrant believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its view of the disagreement.

Item 8. Compensation of directors and executive officers. (See Note C at the beginning of Schedule 14A).

Furnish the information required by Item 402 (§ 229.402 of this chapter) of Regulation S-K if action is to be taken with regard to (i) the election of directors, (ii) any bonus, profit sharing or other compensation plan, contract, or arrangement in which any director, nominee for election as a director, or executive officer of the registrant will participate, (iii) any pension or retirement plan in which any such person will participate or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the registrant the information required need to be furnished only as to nominees of the persons making the solicitation and associates of such nominees.

Instruction. If an otherwise reportable compensation plan became subject to such requirements because of an acquisition or merger and, within one year of the acquisition or merger, such plan was terminated for purposes of prospective eligibility, the registrant may furnish a description of its obligation to the designated individuals pursuant to the compensation plan. Such description may be furnished in lieu of a description of the compensation plan in the proxy statement.

Item 9. Independent public accountants. If the solicitation is made on behalf of the registrant and relates to: (1) The annual (or special meeting in lieu of annual) meeting of security holders at which directors are to be elected, or a solicitation of consents or authorizations in lieu of such meeting or (2) the election, approval or ratification of the registrant's accountant, furnish the following information describing the registrant's relationship with its independent public accountant:

(a) The name of the principal accountant selected or being recommended to security holders for election, approval or ratification for the current year. If no accountant has been selected or recommended, so state and briefly describe the reasons therefor.

(b) The name of the principal accountant for the fiscal year most recently completed if different from the accountant selected or recommended for the current year or if no accountant has yet been selected or recommended for the current year.

(c) The proxy statement shall indicate: (1) Whether or not representatives of the principal accountant for the current year and for the most recently completed fiscal year are expected to be present at the security holders' meeting, (2) whether or not they will have the opportunity to make a statement if they desire to do so, and (3) whether or not such representatives are expected to be available to respond to appropriate questions.

(d) If a change or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of security holders (or, if this is the first meeting for which a proxy statement is required, within 12 months prior to, and any period subsequent to, the date of the end of most recent fiscal year), notwithstanding any previous disclosure, provide the information required by Item 304(a) of Regulation S-K (§ 229.304 of this chapter).

Item 10. Compensation Plans. If action is to be taken with respect to any plan pursuant to which cash or noncash compensation may be paid, furnish the following information with respect to any such plan.

(a) *All Plans.*

(1) Describe briefly the material features of the plan, identify each class of persons who will be eligible to participate therein, indicate the approximate number of persons in each such class and state the basis of such participation.

(2) State the benefits or amounts which will be received by or allocated to each of the following under the plan, if such benefits or amounts are determinable: (i) Each person (stating name and position) specified in paragraph (a)(1)(i) of Item 402 of Regulation S-K (§ 229.402 of this chapter); (ii) all current executive officers as a group; (iii) all directors who are executive officers as a group; (iv) all employees as a group. If such benefits or amounts are not determinable, state the benefits or amounts which would have been received by or allocated to each of the following for the last fiscal year if the plan had been in effect, if such benefits or amounts may be determined: (i) Each person (stating name and position) specified in paragraph (a)(1)(i) of Item 402 of Regulation S-K (§ 229.402 of this chapter); (ii) all current executive officers as a group; (iii) all directors who are not executive officers as a group; (iv) all employees as a group.

(3) Furnish the information called for by Item 402(b) of Regulation S-K (§ 229.402 of this chapter) with respect to all compensation plans now in effect or in effect during the last three years except that information called for in subparagraphs (b)(1) (vi) and (vii) and (b)(4) of Item 402(b) of Regulation S-K (§ 229.402 of this chapter) should be furnished with respect to the last three fiscal years for the following: (i) Each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S-K (§ 229.402 of this chapter); (ii) all current executive officers as a group; (iii) all directors who are not executive officers as a group, if such persons may participate in the plan; and (iv) all employees as a group, if such persons may participate in the plan. Such information is in lieu of the information otherwise called for by Item 402(b) of Regulation S-K (§ 229.402 of this chapter) in connection with the disclosure required by Item 8 of this schedule.

(4) If the plan to be acted upon can be amended, otherwise than by a vote of security holders, to increase the cost thereof to the registrant or to alter the allocation of the benefits as between the groups specified in paragraph (a)(3), state the nature of the amendments which can be so made.

(b) *Specific Plans.*

(1) With respect to any pension or retirement plan submitted for security holder action, state: (i) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; and (ii) the estimated annual payment to be made with respect to current services. In the case of a pension or retirement plan, information called for by paragraph (a)(2) of this Item may be furnished in the format specified by paragraphs (b) (2) and (3) of Item 402 of Regulation S-K (§ 229.402 of this chapter).

(2) With respect to options, warrants or rights submitted for security holder action: (i) state: (A) The title and amount of securities called for or to be called for by such options, warrants or rights; (B) the prices, expiration dates and other material conditions upon

which the options, warrants or rights may be exercised; (C) the consideration received or to be received by the registrant or subsidiary for the granting or extension of the options, warrants or rights; (D) the market value of the securities called for or to be called for by the options, warrants or rights as of the latest practicable date; and (E) in the case of options, the federal income tax consequences of the issuance and exercise of such options to the recipient and to the registrant; and (ii) state separately the amount of such options by the following persons if such benefits or amounts are determinable: (A) Each person (stating name and position) specified in paragraph (a)(1)(i) of Item 402 of Regulation S–K (§ 229.402 of this chapter); (B) all current executive officers as a group; (C) all directors who are not executive officers as a group; (D) each nominee for election as a director; (E) each associate of any of such directors, executive officers or nominees; (F) each other person who received or is to receive 5 percent of such options, warrants or rights; and (G) all employees as a group.

Instructions

1. The term "plan" as used in this Item means any plan as defined in Instruction 3 of paragraph (b) of Item 402 of Regulation S–K (§ 229.402 of this chapter).

2. If action is to be taken with respect to a material amendment or modification of an existing plan, the item shall be answered with respect to the plan as proposed to be amended or modified and shall indicate any material differences from the existing plan.

3. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of Rule 14a–6 (§ 229.14a–6 of this chapter).

4. Paragraphs (a)(3) and (b)(2)(ii) do not apply to warrants or rights to be issued to security holders as such on a pro rata basis.

5. The Commission should be informed, as supplemental information, when the proxy statement in preliminary form is filed, as to when the options, warrants or rights and the shares called for thereby will be registered under the Securities Act or, if such registration is not contemplated, the section of the Securities Act or rule of the Commission under which exemption from such registration is claimed and the facts relied upon to make the exemption available.

Item 11. Authorization or issuance of securities otherwise than for exchange. If action is to be taken with respect to the authorization or issuance of any securities otherwise than for exchange for outstanding securities of the registrant, furnish the following information:

(a) State the title and amount of securities to be authorized or issued.

(b) Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter). If the terms of the securities cannot be stated or estimated with respect to any or all of the securities to be authorized, because no offering thereof is contemplated in the proximate future, and if no further authorization by security holders for the issuance thereof is to be obtained, it should be stated that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates, and similar matters will be determined by the board of directors. If the securities are additional shares of common stock of a class outstanding, the description may be omitted except for a statement of the preemptive rights, if any. Where the statutory provisions with respect to preemptive rights are so indefinite or complex that they cannot be stated in summarized form, it will suffice to make a statement in the form of an opinion of counsel as to the existence and extent of such rights.

(c) Describe briefly the transaction in which the securities are to be issued including a statement as to (1) the nature and approximate amount of consideration received or to be received by the registrant and (2) the approximate amount devoted to each purpose so far as determinable for which the net proceeds have been or are to be used. If it is impracticable to describe the transaction in which the securities are to be issued, state the reason, indicate the purpose of the authorization of the securities, and state whether further authorization for the issuance of the securities by a vote of security holders will be solicited prior to such issuance.

(d) If the securities are to be issued otherwise than in a public offering for cash, state the reasons for the proposed authorization or issuance and the general effect thereof upon the rights of existing security holders.

(e) Furnish the information required by Item 13(a) of this schedule.

Item 12. Modification or exchange of securities. If action is to be taken with respect to the modification of any class of securities of the registrant, or the issuance or authorization for issuance of securities of the registrant in exchange for outstanding securities of the registrant furnish the following information:

(a) If outstanding securities are to be modified, state the title and amount thereof. If securities are to be issued in exchange for outstanding securities, state the title and amount of securities to be so issued, the title and amount of outstanding securities to be exchanged therefor and the basis of the exchange.

(b) Describe any material differences between the outstanding securities and the modified or new securities in respect of any of the matters concerning which information would be required in the description of the securities in Item 202 of Regulation S–K (§ 229.202 of this chapter).

(c) State the reasons for the proposed modification or exchange and the general effect thereof upon the rights of existing security holders.

(d) Furnish a brief statement as to arrears in dividends or as to defaults in principal or interest in respect to the outstanding securities which are to be modified or exchanged and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(e) Outline briefly any other material features of the proposed modification or exchange. If the plan of proposed action is set forth in a written document, file copies thereof with the Commission in accordance with § 240.14a–6.

(f) Furnish the information required by Item 13(a) of this Schedule.

Instruction. If the existing security is presently listed and registered on a national securities exchange, state whether the registrant intends to apply for listing and registration of the new or reclassified security on such exchange or any other exchange. If the registrant does not intend to make such application, state the effect of the termination of such listing and registration.

Item 13. Financial and other information. (*See* Notes D and E at the beginning of this Schedule.)

(a) Information required.

If action is to be taken with respect to any matter specified in Item 11 or 12, furnish the following information:

(1) Financial statements meeting the requirements of Regulation S–X, including financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement;

(2) Item 302 of Regulation S–K, supplementary financial information;

(3) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations;

(4) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure; and

(5) A statement as to whether or not representatives of the principal accountants for the current year and for the most recently completed fiscal year:

(i) Are expected to be present at the security holders' meeting;

(ii) Will have the opportunity to make a statement if they desire to do so; and

(iii) Are expected to be available to respond to appropriate questions.

(b) Incorporation by reference.

The information required pursuant to paragraph (a) of this Item may be incorporated by reference into the proxy statement as follows:

(1) S–3 registrants.

If the registrant meets the requirements of Form S–3(*see* Note E to this Schedule), it may incorporate by reference to previously-filed documents any of the information required by paragraph (a) of this Item, provided that the requirements of paragraph (c) are met. Where the registrant meets the requirements of Form S–3 and has elected to furnish the required information by incorporation by reference, the registrant may elect to update the information so incorporated by reference to information in subsequently-filed documents.

(2) All registrants.

The registrant may incorporate by reference any of the information required by paragraph (a) of this Item, provided that the information is contained in an annual report to security holders or a previously-filed statement or report, such report or statement is delivered to security holders with the

proxy statement and the requirements of paragraph (c) are met.

(c) Certain conditions applicable to incorporation by reference.

Registrants eligible to incorporate by reference into the proxy statement the information required by paragraph (a) of this Item in the manner specified by paragraphs (b)(1) and (b)(2) may do so only if:

(1) The information is not required to be included in the proxy statement pursuant to the requirement of another Item;

(2) The proxy statement identifies on the last page(s) the information incorporated by reference; and

(3) The material incorporated by reference substantially meets the requirements of this Item or the appropriate portions of this Item.

Instructions to Item 13.

1. Notwithstanding the provisions of this Item, any or all of the information required by paragraph (a) of this Item not material for the exercise of prudent judgment in regard to the matter to be acted upon may be omitted. In the usual case the information is deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but the information is not deemed material where the matter to be acted upon is the authorization or issuance of common stock, otherwise than in an exchange, merger, consolidation, acquisition or similar transaction, the authorization of preferred stock without present intent to issue or the authorization of preferred stock for issuance for cash in an amount constituting fair value.

2. In order to facilitate compliance with Rule 2-02(a) of Regulation S-X, one copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's report. If the financial statements are incorporated by reference, a manually signed copy of the accountant's report shall be filed with the definitive proxy statement.

3. Notwithstanding the provisions of Regulation S-X, no schedules other than those prepared in accordance with Rules 12-15, 12-28 and 12-29 (or, for management investment companies, Rules 12-12 through 12-14) of that regulation need be furnished in the proxy statement.

4. Unless registered on a national securities exchange or otherwise required to furnish such information, registered investment companies need not furnish the information required by paragraphs (a)(2) or (3) of this Item.

5. If the registrant submits preliminary proxy material incorporating by reference financial statements required by this Item, the registrant should furnish a draft of the financial statements if the document from which they are incorporated has not been filed with or furnished to the Commission.

Item 14. Mergers, consolidations, acquisitions and similar matters. (See Notes A, D and E at the beginning of this Schedule.)

If action is to be taken with respect to any transaction involving: (i) The merger or consolidation of the registrant into or with any other person or of any other person into or with the registrant, (ii) the acquisition by the registrant or any of its security holders of securities of another person, (iii) the acquisition by the registrant of any other going business or of the assets thereof, (iv) the sale or other transfer of all or any substantial part of the assets of the registrant, or (v) the liquidation or dissolution of the registrant, furnish the following information:

(a) Information about the transaction.

Furnish the following information concerning the registrant and (unless otherwise indicated) each other person: Which is to be merged into the registrant or into or with which the registrant is to be merged or consolidated; the business or assets of which are to be acquired; which is the issuer of securities to be acquired by the registrant in exchange for all or a substantial part of the registrant's assets; or which is the issuer of securities to be acquired by the registrant or its security holders:

(1) The name, complete mailing address (including the ZIP Code) and telephone number (including the area code) of the principal executive offices.

(2) A brief description of the general nature of the business conducted by the other person.

(3) A summary of the material features of the proposed transaction. If the transaction is set forth in a written document, file three copies thereof with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a-6(a)(§ 240.14a-6(a) of this chapter). The summary shall include, where applicable:

(i) A brief summary of the terms of the transaction agreement;

(ii) The reasons for engaging in the transaction;

(iii) An explanation of any material differences in the rights of security holders of the registrant as a result of this transaction;

(iv) A brief statement as to the accounting treatment of the transaction; and

(v) The federal income tax consequences of the transaction.

(4) A brief statement as to dividends in arrears or defaults in principal or interest in respect of any securities of the registrant or of such other person and as to the effect of the transaction thereon and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(5) The information required by Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data) for (i) the registrant; (ii) the other person; and (iii) 1 if material, the registrant or the other person on a pro forma basis, giving effect to the transaction.

(6) In comparative columnar form, historical and pro forma per share data of the registrant and historical and equivalent pro forma per share data of the other person for the following items:

(i) Book value per share as of the date financial data is presented pursuant to Item 301 of Regulation S-K(§ 229.301 of this chapter) (selected financial data);

(ii) Cash dividends declared per share for the periods for which financial data is presented pursuant to Item 301 of Regulation S-K (§ 229.301 of this chapter) (selected financial data); and

(iii) Income (loss) per share from continuing operations for the periods for which financial data is presented pursuant to Item 301 of Regulation S-K(§ 229.301 of this chapter) (selected financial data).

Instruction to paragraph (a)(6).

For a business combination accounted for as a purchase, the pro forma and equivalent pro forma income (loss) from continuing operations per share and equivalent pro forma cash dividends declared per share shall be presented only for the most recent fiscal year and interim period. Equivalent pro forma per share amounts shall be calculated by multiplying the pro forma income (loss) per share before non-recurring charges or credits directly attributable to the transaction, pro forma book value per share, and the pro forma dividends per share of the registrant by the exchange ratio so that the per share amounts are equated to the respective values for one share of the other person.

(7) Financial information required by Article 11 of Regulation S-X (§ 210.11-01 et seq. of this chapter) with respect to this transaction.

Instructions to paragraph (a)(7).

1. Any other Article 11 information that is presented (rather than incorporated by reference) pursuant to other Items of this schedule shall be presented together with the information provided pursuant to paragraph (a)(7), but the presentation shall clearly distinguish between this transaction and any other.

2. If pro forma financial information with respect to all other transactions is incorporated by reference pursuant to paragraph (b) of this Item, only the pro forma results need be presented as part of the pro forma financial information required by this Item.

(8) A statement as to whether any federal or state regulatory requirements must be complied with or approval must be obtained in connection with the transaction and if so the status of such compliance or approval.

(9) If a report, opinion or appraisal materially relating to the transaction has been received from an outside party, and such report, opinion or appraisal is referred to in the proxy statement, furnish the same information as would be required by Item 9(b)(1) through (6) of Schedule 13E-3 (§ 240.13e-100 of this chapter).

(10) A description of any past, present or proposed material contracts, arrangements, understandings, relationships, negotiations or transactions during the periods for which financial statements are presented or incorporated by reference pursuant to this Item between the other person or its affiliates and the registrant or its affiliates such as those concerning a merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

(11) As to each class of securities of the registrant or of the other person which is admitted to trading on a national securities exchange or with respect to which a market otherwise exists, and which will be materially affected by the transaction, state the high and low sale prices (or in the absence of trading in a particular period, the

range of the bid and asked prices) as of the date preceding public announcement of the proposed transaction, or if no such public announcement was made, as of the day preceding the day the agreement or resolution with respect to the action was made.

(12) A statement as to whether or not representatives of the principal accountants for the current year and for the most recently completed fiscal year

(i) Are expected to be present at the security holders' meeting;

(ii) Will have the opportunity to make a statement if they desire to do so; and

(iii) Are expected to be available to respond to appropriate questions.

(b) Information about the registrant and the other person.

Furnish the information specified below for the registrant and for the other person designated in paragraph(a) of this Item, if applicable (hereinafter all references to the registrant should be read to include a reference to such other person unless the context otherwise indicates):

(1) Information with respect to S–3 registrants.

If the registrant meets the requirements of Form S–3 (See Note E to this Schedule) and elects to furnish information in accordance with the provisions of this paragraph, furnish information as required below.

(i) Describe any and all material changes in the registrant's affairs that have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and that have not been described in a report on Form 10–Q (§ 249.308(a) of this chapter) or Form 8–K(§ 249.308 of the chapter) filed under the Exchange Act;

(ii) Include in the proxy statement, if not incorporated by reference from the reports filed under the Exchange Act specified in paragraph (b)(1)(iii) of this Item, from a proxy or information statement filed pursuant to section 14 of the Exchange Act, from a prospectus previously filed pursuant to Rule 424 under the Securities Act (§ 230.424 of this chapter) or from a Form 8–K filed during either of the two preceding fiscal years:

(A) Financial information required by Rule 3–05(§ 210.3–05 of this chapter) and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement.

(B) Restated financial statements prepared in accordance with Regulation S–X (Part 210 of this chapter), if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(C) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X (§ 210.11(b) of this chapter); or

(D) Any financial information required because of a material disposition of assets outside the normal course of business.

(iii) Incorporate by reference into the proxy statement the documents listed in paragraphs (A) and (B) below:

(A) The registrant's latest annual report on Form 10–K(§ 249.310 of this chapter) filed pursuant to section 13(a) or 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to be filed;

(B) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph(b)(1)(iii)(A) of this Item.

(iv) The proxy statement also shall state on the last page(s) that all documents subsequently filed by the registrant pursuant to sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to one of the following dates, whichever is applicable, shall be deemed to be incorporated by reference into the proxy statement:

(A) If a meeting of security holders is to be held, the date on which such meeting is held;

(B) If a meeting of security holders is not to held, the date on which the consents or authorizations are used to effect the proposed action.

(2) *Information with respect to S–2 or S–3 registrants.*

(i) *Information required to be furnished.*

If the registrant meets the requirements of Form S–2 or Form S–3 (*See* Note E of this Schedule) and elects to comply with this paragraph, furnish the information required by either paragraph (A) or (B) of this paragraph. However, the registrant shall not provide information in the manner allowed by paragraph (A) of this paragraph, if the financial statements in the registrant's latest annual report to security holders do not reflect: restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements; restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are signficant pursuant to Rule 11–01(b) of Regulation S–X; or any financial information required because of a material disposition of assets outside of the normal course of business.

(A) If the registrant elects to furnish information pursuant to this paragraph (b)(2)(i)(A) and delivers the proxy statement together with its latest annual report to security holders which, at the time of original preparation met the requirements of either Rule 14a–3 (§ 240.14a–3 of this chapter) or 14c–3 (§ 240.14c–3 of this chapter), or a complete and legible facsimile of such latest annual report to security holders:

(*1*) Indicate that the proxy statement is accompanied by the registrant's latest annual report to security holders.

(*2*) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which audited financial statements were included in the latest report to security holders and more than 45 days prior to the date the proxy statement is filed in definitive form (or as of a more recent date) by one of the following means:

(i) Including such information in the proxy statement;

(ii) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest Form 10–Q; or

(iii) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest quarterly report that was delivered to its security holders and that included the required financial information.

(*3*) If not reflected in the registrant's latest annual report to security holders, provide information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that as to which action is to be taken as described in the proxy statement.

(*4*) Describe any and all material changes in the registrant's affairs that have occurred between the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and the date the definitive proxy statement is filed and that were not described in a Form 10–Q or quarterly report delivered with the proxy statement in accordance with paragraph (b)(2)(i)(A)(*2*) (ii) or (iii).

(B) If the registrant does not elect to furnish information and deliver its latest annual report to security holders pursuant to paragraph (b)(2)(i)(A):

(*1*) Furnish a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year as required by Rule 14a–3 (§ 240.14a–3 of this chapter) to be included in an annual report to security holders. The description also should take into account changes in the registrant's business that have occurred between the end of the last fiscal year and the filing of definitive proxy materials.

(*2*) Include financial statements and information as required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1) of this chapter) to be included in an annual report to security holders. In addition, provide:

(*i*) The interim financial information required by Rule 10–01 of Regulation S–X (§ 210.10–01 of this chapter) for a report on Form 10–Q;

(*ii*) Financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that as to which action is to be taken as described in this proxy statement;

(*iii*) Restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(*iv*) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X (§ 210.11–01 of this chapter); and

(*v*) Any financial information required because of a material disposition of assets outside of the normal course of business.

(*3*) Furnish the information required by the following:

(*i*) Item 101 (b), (c)(1)(i) and (d) of Regulation S–K (§ 229.101 of this chapter), industry segments, classes of similar products or services, foreign and domestic operations and import sales;

(*ii*) Item 102 of Regulation S–K (§ 229.102 of this chapter) for any property involved in the transaction, if such disclosure is material to the security holder's understanding of the transaction;

(*iii*) Item 201 of Regulation S–K (§ 229.201 of this chapter), market price of and dividends on the registrant's common equity and related stockholder matters;

(*iv*) Item 301 of Regulation S–K (§ 229.301 of this chapter), selected financial data;

(*v*) Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information;

(*vi*) Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations; and

(*vii*) Item 304 of Regulation S–K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

(ii) *Incorporation of certain information by reference.* If the registrant meets the requirements of Form S–2 or S–3 (*See* Note E of this Schedule) and elects to furnish information in accordance with the provisions of paragraph (b)(2)(i) of this Item:

(A) Incorporate by reference into the proxy statement the documents listed in paragraphs (1) and (2) below and, if applicable, the portions of the documents listed in paragraphs (3) and (4) below.

(*1*) The registrant's latest annual report on Form 10–K filed pursuant to section 13(a) or 15(d) of the Exchange Act which contains audited financial statements for the registrant's latest fiscal year for which a Form 10–K was required to be filed.

(*2*) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph (a)(2)(i)(A)(*1*).

(*3*) If the registrant elects to deliver its latest annual report to security holders pursuant to paragraph(b)(2)(i)(A) of this Item, the information furnished in accordance with the following:

(*i*) Item 101 (b), (c)(1)(i) and (d) of Regulation S–K, industry segments, classes of similar products or services, foreign and domestic operations and export sales;

(*ii*) Item 201 of Regulation S–K, market price of and dividends on the registrant's common equity and related stockholder matters;

(*iii*) Item 301 of Regulation S–K, selected financial data;

(*iv*) Item 302 of Regulation S–K, supplementary financial information;

(*v*) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(*vi*) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(*4*) If the registrant elects, pursuant to paragraph (b)(2)(i)(A)(*2*)(*iii*) of this Item, to provide a copy of its latest quarterly report which was delivered to security holders, financial information equivalent to that required to be presented in Part I of Form 10–Q.

(B) The registrant also may state, if it so chooses, that specifically described portions of its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (b)(2)(ii)(A) (*3*) and (*4*) of this Item, are not part of the proxy statement. In such case, the description of portions that are not incorporated by reference or that are excluded shall be made with clarity and in reasonable detail.

(3) *Information with respect to registrants other than S–2 or S–3 registrants.*

(i) If the registrant does not meet the requirements of Form S–2 or S–3 (*See* Note E of this Schedule), or elects to comply with this paragraph (b)(3) in lieu of (b)(1) or (b)(2), furnish the following information:

(A) In addition to the brief description of the other person's business required to be in the proxy statement by paragraph (a)(2) of this Item, a brief description of the business done by the registrant and the other person and their subsidiaries during the most recent fiscal year as required by Rule 14a–3 (§ 240.14a–3 of this chapter) to be included in an annual report to security holders. The description also shall take into account changes in the business that have occurred between the end of the latest fiscal year and the date the definitive proxy statement is filed.

(B) Information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

(C) Information relating to property required by Item 102 of Regulation S–K (§ 229.102 of this chapter) shall be provided for any property involved in the plan described pursuant to this Item, if such disclosure is material to the security holder's understanding of the transaction.

(D) Information required by Item 201 of Regulation S–K (§ 229.201 of this chapter), market price of and dividends on the registrants' common equity and related stockholder matters.

(E) Financial statements meeting the requirements of Regulation S–X, including financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that as to which action is to be taken as described in this proxy statement.

(F) Item 301 of Regulation S–K, selected financial data;

(G) Item 302 of Regulation S–K, supplementary financial information;

(H) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(I) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(ii) If the other person is not subject to the reporting requirements of either section 13(a) or 15(d) of the Exchange Act; or, because of section 12(i) of the Exchange Act, has not furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter) for its latest fiscal year, furnish:

(A) the financial statements that would have been required to be included in an annual report to security holders pursuant to Rules 14a–3(b)(1) and (b)(2) had the company been required to furnish such a report; *provided, however,* that the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal Year need not be audited if they have not previously been audited. In any case, such financial statements need be audited only to the extent practicable.

(B) The quarterly financial and other information that would have been required had the company been required to file Part I of Form 10–Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the proxy statement is mailed or for a period ending as of a more recent date.

(C) The information required by paragraphs (b)(3)(i)(A)–(D) and (F)–(I) of this Item.

(c) *Additional method of incorporation by reference.*

In lieu of the provision of information about the registrant and the other person required in paragraph (b) of this Item, the registrant may incorporate by reference into the proxy statement the information required by paragraph (b)(3) of this Item if it is contained in an annual report sent to security holders pursuant to the requirement of Rule 14a–3 (§ 240.14a–3 of this chapter) with respect to the same meeting or solicitation of consents or authorizations as that to which the proxy statement relates, provided such information substantially meets the requirements of paragraph (b)(3) of this Item or the appropriate portions of paragraph (b)(3) of this Item.

Instructions to Item 14.

1. In order to facilitate compliance with Rule 2–02(a) of Regulation S–X, one copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's report. If the financial statements are incorporated by reference, a manually signed copy of the accountant's report shall be filed with the definitive proxy statement.

2. Notwithstanding the provisions of this Item, any or all of the required financial statements and related information which are not material for the exercise of prudent judgement in regard to the matter to be acted upon may be omitted.

3. If the registrant or any of its securities or assets are to be acquired by the other person, the information regarding the other person that is required by this Item, other than information required by paragraphs (a)(1)–(3) and (a)(8)–(11) of this Item, need be provided only to the extent that: (1) the registrant or its security holders who are entitled to vote or give an authorization or consent with regard to the action will become or remain security holders of the other person; or (2) such information is otherwise material to an informed voting decision.

4. If the plan being voted on involves only the registrant and one or more of its totally held subsidiaries and does not involve a liquidation of the registrant or a spin-off, the information required by this Item, other than information required by paragraphs (a)(1)–(4) and (a)(8)(11) of this Item, may be omitted.

5. Notwithstanding the provisions of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–15, 12–28 and 12–29 (or, for management investment companies, Rules 12–12 through 12–14) of that regulation need be furnished in the proxy statement.

6. Unless registered on a national securities exchange or otherwise required to furnish such information, registered investment companies need not furnish the information required by paragraphs (a)(5), (b)(3)(i) (F), (G) or (H) of this Item.

7. If the registrant submits preliminary proxy material incorporating by reference financial statements required by this Item, the registrant should furnish a draft of the financial statements if the document from which they are incorporated has not been filed with or furnished to the Commission.

Item 15. Acquisition or disposition of property. If action is to be taken with respect to the acquisition or disposition of any property, furnish the following information:

(a) Describe briefly the general character and location of the property.

(b) State the nature and amount of consideration to be paid or received by the registrant or any subsidiary. To the extent practicable, outline briefly the facts bearing upon the question of the fairness of the consideration.

(c) State the name and address of the transferer or transferee, as the case may be and the nature of any material relationship of such person to the issuer or any affiliate of the issuer.

(d) Outline briefly any other material features of the contract or transaction.

Item 16. Restatement of accounts. If action is to be taken with respect to the restatement of any asset, capital, or surplus account of the registrant furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account (including any reserve accounts) affected by the restatement and the effect of the restatement thereon. Tabular presentation of the amounts shall be made when appropriate, particularly in the case of recapitalizations.

(d) To the extent practicable, state whether and the extent, if any, to which, the restatement will, as of the date thereof, alter the amount available for distribution to the holders of equity securities.

Item 17. Action with respect to reports. If action is to be taken with respect to any report of the registrant or of its directors, officers or committees or any minutes of a meeting of the security holders, furnish the following information:

(a) State whether or not such action is to constitute approval or disapproval of any of the matters referred to in such reports or minutes.

(b) Identify each of such matters which it is intended will be approved or disapproved, and furnish the information required by the appropriate item or items of this schedule with respect to each such matter.

Item 18. Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reasons for submitting it to a vote of security holders and what action is intended to be taken by the registrant in the event of a negative vote on the matter by the security holders.

Item 19. Amendment of character, bylaws or other documents.

If action is to be taken with respect to any amendment of the registrant's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and the general effect of such amendment.

Instructions. 1. Where the matter to be acted upon is the classification of directors, state whether vacancies which occur during the year may be filled by the board of directors to serve only until the next annual meeting or may be so filled for the remainder of the full term.

2. Attention is directed to the discussion of disclosure regarding anti-takeover and similar proposals in Release No. 34–15230 (October 13, 1978).

Item 20. Other proposed action. If action is to be taken with respect to any matter not specifically referred to above, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 19, inclusive, above.

Item 21. Vote required for approval. As to each matter which is to be submitted to a vote of security holders, other than elections to office or the selection or approval of auditors, state the vote required for its approval.

30. Section 240.14a–102 is amended by removing the words "issuer" or "issuers" and replacing them with the words "registrant" or "registrants" in Item 1, Item 2(c), Item 3 (a), (b), (c), (e), (f) and (g) and Item 4(c) (1) and (2) and revising Item 2(b)(1) to read as follows:

§ 240.14a–102 Schedule 14B, information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

* * * * *

Item 2. * * *

(b) State the following:

(1) Your business, mailing or residence address.

* * * * *

31. By amending § 240.14c–1 by removing the word "issuer" and replacing it with the word "registrant" in paragraph (a), by removing paragraph (c), by redesignating paragraph (d) as (c) and revising it, by redesignating paragraph (e) as (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 240.14–1 Definitions.

* * * * *

(c) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting with respect to which an information statement is required to be distributed, or if the information statement involves consents or authorizations in lieu of a meeting, the earliest date on which they may be used to effect corporate action.

* * * * *

(e) *Record date.* The term "record date" shall mean the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of a class of securities registered pursuant to section 12 of the Act.

32. By revising § 240.14c–2 as follows:

§ 240.14c–2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the registrant of such securities shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c–101) or written information statements included in registration statements filed under the Securities Act of 1933 on Form S–4 or F–4 (§ 239.25 or 239.34 of this chapter) or Form N–14 (§ 239.23 of this chapter), and containing the information specified in such form, to every security holder of the class that is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited on behalf of the registrant pursuant to section 14(a) of the Act: *Provided however,* that (1) in the case of a class of securities in unregistered or bearer form, such statements need be transmitted only to those security holders whose names are

known to the registrant, and (2) no such statements need to be transmitted to a security holder if a registrant would be excused from delivery of an annual report or a proxy statement under Rule 14a-3(e)(2) (§ 240.14a-3(e)(2)) if such section were applicable.

(b) The information statement shall be sent or given at least 20 calendar days prior to the meeting date or, in the case of corporate action taken pursuant to the consents or authorizations of security holders, at least 20 calendar days prior to the earliest date on which the corporate action may be taken.

33. In § 240.14c-3 by revising paragraph (a) introductory text, (a)(1) and (a)(2) to read as follows, removing (a)(3) through (a)(12) including the notes after (a)(7) and (a)(10), and by removing the words "issuer," "issuers" and "shareholders" and replacing them with the words "registrant," "registrants" and "security holders" respectively in paragraph (b) and the note following paragraph (b):

§ 240.14c-3 Annual report to be furnished security holders.

(a) If the information statement relates to an annual (or special meeting in lieu of the annual) meeting, or written consent in lieu of such meeting, of security holders at which directors are to be elected, it shall be accompanied or preceded by an annual report to such security holders.

(1) The annual report shall contain the information specified in paragraphs (b)(1) through (b)(11) of Rule 14a-3 (§ 240.14a-3 of this chapter.)

(2) Paragraphs (b)(5) through (b)(11) of Rule 14a-3 shall not apply to an investment company registered under the Investment Company Act of 1940. Subject to the requirements of paragraphs (b)(1) through (b)(4) of Rule 14a-3, the annual report to security holders of such investment company may be in any form deemed suitable by management.

* * * * *

§ 240.14c-4 [Amended]

34. By amending § 240.14c-4 by removing the word "issuer" and replacing it with the word "registrant" and by removing the word "to" in the phrase "within the power to" and replacing it with the word "of" so that the phrase would read "within the power of" in paragraph (b) and by placing a comma between the words "presentation" and "financial" in the first sentence of paragraph (c).

35. By revising § 240.14c-5 as follows:

§ 240.14c-5 Filing requirements.

(a) *Preliminary information statement.* Five preliminary copies of the information statement shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such statement are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10-day period, the filing date of the preliminary copies is to be counted as the first day and the 11th day is the date on which definitive copies of the information statement may be mailed to security holders.

Note 1.—The filing of revised material does not recommence the ten day time period unless the revised material contains material revisions or material new proposal(s) that constitute a fundamental change in the information statement.

Note 2.—The officials responsible for the preparation of the information statement should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary statement should be filed with the Commission at the earliest practicable date.

(b) *Definitive information statement.* Eight definitive copies of the information statement, in the form in which it is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date it is first sent or given to any security holders. Three copies thereof shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any security of the registrant is listed and registered.

(c) *Release dates.* All preliminary material filed pursuant to paragraph (a) of this section shall be accompanied by a statement of the date on which copies thereof filed pursuant to paragraph (b) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (b) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders or, if not released, the date on which copies thereof are intended to be released.

(d) *Public availability of information.* All copies of material filed pursuant to paragraph (a) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Commission only and shall not be deemed available for public inspection until definitive material has been filed with the Commission except that such material may be disclosed to any department or agency of the United States Government and to the Congress and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission.

(e) *Revised information statements.* Where any information statement filed pursuant to this section is amended or revised, two of the copies of such amended or revised material filed pursuant to this section shall be marked to indicate clearly and precisely the changes effected therein. If the amendment or revision alters the text of the material, the changes in such text shall be indicated by means of underscoring or in some other appropriate manner.

(f) *Merger material.* Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement filed under the Securities Act of 1933 on Form N-14, S-4, or F-4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form N-14, S-4, or F-4 shall be filed in accordance with this section, unless separate copies of such material are required to be filed as an amendment of such registration statement.

(g) *Fees.* At the time of filing the preliminary information statement, the registrant shall pay to the Commission a fee of $125, no part of which shall be refunded, except, however, when filing a preliminary information statement regarding an acquisition, merger, spinoff, consolidation or proposed sale or other disposition of substantially all the assets of the company, the registrant shall pay the Commission a fee established in accordance with Rule 0-11, (§ 240.0-11 of this chapter).

36. Section 240.14c-7 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 240.14c-7 Providing copies of material for certain beneficial owners.

If the registrant knows that securities of any class entitled to vote at a meeting, or by written authorizations or consents if no meeting is held, are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(a) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the

beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to beneficial owners and, in the case of an annual (or special meeting in lieu of the annual) meeting, or written consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to such beneficial owners for whom proxy material has not been and is not to be made available if such reports are to be distributed by the brokers, dealer, bank, voting trustee or their nominees; and

* * * * *

37. By revising § 240.14c–101 to read as follows:

§ 240.14c–10 Schedule 14C. Information required in information statement.

Note.—Where any item, other than Item 4, calls for information with respect to any matter to be acted upon at the meeting or, if no meeting is being held, by written authorization or consent, such item need be answered only with respect to proposals to be made by the registrant.

Item 1. Information required by Items of Schedule 14A (17 CFR 240.14a–101). Furnish the information called for by all of the items of Schedule 14A of Regulation 14A (17 CFR 240.14a–101) (other than Items 1(c), 2, 4 and 5 thereof) which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. Notes A, C, D, and E to Schedule 14A are also applicable to Schedule 14C.

Item 2. Statement that proxies are not solicited. The following statement shall be set forth on the first page of the information statement in bold-face type:

We Are Not Asking You for a Proxy and You are Requested Not To Send Us a Proxy

Item 3. Interest of certain persons in or opposition to matters to be acted upon. (a) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office:

(1) each person who has been a director or officer of the registrant at any time since the beginning of the last fiscal year;

(2) each nominee for election as a director of the registrant;

(3) each associate of any of the foregoing persons.

(b) Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action to be taken by the registrant at the meeting and indicate the action which he intends to oppose.

Item 4. Proposals by security holders. If any security holder entitled to vote at the meeting or by written authorization or consent has submitted to the registrant a reasonable time before the information statement is to be transmitted to security holders a proposal, other than elections to office, which is accompanied by notice of his intention to present the proposal for action at the meeting the registrant shall, if a meeting is held, make a statement to that effect, identify the proposal and indicate the disposition proposed to be made of the proposal by the registrant at the meeting.

Instructions. 1. This item need not be answered as to any proposal submitted with respect to an annual meeting if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders.

2. If the registrant intends to rule a proposal out of order, the Commission shall be so advised at the time preliminary copies of the information statement are filed with the Commission, together with a statement of the reasons why the proposal is not deemed to be a proper subject for action by security holders.

§ 240.14f–1 [Amended]

38. By revising § 240.14f–1 by removing the phrase "Items 5 (a), (d), (e), and (f), 6 and 7 of Schedule 14A of Regulation 14A" and replacing it with the phrase "Items 6 (a), (d) and (e), 7 and 8 of Schedule 14A of Regulation 14A (§ 240.14a–101 of this chapter)."

PART 249—FORMS, SECURITIES EXCHANGE ACT 1934

39. The authority citation for Part 249 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; * * *

§ 249.210 [Amended]

40. Section 249.210 is amended by changing the title of Item 14 from "Disagreements with Accountants on Accounting and Financial Disclosure" to "Changes in and Disagreements with Accountants on Accounting and Financial Disclosure," [note that the text of Form 10 does not appear in the Code of Federal Regulations.]

41. Section 249.310 is amended by adding an Instruction to Items 9 and 11 of Form 10–K (§ 249.310) to read as follows [note that the text of Form 10–K does not appear in the Code of Federal Regulations]:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Form 10–K

* * * * *

Item 9. *Changes in and disagreements with accountants on accounting and financial disclosure.*

* * * * *

Item 11. *Executive compensation.*

Furnish the information required by Item 402 of Regulations S–K (§ 229.402) of this chapter.

Instruction

A registrant complying with paragraph (a)(3) of Item 10 of Schedule 14A (§ 240.14a–101 of this chapter) will be deemed to have complied with the requirements of this Item 11.

* * * * *

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

42. The authority citation for Part 270 continues to read, in part, as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a–37, 80c–89, * * *

43. By revising paragraph (a) of § 270.20a–3 to read as follows:

§ 270.20a–3 Information as to certain transactions.

(a) This section shall apply to a solicitation if (1) the information specified in Item 7, Directors and executive officers, of Schedule 14A of Regulation 14A (§ 240.14a–101 of this chapter) is required to be furnished for an investment company, or (2) action is to be taken with respect to an investment advisory contract.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

November 10, 1986.

[FR Doc. 86–25898 Filed 11–19–86; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 239, and 240

[Rel. Nos. 33-6675; 34-23788; 35-24235; IC-15402; File No. S7-29-86]

Proxy Rules—Conforming Amendments; Rule Providing for Modified or Superseded Documents; Deletion of Redundant Language Exempting Public Utility Holding Companies and Subsidiaries From Proxy Filing Fees Where an Application or Declaration Is Involved

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing an amendment further conforming the proxy disclosure for mergers and similar transactions to that required for registration of securities in certain business combinations and clarifying the timing requirements for such transactions where incorporation by reference is used. The Commission also is proposing a rule concerning modified or superseded statements in documents incorporated by reference into a proxy statement. In addition, the Commission is proposing revisions clarifying application of disclosure requirements concerning changes in accountants and deleting redundant language in the proxy statement fee regulation.

DATE: Comments should be received on or before December 22, 1986.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7-29-86. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Alexander G. Shtofman or Caroline W. Dixon, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed revisions to the proxy rules [1] under the Securities Exchange Act of 1934 ("Exchange Act").[2] The Commission is proposing revisions to Regulation 14A,[3] including Schedule 14A.[4] In addition, the Commission is publishing for comment a proposed new rule, Rule 14a-14, which will be part of Regulation 14A. Finally, corresponding amendments are being proposed to Forms S-4 [5] and F-4 [6] and to Item 304 of Regulation S-K.[7]

I. Discussion of Proposals

A. Conforming Certain Disclosure Under Schedule 14A to Form S-4

Transactions subject to Item 14 of Schedule 14A, Mergers, Consolidations, Acquisitions and Similar Matters, and business combinations registered on Form S-4 require substantially similar decisions by security holders. The Commission believes that the company-specific information requirements for Item 14 and Form S-4 should be parallel and is proposing amendments to Item 14 to conform them.[8] Essentially, these conforming changes will require a registrant complying with the requirements of Item 14 by disclosure in the proxy statement (rather than incorporation by reference of the Form 10-K) to include all the issuer specific information currently required in an S-4 registration statement. These conforming changes will have no effect on an S-2 or S-3 level company incorporating the required disclosure by reference into the proxy statement; such a registrant incorporates its Form 10-K, which contains the information. Thus, these same changes remedy the inconsistent disclosure requirements of various registrants subject to Item 14. Specifically, Item 14(b)(3), Information with Respect to Registrants Other than S-2 or S-3 Registrants, is proposed to be amended to require registrants [9] to furnish all the information required by Item 101, Description of Business,[10] Item 102, Description of Property [11] and Item 103, Legal Proceedings,[12] of Regulation S-K.

The Item 14 requirements for transaction information were conformed to Form S-4 in the companion release. As noted in that release, if the transaction involves the issuance of securities exempt from registration, information concerning the new class or series of securities can be material to the transaction.[13] The Commission seeks comment as to whether there should be a specific requirement to include all of the information that would be required by Item 202 of Regulation S-K [14] if securities were being registered and, if so, whether such a requirement should apply to all issuances of securities exempt from registration.

B. New Rule 14a-14, Modified or Superseded Documents

At the suggestion of a commentator on the proxy rule proposals published for comment in Release No. 33-6592 (July 19, 1985), the Commission is proposing a new rule, Rule 14a-14, similar to Rule 412 under the Securities Act of 1933.[15] The new rule would govern the treatment of a statement in a document incorporated by reference into a proxy statement which is subsequently modified or superseded by a statement in a later document also incorporated by reference.

The rule would provide that, for purposes of the proxy statement, a statement in a document incorporated by reference would be deemed to be modified or superseded by a statement in the proxy statement or in any other subsequently filed document(s) incorporated by reference. The rule also would provide (1) that the making of a modifying or superseding statement would not be deemed an admission that the first statement was false or misleading and (2) that the prior form of any statement so modified or superseded would not be deemed to constitute a part of the proxy statement.

C. Changes in and Disagreements With Accountants

The revisions to Item 14 of Schedule 14A and to Item 304 of Regulation S-K, Changes in and Disagreements With Accountants on Accounting and Financial Disclosure, adopted today,

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[1] 17 CFR 240.14a-1 through 240.14c-101.

[2] 15 U.S.C. 78a-78kk.

[3] 17 CFR 240.14a-1 through 240.14b-1.

[4] 17 CFR 240.14a-101.

[5] 17 CFR 239.25.

[6] 17 CFR 239.34.

[7] 17 CFR 229.304.

[8] As noted in companion Release No. 33-6676 ("companion release"), fn. p. 35 (Part II, V), if a preliminary proxy is filed meeting the requirements of Item 14 and the filing of a Form S-4 is contemplated for the transaction, the requirements of Form S-4 must be satisfied.

[9] The information required with respect to non-reporting companies will be amended to conform with Form S-4.

[10] 17 CFR 229.101.

The description of business currently required is the brief description required by Rule 14a-3 (17 CFR 240.14a-3) to be included in an annual report to security holders, updated to the filing of the definitive proxy statement, plus information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S-K.

[11] Currently, information relating to property required by Item 102 of Regulation S-K (17 CFR 229.102) is required only for any property involved in the plan.

[12] 17 CFR 229.103.

[13] *See* companion release, fn. p. 35 (Part II, V).

[14] 17 CFR 229.202.

[15] 17 CFR 230.412.

contain a potential ambiguity. Instruction 3 to Item 304 provides that the information required by Item 304 need not be provided for non-reporting companies being acquired by the registrant, while Item 14 specifies that Item 304 information is required for such persons. The Commission believes that Item 14 should control to assure that the financial disclosure required by paragraph (b) of Item 304 is provided. The Commission, however, does not believe it necessary to provide paragraph (a) information with respect to the acquired company and has so specified.[16]

D. Rule 14a–6, Filing Requirements

The proposed revision to Rule 14a–6 [17] would delete the language in paragraph (j) stating that a transaction involving an application or declaration under Public Utility Holding Company Act of 1935 [18] ("PUHCA") is exempt from the proxy solicitation filing fee, because that language is redundant. Rule 14a–2 [19] provides that Rules 14a–3 [20] to 14a–12 [21] do not apply to "any solicitation which is subject to Rule 62 [22] under the Public Utility Holding Company Act." [23] It also should be noted that as a PUHCA Rule 62 transaction is exempt from the Exchange Act proxy rules, an application or declaration under PUHCA would also be exempt from the filing fee requirements of Rule 14a–6(j).[24]

E. Timing of Sending Proxy Statement or Prospectus

Questions have been raised about the language in Note D.3. to Schedule 14A and Instruction A.2 of Form S–4 concerning the time when proxy statements and prospectuses must be sent to security holders when incorporation by reference is used. The Commission is proposing for comment revisions to this language which clarify that, if no meeting is held, the materials must be sent at least 20 business days prior to the date the votes, consents or authorizations may be used to effect the corporate action. The proposed changes will conform the language to that used in Rules 14a–3(b)(13),[25] 14a–13(a)(2),[26] and 14c–2(b).[27]

F. Corresponding Amendments

If Rule 14a–14 is adopted as proposed, technical amendments may be made to various proxy rules should they need references to Rule 14a–14.

II. Request for Comment

Any interested persons wishing to submit written comments on the proposed revision to the rules, as well as on other matters that might have an impact on the proposals contained herein, are requested to do so. The Commission also requests comment on whether the proposed rules, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a) [28] of the Exchange Act.

III. Cost-Benefit Analysis

To evaluate the benefits and costs associated with proposed amendments to Item 14 of Schedule 14A, Rule 14a–6, Item 304 of Regulation S–K, and Form S–4 and proposed New Rule 14a–14 the Commission requests commentators to provide views and data as to the costs and benefits associated with the rules conforming proxy statement disclosure for mergers and similar matters to that required for certain business combinations, clarifying disclosure requirements concerning changes in accountants in certain circumstances, deleting redundant language in the proxy statement fee regulation and addressing modified or superseded statements in documents incorporated by reference into the proxy statement. The Commission notes that certain of the proposals will not have an effect (Rule 14a–6 amendment and Rule 14a–14) on costs. Any increased costs associated with conforming the information required for mergers and similar transactions should be minimal as the information required is currently required of registrants in other contexts. The deletion of the requirement in specified circumstances of certain information related to changes in accountants will decrease costs to registrants.

IV. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis concerns proposed Rule 14a–14 and proposed amendments to Rule 14a–6, Item 14 of Schedule 14A, Item 304 of Regulation S–K and Form S–4. The analysis has been prepared by the Commission in accordance with 5 U.S.C. 604.

Reasons for, and Objectives of, the Proposals

Certain of the proposed amendments to Item 14, Mergers, Consolidations, Acquisitions and Similar Matters, of Schedule 14A, if promulgated, would require provision of additional items of information in connection with such transactions. The objective of the amendments is to conform the company-specific information required in the proxy context to that required in Form S–4 because the same types of transactions are subject to Item 14 and Form S–4 and require substantially similar decisions by security holders. The revisions also will cure an inconsistency in the requirements arising out of the different information delivery requirements.

Proposed Rule 14a–14, if promulgated, would govern the treatment of a statement in a document incorporated by reference in a proxy statement that is modified or superseded by a statement in the proxy statement or in another later-filed document also incorporated by reference in the proxy statement. The rule would provide that, for purposes of the proxy statement, a statement in a document incorporated by reference would be deemed to be modified or superseded by a statement in the proxy statement or in any other subsequently filed documents incorporated by reference therein. The rule also would provide that the making of a modifying or superseding statement would not be deemed an admission that the first statement was false or misleading and that any statement so modified or superseded would not be deemed in its prior form to constitute a part of the proxy statement. The objective of proposed Rule 14a–14 is to facilitate a registrant's ability to update information included in a document that is incorporated by reference in a proxy statement without requiring any

[16] A corresponding amendment has been proposed to Item 17 of Form S–4 to require only the information required by paragraph (b) of Item 304 in the same circumstances. In addition, the Commission is proposing to delete from Items 18 and 19 of Form F–4 the requirement to provide the information called for by Item 9 of Schedule 14A in order to make Form F–4 consistent with Forms F–1–2–3.

[17] 17 CFR 240.14a–6.

[18] 15 U.S.C. 79–79z–6.

[19] 17 CFR 240.14a–2.

[20] 17 CFR 240.14a–3.

[21] 17 CFR 240.14a–12.

[22] 17 CFR 250.62.

[23] PUHCA Rule 62(a) covers reorganizations subject to Commission approval and transactions that are the subject of applications or declarations filed with the Commission. Other public utility holding company solicitations are governed by PUHCA Rule 61, which provides that such solicitations are subject to Exchange Act Section 14(a).

[24] 17 CFR 240.14a–6(j).

[25] 17 CFR 240.14a–3(b)(13).

[26] 17 CFR 240.14a–13(a)(2).

[27] 17 CFR 240.14c–2(b).

[28] 15 U.S.C. 78w(a).

additional action by the registrant. The Commission believes that efforts to make disclosure to investors more meaningful and accurate are to be encouraged and the proposed rule is intended to further this goal.

Other proposed revisions to Item 14 of Schedule 14A and to Item 304 of Regulation S–K are intended to clarify a potential ambiguity between the two Items where a nonreporting company is being acquired by the registrant. The revised requirements, if promulgated, will no longer require certain information with respect to changes in accountants in these circumstances. Furthermore, the comparable provisions of Form S–4 will no longer require this information if the proposal is promulgated. This is consistent with the objective of other proposed changes to make comparable the requirements of Item 14 of Schedule 14A and Form S–4.

The proposed revision to Rule 14a–6 is intended to eliminate a redundancy in the proxy rules but will have no substantive effect.

Legal Basis

The proposed amendments would be promulgated pursuant to sections 6, 7, 10 and 19(a) of the Securities Act of 1933 and sections 14 and 23(a) of the Securities Exchange Act of 1934.

Small Entities Subject to the Rules

A small business for purposes of the Regulatory Flexibility Act is defined by Rule 0–10 under the Exchange Act.[29] The rule provides that, when used in reference to a registrant pursuant to the Exchange Act, small business means a registrant that, on the last day of its most recent fiscal year, had total assets of five million dollars or less. The proxy rules apply to proxy solicitations or information statements of registrants with securities either listed on a national securities exchange pursuant to section 12(b) or registered pursuant to section 12(g) of the Exchange Act.

The Commission estimates that 28 percent, or 2772, of the roughly 9900 issuers registered under section 12 are companies having total assets not exceeding five million. A small percentage of the 2772 registrants engage annually in transactions subject to Item 14 of Schedule 14A.

A small issuer for purposes of the Regulatory Flexibility Act is defined by Rule 157 [30] under the Securities Act as an issuer whose total assets on the last day of its most recent fiscal year were $5 million or less and that is engaged or proposing to engage in an offering of securities which does not exceed $5 million. In the recent experience of the Commission, several hundred registration statements a year may be filed with the Commission by small issuers, an even smaller number of those registration statements will be filed on Form S–4, and only certain of those filed on Form S–4 will involve the acquisition of a non-reporting company.

Reporting Recordkeeping and Other Compliance Requirements

The Commission believes that proposed Rule 14a–14 and the proposed amendments to Item 304 of Regulation S–K, Form S–4 and Item 14 of Schedule 14A would not result in any significant increase in reporting or recordkeeping requirements. With regard to the proposed increase in certain informational requirements of Item 14 to parallel those of Form S–4, in the event that a preliminary proxy statement is filed requiring Item 14 disclosure and the transaction contemplated requires a filing on Form S–4, the requirements of Form S–4 would have to be complied with in any event. In these circumstances the proposed change will have no impact.

Relatively few small entities annually will engage in transactions subject to Item 14 that would not also require a registration on Form S–4 and compliance with its higher requirements. With respect to those that would provide more information pursuant to the amendments to Item 14, if promulgated, the Commission believes that requiring the same information from all registrants for Item 14 transactions is preferable to exempting small entities from all or part of these requirements. Furthermore, the Commission notes that the information which will be required if the proposal is promulgated is information that the small entities are currently required to provide to the Commission in other contexts; it should not be unduly burdensome for those entities to provide the information to their security holders. The Commission, however, invites public comment on the appropriateness of extending an exemption to or providing for different compliance or reporting requirements for small entities.

Proposed Rule 14a–14 facilitates a registrant's ability to update information included in a document that is incorporated by reference in a proxy statement without requiring any additional action by the registrant and without imposing any additional reporting, recordkeeping or compliance requirements.

Item 14 of Schedule 14A, as adopted today, provides that, where a non-reporting company is being acquired by the registrant, all of the information called for by Item 304 of Regulation S–K with respect to changes in and disagreements with accountants must be disclosed. The proposed changes would specify in the instructions to Item 304 and in Item 14 that only the information called for by Item 304(b) need be provided. Further, the proposal, if promulgated, will reduce the requirement in Form S–4 to provide the information called for by Item 304 for non-reporting companies being acquired to a requirement only to provide the information required by Item 304(b).

The proposed technical revision to Rule 14a–6, if promulgated, will have no substantive effect and will thus not result in any additional reporting, recordkeeping or other compliance requirements.

Overlapping or Conflicting Federal Rules

The Commission does not believe that the proposed rules duplicate or conflict with any existing rule provisions.

Significant Alternatives

The Commission has requested comments on the appropriateness of extending an exemption to or providing different compliance or reporting requirements for small entities for transactions requiring compliance with Item 14 of Schedule 14A that would not otherwise involve registration on Form S–4. As noted, however, the Commission does not believe such different treatment would be warranted in light of the minor burden compliance would impose and the Commission's statutory mandate. Furthermore, the Commission believes that it is appropriate to conform the requirements of Item 14 and Form S–4 as they involve substantially the same decision by security holders.

In the Commission's view, Item 14 has aspects of both design and performance standards chosen to provide investors with the information they need to make informed investment decisions. Any greater emphasis on performance standards would likely neither benefit investors nor reduce significantly the burden of compliance.

Proposed Rule 14a–14 provides relief that any other approach is unlikely to provide.

Solicitation of Comments

The Commission encourages the submission of written comments with

[29] 17 CFR 240.0–10.
[30] 17 CFR 230.157.

respect to any aspect of this initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory flexibility analysis, if the proposed rule is adopted. Persons wishing to submit written comments should file four copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7- -86. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549

V. Statutory Basis and Text of Proposed Amendments Authority

The amendments to Item 304 of Regulation S-K, Form S-4, Form F-4 and to the proxy rules are being proposed by the Commission pursuant to sections, 6, 7, 10 and 19(a) of the Securities Act of 1933 and Sections 14 and 23(a) of the Securities Exchange Act of 1934.

List of Subjects in 17 CFR Parts 229, 239 and 240

Reporting and recordkeeping requirements, securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER THE SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY CONSERVATION ACT OF 1975—REGULATION S-K

1. The authority citation for Part 229 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 781, 78m, 78n, 781(d), 78w(a). * * *

2. Instruction 3 of § 229.304 is revised as follows.

§ 229.304 (Item 304) Changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

Instructions

1 * * *

2. * * *

3. The information required by Item 304(a) need not be provided for a company being acquired by the registrant that is not subject to the reporting requirements of either section 13(a) or 15(d) of the Exchange Act, or, because of section 12(i) of the Exchange Act, has not furnished an annual report to security holders pursuant to Rule 14a-3 or Rule 14c-3 for its latest fiscal year.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a *et seq.*, * * *

4. Section 239.25 is amended by revising general instruction A.2 and paragraph (b)(6) of Item 17 to read as follows [note that the text of Form S-4 does not appear in the Code of Federal Regulations]:

§ 239.25 Form S-4, for the registration of securities issued in business combination transactions.

* * * * *

Form S-4

* * * * *

General Instruction

A. Rule as to Use of Form S-4:

1. * * *

2. If the registrant meets the requirements of and elects to comply with the provisions in any item of this Form or Form F-4 (§ 239.34 of this chapter) that provides for incorporation by reference of information about the registrant or the company being acquired, the prospectus must be sent to the security holders no later than 20 business days prior to the date on which the meeting of such security holders is held or, if no meeting is held, at least 20 business days prior to the date the votes, consents or authorizations may be used to effect the corporate action. * * *

* * * * *

Part I Information Required in the Prospectus

* * * * *

Item 17. Information With Respect to Companies Other than S-2 or S-3 Companies

* * * * *

(b) * * *

(6) Item 304(b) of Regulation S-K, changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

5. Section 239.34 is amended by removing paragraph (a)(6) of Items 18 and 19 and by redesignating paragraph (a)(7) as (a)(6) and (a)(8) as (a)(7). [note that the text of Form F-4 does not appear in the Code of Federal Regulations]:

§ 239.34 Form F-4, for registration of securities of certain foreign private issuers issued in certain business combination transactions.

* * * * *

Form F-4

* * * * *

Part I Information Required in the Prospectus

* * * * *

Item 18. Information if Proxies, Consents or Authorizations Are To Be Solicited

(a) * * *

Instruction

The information specified in Item 4 of Form 20-F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 22 of Schedule 14A, vote required for approval;

(7) With respect to each person who will serve as a director or an executive officer * * *

* * * * *

Item 19. Information if Proxies, Consents or Authorizations Are Not To Be Solicited in an Exchange Offer

(a) * * *

Instruction

The information specified in Item 4 of Form 20-F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 22 of Schedule 14A, vote required for approval;

(7) With respect to each person who will serve as a director or an executive officer * * *

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

6. The authority citation for Part 240 continues to read, in part, as follows:

Authority: Sec. 23, 48 Stat. 901, as amended, 15 U.S.C. 78w. * * *

7. The introductory text of paragraph (j) of § 240.14a-6 is revised as follows:

§ 240.14a-6 Filing requirements.

* * * * *

(j) *Fees.* At the time of filing the preliminary proxy solicitation material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, shall

pay to the Commission the following applicable fee: * * *

* * * * *

8. By adding § 240.14a–14 to read as follows:

§ 240.14a–14 Modified or superseded documents.

(a) Any statement contained in a document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded, for purposes of the proxy statement, to the extent that a statement contained in the proxy statement or in any other subsequently filed document that also is or is deemed to be incorporated by reference modifies or replaces such statement.

(b) The modifying or superseding statement may, but need not, state it has modified or superseded a prior statement or include any other information set forth in the document that is not so modified or superseded. The making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement, when made, constituted an untrue statement of a material fact, an omission to state a material fact necessary to make a statement not misleading, or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business or artifice to defraud, as those terms are used in the Securities Act of 1933, the Securities Exchange Act of 1934 ("the Act"), the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, or the rules and regulations thereunder.

(c) Any statement so modified shall not be deemed in its unmodified form to constitute part of the proxy statement for purposes of the Act. Any statement so superseded shall not be deemed to constitute a part of the proxy statement for purposes of the Act.

9. Section 240.14a–101 is amended by revising Note D.3., and Item 14.(b)(3) (i) (A), (B), and (C), and (ii)(C); and by adding Item 14.(b)(3)(ii) (D) and (E) to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Note: A. * * *

B. * * *

C. * * *

D. * * *

3. If a document or portion of a document other than an annual report sent to security holders pursuant to the requirements of Rule 14a–3 (§ 240.14a–3 of this chapter) with respect to the same meeting or solicitation of consents or authorizations as that to which the proxy statement relates is incorporated by reference in the manner permitted by Item 13(b) or 14(b) of this schedule, the proxy statement must be sent to security holders no later than 20 business days prior to the date on which the meeting of such security holders is held or, if no meeting is held, at least 20 business days prior to the date the votes, consents or authorizations may be used to effect the corporate action.

* * * * *

Item 14. Mergers, Consolidations, Acquisitions and Similar Matters

* * * * *

(b). Information about the registrant and the other person.

* * * * *

(3) *Information with respect to registrants other than S–2 or S–3 registrants.*

(i) * * *

(A) Information required by Item 101 of Regulation S–K (§ 229.101 of this chapter), description of business.

(B) Information required by Item 102 of Regulation S–K (§ 229.102 of this Chapter), description of property.

(C) Information required by Item 103 of Regulation S–K (§ 229.103 of this chapter), legal proceedings.

* * * * *

(ii) * * *

(A) * * *

(B) * * *

(C) A brief description of the business done by the company which indicates the general nature and scope of the business;

(D) The information required by paragraphs (b)(3)(i) (D) and (F)–(H) of this Item and the information required by Item 304(b) of Regulation S–K (§ 229.304 of this chapter).

(E) Schedules required by Rules 12–15, 28 and 29 of Regulation S–X.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

November 10, 1986.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 6/Pub. L. 99-662

Water Resources Development Act of 1986. (Nov. 17, 1986; 192 pages) Price: $5.50

H.R. 5705/Pub. L. 99-663

Columbia River Gorge National Scenic Area Act. (Nov. 17, 1986; 29 pages) Price: $1.00

H.R. 5730/Pub. L. 99-664

Haida Land Exchange Act of 1986. (Nov. 17, 1986; 7 pages) Price: $1.00