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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2422, 2423, and 2429

Processing of Cases; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Final rules.

SUMMARY: Sections of Parts 2422, 2423, and 2429 concerning (1) computation of time for filing papers (§ 2429.24), and (2) the place and method of filing (§ 2429.24) are amended.

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT:
Harold D. Kessler, (202) 382-0715;
David L. Feder, Office of the General Counsel, Federal Labor Relations Authority, (202) 382-0834.

SUPPLEMENTARY INFORMATION: On September 23, 1986, the Federal Labor Relations Authority published proposed amendments to its rules and regulations (51 FR 33838) concerning computation of time for filing papers and place and method of filing. The Authority now adopts those proposed revisions as final amendments to §§ 2429.21 and 2429.24.

Several questions were raised about the effect of these changes on the time for a party to file documents after receipt from another party. The changed provision only establishes date of mailing as a filing date with the Authority. Section 2429.27 requiring service on parties, including the General Counsel/Regional Director where appropriate, to be by certified mail or in person is unchanged, as is the § 2429.22 provision for additional time for filing after service by mail.

A request for an extension of time under § 2429.23(a) is excluded from the revised regulation on computation of time for filing papers because it is essential that the existence of the request be known before a due date. This could not be controlled if a request were deemed filed on the date mailed.

With respect to the exclusion of filing of unfair labor practice charges under § 2423.6 and representation petitions under § 2422.21 from the revised regulation, of the nine Federal agencies and three labor organizations submitting comments on the proposed changes in the regulations, only one labor organization opposed the exclusion of the filing of unfair labor practice charges from the proposed change. The commenting labor organization did not oppose the exclusion of the filing of representation petitions from the proposed change. It was concluded that the method for determining the filing date of an unfair labor practice charge should be the same as that of a representation petition. Further, no commenting labor organization or agency has suggested that the method for determining when an unfair labor practice charge is filed for purposes of determining timeliness under 5 U.S.C. 7118(a)(4) has denied any persons of rights guaranteed under the Federal Service Labor-Management Relations Statute or has caused any hardship on parties filing unfair labor practice charges with the Regional Offices. Almost 8 years of experience of designating charges and representation petitions as having been filed when received by the Regional Offices has resulted in an established practice recognized by all participants in the Federal service labor-management relations program encompassing the sequential numbering of charges and petitions as received in the Regional Offices. No commenting labor organization or agency has provided any rationale for changing the method of determining when unfair labor practice charges and representation petitions are deemed to be filed. It was therefore concluded that changing the determination as to the filing date for unfair labor practice charges and representation petitions, and discarding the sequential numbering of charges and petitions as received in the Regional Office, would serve no purpose and possibly lead to confusion.

List of Subjects in 5 CFR Parts 2422, 2423, and 2429

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR is amended as follows:

PART 2422—REPRESENTATION PROCEEDINGS

1. The authority citation for Part 2422 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. 5 CFR Part 2422 is amended by adding § 2422.2(e)(4) to read as follows:

§ 2422.2 Contents of petition; procedures for consolidation of existing exclusively recognized units; filing and service of petition; challenges to petition.

* * * * *

(e) * * *

(4) A petition will be deemed to be filed when it is received by the appropriate Regional Director in accordance with the requirements in paragraphs (e) (1), (2), and (3) of this section.

* * * * *

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for Part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. 5 CFR Part 2423 is amended by adding § 2423.6(c) to read as follows:

§ 2423.6 Filing and service of copies.

* * * * *

(c) A charge will be deemed to be filed when it is received by the appropriate Regional Director in accordance with the requirements in paragraph (a) of this section.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

1. The authority citation for Part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. 5 CFR Part 2429 is amended by revising § 2429.21 to read as follows:

§ 2423.21 Computation of time for filing papers.

(a) In computing any period of time prescribed by or allowed by this

subchapter, except in agreement bar situations described in § 2422.3 (c) and (d) of this subchapter, and except as to the filing of exceptions to an arbitrator's award under § 2425.1 of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. *Provided, however,* in agreement bar situations described in § 2422.3 (c) and (d), if the 60th day prior to the expiration date of an agreement falls on Saturday, Sunday, or a Federal legal holiday, a petition, to be timely, must be filed by the close of business on the last official workday preceding the 60th day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations.

(b) Except when filing an unfair labor practice charge pursuant to § 2423.6 of this subchapter, a representation petition pursuant to § 2422.2 of this subchapter, and a request for an extension of time pursuant to § 2429.23(a) of this part, when this subchapter requires the filing of any paper with the Authority, the General Counsel, a Regional Director, or an Administrative Law Judge, the date of filing shall be determined by the date of mailing indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the Authority or the officer or agent designated to receive such matter.

(c) All documents filed or required to be filed with the Authority shall be filed in accordance with § 2429.24(a) of this subchapter.

3. 5 CFR Part 2429 is amended by revising § 2429.23(a) to read as follows:

§ 2429.23 Extensions; waiver.

(a) Except as provided in paragraph (d) of this section, and notwithstanding § 2429.21(b) of this subchapter, the Authority or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be in writing and received by the appropriate official not later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

* * * * *

4. 5 CFR Part 2429 is amended by revising § 2429.24 (a) and (e) to read as follows:

§ 2429.24 Place and method of filing; acknowledgment.

(a) All documents filed or required to be filed with the Authority pursuant to this subchapter s all be filed with the Director of Case Management, Federal Labor Relations Authority, Docket Room, 500 C Street SW., Washington, DC 20424 (telephone: FTS 382–0748; Commercial (202) 382–0748) between 8 a.m. and 5 p.m., Monday through Friday (except Federal holidays). Documents hand-delivered for filing must be presented in the Docket Room not later than 5 p.m. to be accepted for filing on that day.

* * * * *

(e) All documents filed pursuant to this section shall be filed in person or by mail.

* * * * *

Dated: December 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

John C. Miller,

General Counsel.

[FR Doc. 86–28608 Filed 12–19–86; 8:45 am]

BILLING CODE 6727–01–M

5 CFR Part 2423

Unfair Labor Practice Proceedings

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Authority and the General Counsel have decided not to adopt the regulation as proposed regarding the disclosure of witnesses and proposed exhibits ten (10) days prior to an unfair labor practice hearing. Rather, the Authority and General Counsel are adopting a modified version of the proposed regulation which requires that the exchange of witness lists and copies of proposed exhibits occur at a prehearing conference at the site of the unfair labor practice hearing just prior to the opening of the hearing, rather than ten (10) days prior to the opening of the hearing. Thus, § 2423.14 of the regulations is revised accordingly.

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: David L. Feder, (202) 382–0834.

SUPPLEMENTARY INFORMATION: On September 23, 1986, the Federal Labor Relations Authority and the General Counsel of the Authority published a proposed amendment to its rules and regulations (51 FR 33839). The proposed change required all parties to exchange proposed witness lists and documentary evidence ten (10) days prior to the opening of an unfair labor practice hearing (§ 2423.14).

One labor organization and eight agencies submitted comments on the proposed regulation. The vast majority of comments received opposed the regulation as proposed contending in essence that the expenditure of resources required to comply with the proposed regulation would not offset any compensating benefits derived from the proposed change. The commentators further suggested that the regulation as proposed would have the opposite effect of that intended in that it would raise more questions than it answers and would result in more complex hearings and burdened records regarding whether a particular witness or exhibit was known or was available more than ten (10) days prior to the hearing. Agencies commented that it would create an unfair advantage for the General Counsel.

In view of the comments received, the Authority and General Counsel have determined not to adopt the regulation as proposed regarding the disclosure of witnesses and proposed exhibits ten (10) days prior to an unfair labor practice hearing. Rather, the Authority and General Counsel adopting a modified version of the proposed regulation which alleviates the difficulties envisioned by the commenting agencies and labor organizations. Accordingly, the final regulation would require the exchange of witness lists and copies of proposed exhibits, with index, at a prehearing conference at the site of the unfair labor practice hearing just prior to the opening of the hearing. This proposal would alleviate the concerns of the commenting parties involving additional travel to the site of the unfair labor practice, unfair advantage to the General Counsel and collateral issues which may arise regarding compliance with the regulation as originally proposed. The modified regulation would still continue to afford the parties an opportunity to review all documentations to be submitted as exhibits prior to the commencement of the hearing thus facilitating the

introduction of evidence at the hearing, the original intent of the proposed regulation. Further, any issues concerning the calling of witnesses or introduction of exhibits not exchanged prior to the hearing would be subject to the discretion of the Administrative Law Judge presiding, as is the current practice concerning the calling of witnesses and introduction of evidence.

List of Subjects in 5 CFR Part 2423

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons set out in the preamble, 5 CFR Part 2423 is amended as follows:

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for Part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. 5 CFR 2423.14 is amended by revising the section heading, redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

§ 2423.14 Prehearing disclosure, Conduct of hearing.

(a) Parties will exchange proposed witness lists and copies of documents, with index, intended to be offered into evidence at the hearing at a prehearing conference at the site of the unfair labor practice hearing. The calling of witnesses or introduction of exhibits not exchanged prior to the hearing will be subject to the discretion of the Administrative Law Judge presiding.

* * * * *

Dated: December 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

John C. Miller,

General Counsel.

[FR Doc. 86-28612 Filed 12-19-86; 8:45 am]

BILLING CODE 6727-01-M

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5 CFR Part 2424

Expedited Review of Negotiability Issues

AGENCY: Federal Labor Relations Authority.

ACTION: Final rules.

SUMMARY: The Authority amends its rules concerning (1) the content of a petition for review of negotiability issues (§ 2424.4(a)(2)) and the filing of an incomplete petition for review (§ 2424.4(c)); and (2) the content of the agency statement of position (§ 2424.6(a)(3)).

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, (202) 382-0715.

SUPPLEMENTARY INFORMATION: On September 23, 1986, the Federal Labor Relations Authority published proposed amendments to its rules and regulations (51 FR 33845) concerning the content of a petition for review of an incomplete negotiability issue (§ 2424.4(a)(2)) and the filing of an incomplete petition for review (§ 2424.4(e)); (2) the content of the agency statement of position (§ 2424.6(a)(3)); and (3) procedures which the Authority may follow if the record created by the parties is not of sufficient quality to enable it to expeditiously reach a reasoned decision.

The comments received by the Authority with respect to the proposed regulations concerning settlement meetings and hearings to clarify deficient records generally reflected uncertainty or lack of confidence in the effectiveness of such procedures in resolving negotiability issues. In view of this widespread feeling that evidence is lacking to justify adopting the procedures at this time, the Authority has decided that the proposed regulations regarding them will not be implemented. Instead, the Authority has decided to develop an experimental project to assist parties in reaching voluntary settlements of negotiability disputes.

List of Subjects in 5 CFR Parts 2424

Administrative practice and procedures, Government employees, Labor-management relations.

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

1. The authority citation for 5 CFR Part 2424 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2424.4 is amended by revising paragraph (a)(2) and by adding paragraph (c) as follows:

§ 2424.4 Content of petition; service.

(a) * * *

(2) An explicit statement of the meaning attributed to the proposal by the exclusive representative including:

(i) Explanation of terms of art, acronyms, technical language, or any other aspect of the language of the proposal which is not in common usage; and

(ii) Where the proposal is concerned with a particular work situation, or other particular circumstances, a description of the situation or circumstances which will enable the Authority to understand the context in which the proposal is intended to apply;

* * * * *

(c) (1) Filing an incomplete petition for review will result in the exclusive representative being asked to provide the missing or incomplete information. Noncompliance with a request to complete the record may result in dismissal of the petition.

(2) The processing priority accorded to an incomplete petition, relative to other pending negotiability appeals, will be based upon the date when the petition is completed—not the date it was originally filed.

3. Section 2424.6 is amended by revising paragraph (a)(2) as follows:

§ 2424.6 Position of the agency; time limits for filing; service.

(a) * * *

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Authority to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal agency rule or regulation so relied upon. The statement shall include:

(i) Explanation of the meaning the agency attributes to the proposal as a whole, including any terms of art, acronyms, technical language or any other aspect of the language of the proposal which is not in common usage; and

(ii) Description of a particular work situation, or other particular circumstance the agency views the proposal to concern, which will enable the Authority to understand the context in which the proposal is considered to apply by the agency.

* * * * *

Dated: December 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

[FR Doc. 86-28609 Filed 12-19-86; 8:45 am]

BILLING CODE 6727-01-M

5 CFR Parts 2425 and 2429

Processing of Cases; Exceptions to Arbitration Awards

AGENCY: Federal Labor Relations Authority.

ACTION: Final rules.

SUMMARY: These amendments revoke § 2429.8 of the rules and regulations pertaining to the filing of requests for stays of arbitration awards; and add to § 2425.2 a requirement that the party filing exceptions to an award shall include the name and address of the arbitrator with the exceptions.

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Director, Office of Case Management, 500 C Street SW., Washington, DC 20424, (202) 382–0715.

SUPPLEMENTARY INFORMATION:

Stay of Arbitration Award. On September 23, 1986, the Federal Labor Relations Authority republished a proposal to revoke § 2429.8 which provided for the filing of requests for stays of arbitration awards (51 FR 33846). The Authority based the proposed action on its interpretation of 5 U.S.C. 7122(b), which provides that if an exception to an arbitration award is not filed with the Authority within the prescribed time period then the award becomes final and binding. The Authority interprets 5 U.S.C. 7122(b) to mean that if timely exceptions to an award are filed with the Authority then the award is not final and binding for compliance purposes until the Authority resolves the exceptions. The Authority therefore determined that if a party files timely exceptions to an award it is not necessary to also file a request for a stay of the award. Consequently, the Authority concluded that § 2429.8 of the rules and regulations governing such requests is unnecessary and should be revoked.

The agency commentators supported the proposed revision and recommended its adoption. The labor organization commentators disagreed with the Authority's interpretation of 5 U.S.C. 7122(b). They also indicated concern that revocation of the stay provision would lead to the filing of frivolous exceptions and contribute to delay in Authority resolution of arbitration cases. The labor organizations also expressed a preference for maintaining the Authority's stay procedures based on views of judicial and administrative agency practice.

These comments reflect a misunderstanding of the action proposed by the Authority. First, revocation of the stay request procedure will not create an automatic stay provision. An arbitration award to which timely exceptions have been filed is not final and binding for compliance purposes. There is no need to request a stay of an award that is not final and binding for compliance purposes. This conclusion is premised on the Authority's view of what Congress intended in the Statute. The plain language and legislative history of 5 U.S.C. 7122(b), as explained more fully in the September 23, 1986, notice of proposed amendments persuade the Authority that an arbitration award is not final and binding for compliance purposes until exceptions to the award are resolved.

Furthermore, the Authority has promptly denied and will continue to promptly deny all exceptions that fail to establish that an award is deficient on any of the grounds provided in 5 U.S.C. 7122(a). Prompt Authority action on exceptions should deter the filing of frivolous exceptions and avoid delays in the processing of cases. A recent examination of the Authority's arbitration case docket supports the view that the union's concern as to delay are unfounded. The Authority's arbitration case docket on October 1, 1986, was 71 cases, as compared to 248 cases on October 1, 1983. During Fiscal Year 1986, the average number of days to close an arbitration case was 189 days, as compared to 359 days during FY 1984. Accordingly, it does not appear that the Authority's case processing procedures will unduly delay arbitration awards from becoming final and binding for compliance purposes where appropriate under the Authority's view of section 7122(b). The Authority is also committed to resolving all other exceptions as expeditiously as possible and that commitment is not altered by revocation of the request procedures. In any event, it should be noted that such concerns would not properly govern an interpretation of the Statute. *AFGE* v. *FLRA*, 778 F.2d 80, 851, 861 n.17 (D.C. Cir. 1985).

Finally, the comments concerning judicial and other agency stay procedures are not persuasive. For example, one union asserted essentially that the Authority's view of stays of arbitration awards should be governed by the practice in this area concerning Merit Systems Protection Board (MSPB) decisions. It is argued that MSPB decisions must be expressly stayed pending judicial review in order for an agency to avoid being required to comply with the decision during the review process. Congress created provisions in section 7122(b) of the Statute concerning arbitration awards which are not found elsewhere. The language and legislative history concerning section 7122(b) of the Statute discussed above have no counterpart concerning MSPB decisions. In addition, any party to an arbitration award within the Authority's jurisdiction may obtain review of that award from the Authority under section 7122(b). Review of an MSPB decision, on the other hand, is restricted in the case of employer agencies to a petition for review by the Director of the Office of Personnel Management to the Federal Circuit under 5 U.S.C. 7703(d), which the court may in its discretion deny.

Furthermore, union claims that adoption of the proposed revocation would result in the Authority's occupying a unique status in terms of interlocutory stays of decisions under review are without merit. Various agency orders, including those of the National Labor Relations Board and the Authority, as well as private sector arbitration awards, are not self-enforcing and need not be stayed pending their review. In short, the Authority finds no support for the view that Congress intended the necessity for a stay provision for arbitration awards to be governed by MSPB or other administrative or judicial practice.

A union also contended that the procedures governing stays under Executive Order 11491 should continue to be followed under the Statute. The Authority does not find this argument persuasive. There are major differences between E.O. 11491 and the Statute concerning arbitration in the Federal sector. Most significantly, there was no provision in the Executive Order comparable to section 7122(b) of the Statute. We believe that the differences clearly indicate Congress' intent that the practice followed under E.O. 11491 must be changed.

Content of exception. The Authority proposed to amend § 2425.2 to require that a party filing exceptions to an arbitration award must include the name and address of the arbitrator with the exceptions. The Authority proposed to add the requirement to enable the Authority to mail a copy of its decision on the exceptions in each case to the arbitrator. Only one comment was received expressing no objection on the proposed amendment. The Authority has decided to adopt the amendment as proposed.

List of Subjects in 5 CFR Parts 2425 and 2429

Administrative practice and procedure, Government employees, Labor-management relations.

Accordingly, the final rules and regulations of the Authority are amended as follows:

PART 2425—REVIEW OF ARBITRATION AWARDS

1. The authority citation for 5 CFR Parts 2425 and 2429 continues to read:

Authority: 5 U.S.C. 7134.

2. Section 2425.2(e) is added to read as follows:

§ 2425.2 Contents of exceptions.

* * * * *

(e) The name and address of the arbitrator.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

§ 2429.8 [Removed and Reserved]

Section 2429.8 is removed and reserved.

Dated: December 17, 1986.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

[FR Doc. 86-28610 Filed 12-19-86; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices; Extension of Compliance Deadline

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: On June 16, 1986, the Board of Directors of the FDIC granted the request of several petitioners that the FDIC reconsider the provisions of the FDIC's rule governing securities subsidiaries and affiliates of insured nonmember banks which deal with the use of a common name or logo and separate offices. A request for comment on whether or not these provisions should be retained, modified, or eliminated was published in the **Federal Register** on August 20, 1986. Insured nonmember banks that prior to December 28, 1984 became affiliated with a securities company, or prior to that date established or acquired a subsidiary that engages in securities activities, are presently required to comply with the common name or logo and separate office restrictions of the regulation by December 31, 1986. The Board of Directors is extending the compliance deadline with these provisions of the regulation until June 30, 1987 for institutions currently subject to the December 31, 1986 deadline in order to provide staff further time to consider the comments and formulate a recommendation to the Board of Directors.

EFFECTIVE DATE: December 16, 1986.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division, (202) 898-3743, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On November 19, 1984, the FDIC adopted § 337.4 of its regulations (12 CFR 337.4) (49 FR 46722, November 28, 1984), governing certain securities activities of subsidiaries of insured nonmember banks and the affiliation of insured nonmember banks with certain types of securities companies. The regulation requires, among other things, that certain securities subsidiaries meet the definition of "bona fide subsidiary." That definition in turn requires, among other things, that a bank and its securities subsidiary must operate out of separate offices that share no common entrance if the subsidiary engages in securities activities prohibited to the bank by the Glass-Steagall Act. The subsidiary is also prohibited from sharing a common name or logo with the bank. The regulation imposes similar requirements upon a bank affiliated with a securities company if that securities company conducts securities activities that would be prohibited to the bank by the Glass-Steagall Act. Banks that were affiliated with such a securities company prior to December 28, 1984, or that established or acquired such a securities subsidiary prior to December 28, 1984, were required to comply with the name and office restrictions as soon as practicable, but not more than one year from December 28, 1984 without the FDIC's consent.

In December 1985 several banks filed petitions with the FDIC requesting that the FDIC reconsider the requirement in the regulation that a bank and its securities subsidiary or affiliate must have separate offices that share no common entrance and the prohibition on the use by a bank of a common name or logo with its securities subsidiary or affiliate. In order to permit sufficient time for the FDIC to fully consider the petitions, the Board of Directors extended the above-described compliance deadline with the common name and separate office provisions of the regulation until June 30, 1986. (51 FR 880, January 9, 1986). Inasmuch as staff has not yet completed its review of the comments, the Board of Directors voted to extend the compliance deadline for another six months (June 30, 1987) which time should permit staff to prepare its recommendation for the Board of Director's consideration.

On June 16, 1986 the Board of Directors granted the request to reconsider the common name or logo prohibition and the separate office and separate entrance requirement. A document soliciting comment on whether or not to modify or retain these restrictions was published for public comment on August 20, 1986. (51 FR 29657). At the same meeting, and in conjunction with its vote to solicit public comment, the Board of Directors voted to extend the June 30, 1986 compliance deadline for the name and office restrictions until December 31, 1986 for institutions with preexisting affiliate and subsidiary relationships. (51 FR 23405, June 27, 1986). Inasmuch as staff has not yet completed its review of the comments and formulated a recommendation to the Board of Directors, the Board of Directors' voted to extend the compliance deadline until June 30, 1987 which time should permit staff to prepare its recommendation for the Board of Directors' consideration.

In accordance with 5 U.S.C. 553, the FDIC has found that prior notice and a delayed effective date with respect to this amendment are unnecessary as the amendment delays the imposition of requirements that are already imposed by existing regulation. Since the amendment only provides for an extension of time for compliance with certain portions of the regulation and imposes no burden upon banks, securities affiliates or the public, it is not subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) or the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 12 CFR Part 337

Banks, banking, Securities, State nonmember banks.

In consideration of the foregoing, the FDIC hereby amends Part 337 of Title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 continues to read as follows:

Authority: Sec. 6, 64 Stat. 876, 12 U.S.C. 1816; sec. 8(a), section 2[8(a)] of the Act of September 21, 1950, [Pub. L. No. 797; 64 Stat. 897), effective September 21, 1950, as amended by section 204 of title II of the Act of October 16, 1966 (Pub. L. No. 89-695; 80 Stat. 1054), effective October 16, 1966; section

6(c)(14) of the Act of September 17, 1978 (Pub. L. No. 95-396; 92 Stat. 618), effective September 17, 1978; and section 113(g) of title I of the Act of October 15, 1982 (Pub. L. No. 97-320; 96 Stat. 1473 and 1474), effective October 15, 1982; 12 U.S.C.1818(a); sec. 8(b), section 2[8(b)] of the Act of September 21, 1950 (Pub. L. No. 797), as added by section 202 of title II of the Act of October 16, 1966 (Pub. L. No. 89-695; 80 Stat. 1046), as amended by section 110 of title I of the Act of October 28, 1974 (Pub. L. No. 93-495; 88 Stat. 1506), section 11 of the Act of September 17, 1978 (Pub. L. No. 95-369; 92 Stat. 624); sections 107(a)(1) and 107(b) of title I of the Act of November 10, 1978 (Pub. L. No. 95-630; 92 Stat. 3649 and 3653); and sections 404(c), 425(b) and 425(c) of title IV of the Act of October 15, 1982 (Pub. L. 97-320; 96 Stat. 1512 and 1524); 12 U.S.C. 1818(b); sec. 9, 64 Stat. 881-882, 12 U.S.C. 1819; sec. 18(j)(2), 92 Stat. 3664, 12 U.S.C. 1828(j)(2), sec. 422, 96 Stat. 1469 (Pub. L. No. 97-320); sec. 11(a), section 2[11(a)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 884), effective September 21, 1950 as amended by section 301(c) of title III of the Act of October 16, 1966 (Pub. L. No. 89-695; 80 Stat. 1055), effective October 16, 1966; section 7(a)(3) of title I of the Act of December 23, 1969 (Pub. L. No. 91-151; 83 Stat. 375), effective December 23, 1969; sections 101(a)(3) and 102(a)(3) of title I of the Act of October 28, 1974 (Pub. L. No. 93-495; 88 Stat. 1500 and 1502), effective November 27, 1974; section 1401(a) of title XIV of the Act of November 10, 1978 (Pub. L. No. 95-630; 92 Stat. 3712), effective March 10, 1979; section 323 of title III of the Act of December 21, 1979 (Pub. L. No. 96-153; 93 Stat. 1120); section 308 of title III of the Act of March 31, 1980 (Pub. L. No. 96-221; 94 Stat. 147), effective March 31, 1980; and section 103 of title I of the Act of December 26, 1981 (Pub. L. No. 97-110; 95 Stat. 1541), effective December 26, 1981; sec. 11(f), section 2[11(f)] of the Act of September 21, 1950 (Pub. L. 797; 64 Stat. 885), effective September 21, 1950, as amended by section 6(c)(20) of the Act of September 17, 1978 (Pub. L. No. 95-369; 92 Stat. 619), effective September 17, 1978, 12 U.S.C. 1821(f).

2. Part 337 is amended by revising paragraph (h)(3) of § 337.4 to read as follows:

§ 337.4 Securities activities of subsidiaries of insured nonmember banks: Bank transactions with affiliated securities companies.

* * * * *

(h) * * *

(3) An insured nonmember bank described in § 337.4(h)(1) shall comply with the requirements imposed by § 337.4(a)(2)(ii) and (iii) and by § 337.4(c)(1) and (5) as soon as practicable (but not later than June 30, 1987 without the FDIC's consent).

* * * * *

By Order of the Board of Directors.

Dated at Washington, DC, this 16th day of December 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-28639 Filed 12-19-86; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-218-AD, Amdt. 39-5496]

Airworthiness Directives; De Havilland DHC-8-101 and -102 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to de Havilland Model DHC-8-101 and -102 airplanes, which requires inspection of the fore rudder upper and lower mounting brackets and spar web for cracks, modification of mounting brackets and repair of the spar web if necessary. This amendment is prompted by recent reports of cracked upper mounting brackets. This condition, if not corrected, could result in failure of the main hinge portion of the fore rudder mounting bracket and/or loss of the structural integrity of the rear spar.

EFFECTIVE DATE: January 5, 1987.

ADDRESSES: The applicable service information may be obtained from the de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Vito A. Pulera, Aerospace Engineer, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: There have been recent reports of cracks in the fore rudder upper mounting brackets on de Havilland DHC-8-100 series airplanes. The mounting brackets, upper and lower, are attached to the fin rear spar. Each mounting bracket has two hinges attached to it. Cracks have been discovered at the lower portion of the upper bracket where it attaches to the spar. The cracking has been attributed to the use of thin material at the mounting bracket attachment point to the spar chord. This condition, if not corrected, could result in failure of the main hinge portion of the fore rudder mounting bracket and/or loss of the structural integrity of the fin rear spar.

The manufacturer has issued Service Bulletin Number 8-55-7, dated October 3, 1986, which describes the inspections, modifications and repair of the mounting brackets. It does not describe the repair to the spar web. Transport Canada, which is the airworthiness authority of Canada, is currently drafting a Canadian airworthiness directive to require compliance with the service bulletin.

This airplane is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this situation is likely to exist or develop on other airplanes of this same type design, this AD requires inspection of the mounting brackets (upper and lower) for cracks, in accordance with the accomplishment instructions of the service bulletin previously mentioned, and reinforcement of the mounting bracket by installation of de Havilland Modification 8/0647. If a mounting bracket is cracked, the upper spar web in the vicinity of the upper bracket must be inspected for cracks; cracked spar webs must be replaced before further flight with a new spar web or installation of an FAA-approved repair.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, 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 document involves an emergency regulation under the Department of Transportation 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 is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

De Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd.: Applies to all Model DHC–8–101 and –102 series airplanes, certificated in any category, equipped with upper and lower fore rudder mounting brackets, P/N's 85530097–105 and –107. Compliance required as indicated, unless previously accomplished.

To prevent the failure of the fore rudder upper and lower mounting brackets and fin rear spar web, accomplish the following:

A. Within the next 100 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 200 hours time-in-service, conduct a visual inspection of the upper and lower fore rudder mounting brackets in accordance with the Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin No. 8–55–7, dated October 3, 1986.

1. If cracks are found in the mounting brackets, prior to further flight:

a. Conduct a visual inspection of the upper spar web for cracks in the vicinity of the mounting brackets in accordance with the Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin No. 8–55–7, dated October 3, 1986.

b. Reinforce the fore rudder mounting brackets by installing de Havilland Modifications 8/0647 in accordance with the Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin No. 8–55–7, dated October 3, 1986.

2. If, after accomplishing the visual inspection required by paragraph A.1.a. above, cracks are found in the spar web, prior to further flight, replace the racked spar web with a new web in accordance with de Havilland Dash 8 Maintenance Manual (PSM 1–8–2), or accomplish an FAA-approved repair.

B. Within 500 hours time-in-service after the effective date of this AD, install de Havilland Modification 8/0647 in accordance with the Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin No. 8–55–7, dated October 3, 1986. Prior to installation of Modification 8/0647, conduct the visual insepctions required by paragraph A., above, and perform the repair required by paragraph A.2., above, if necessary.

C. Incorporation of de Havilland Modification 8/0647 constitutes terminating action for the repetitive inspection of paragraph A., above.

D. An alternative means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

E. 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 information from the manufacturer may obtain copies upon request to The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada Ltd., Downsview, Ontario M3K 1Y5, Canada.

These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective January 5, 1987.

Issued in Seattle, Washington, on December 12, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–28593 Filed 12–19–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–AEA–11]

Designation of Transition Area, College Park, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will designate a 700 foot transition area at College Park, MD. A new RNAV instrument approach procedure has been developed to the College Park, MD, Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace and Planning Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

SUPPLEMENTARY INFORMATION:

History

On September 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at College Park, MD, to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR). (50 FR 38012). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. The FAA received comments on the proposed RNAV approach. Commenters expressed concern that additional air traffic could be accommodated by air traffic approach control based upon their belief that air traffic in the proposed location was too great to accommodate the approach. The FAA believes that such a point argues strongly for the establishment of controlled airspace rather than the converse. The FAA recognizes that some delays are expected. However, delays caused by a new procedure are transitory in nature in that actual delays will be reduced as pilots and controllers become familiar with the approach procedure. For these reasons, the FAA finds that this action would be in the best public interest. Except for editorial changes, this amendment is the same as that proposed in the notice Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area at College Park, MD. The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

2. Section 71.181 is amended as follows:

College Park, MD [NEW]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the College Park Airport (lat. 38°58'50" N., long. 76°55'22" W.); and within two miles each side of a 330° bearing from the airport extending from the five mile radius to seven miles northwest of the airport, excluding that portion which overlaps the Washington, DC, and Baltimore, MD, transition area.

Issued in Jamaica, New York, on February 2, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 86-28591 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AEA-5]

Designation of Transition Area, Sutton, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will designate a 700 foot transition area at Sutton, WV. A new NDB instrument approach procedure has been developed to the Braxton County, WV Airport. The transition area will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace and Planning Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

History

On November 8, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Braxton County, WV. This action was taken to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR) (50 FR 46452). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a 700 foot transition area at Braxton County, Sutton, WV. The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

2. Section 71.181 is amended as follows:

Sutton, WV [New]

That airspace extending upward from 700 feet above the surface within an eight statute mile radius of the center (lat. 38°41'00" W., Long. 80°39'02" W.), of the Braxton County, WV Airport.

Issued in Jamaica, New York, on February 2, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 86-28592 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWP-32]

Revision to Livermore, CA, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the description of the Livermore, California, transition area and extends the 700 foot transition area to the southeast of the Livermore Municipal Airport, California. This will provide controlled airspace for aircraft executing the Instrument Landing System (ILS) Runway 25 approach to the Livermore Municipal Airport.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

History

On October 17, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Livermore, California, transition area (51 FR 37042). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Livermore, California, transition area and extends the 700 foot transition area to the southeast of the Livermore Municipal Airport, California. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Livermore, CA—[Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 37°44'00" N., long. 121°52'00" W.; to lat. 37°48'15" N., long 121°40'00" W.; to lat. 37°41'30" W., long 121°34'00" W.; to lat. 37°37'15" N., long. 121°32'00" W., to lat. 37°38'00" N., long. 121°52'00" W.; thence, to the point of beginning.

Issued in Los Angeles, California, on December 9, 1986.

James A. Holweger,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-28585 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 3

Temporary Licenses for Guaranteed Introducing Broker Applicants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted amendments to Part 1 and Part 3 of its regulations to authorize the National Futures Association ("NFA") to issue temporary licenses to apparently qualified applicants for registration with the Commission as an introducing broker, on essentially the same terms that temporary licenses currently may be issued to applicants for registration as an associated person of a Commission registrant.

EFFECTIVE DATE: January 2, 1987.

FOR FURTHER INFORMATION CONTACT: Michael A. Watkins, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On November 10, 1986, the Commission published in the **Federal Register** proposed amendments to Part 3 of the Commission's regulations, 17 CFR Part 3 (1986), to authorize the National Futures Association to issue temporary licenses to apparently qualified applicants for registration with the Commission as an introducing broker. 51 FR 40814. This authorization is limited to introducing broker applicants guaranteed by a futures commission merchant ("FCM") pursuant to § 1.10(j) of the Commission's regulations, 17 CFR 1.10(j) (1986). The Commission's proposal authorizes temporary licenses for applicants for registration as an introducing broker on essentially the same terms as those governing the issuance of temporary licenses to associated persons of Commission registrants.

As explained in the **Federal Register** release accompanying the proposed amendments, by letter dated August 28, 1986, NFA had submitted for Commission approval, pursuant to section 17(j) of the Commodity Exchange Act ("Act"), 7 U.S.C. 21(j) (1982), proposed amendments to NFA Bylaw 305, Schedule A, Section I for this same purpose. The Commission reviewed the proposed NFA rule amendments, and additional information provided by NFA in connection therewith, and was satisfied that the amendments are consistent with the bases for issuing temporary licenses as adopted by the Commission. However, because current Commission regulations permit the issuance of temporary licenses only to applicants for registration as an associated person,[1] NFA rules authorizing the issuance of temporary licenses for introducing broker applicants would conflict with Commission regulations. In addition, the NFA amendments provide that a guarantee agreement will become effective upon the issuance of a temporary license to an introducing broker applicant, in conflict with the provisions of Commission rule § 1.10(j)(3), 17 CFR 1.10(j)(3) (1986), which provides, among other things, that the guarantee agreement will become effective upon registration being granted to the introducing broker. Therefore, the Commission's own rules in this regard must be amended before the proposed rules submitted by NFA can be approved by the Commission. *See* 51 FR 40815.

The Commission received no comments on its proposed rules. After careful consideration, the Commission has determined to adopt the proposed rules essentially as proposed, with one exception.[2] As noted above, the NFA amendments provide that a guarantee agreement will become effective upon the issuance of a temporary license to an introducing broker applicant, in conflict with the provisions of Commission rule § 1.10(j)(3), which provide that the guarantee agreement will become effective upon registration being granted. The Commission had proposed to resolve this conflict in proposed rule § 3.44(b). Upon reconsideration, however, the Commission has determined to amend rule § 1.10(j)(3) directly.[3]

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[1] *See* Commission rules §§ 3.40 through 3.43, 17 CFR 3.40-3.43 (1986).

[2] Concurrently, the Commission has approved the amendments to NFA Bylaw 305, Schedule A, Section I, as proposed by NFA. The Commission has been advised that NFA will implement its program to issue temporary licenses to guaranteed introducing broker applicants after January 1, 1987. NFA will separately notify its members of the effective date of this program.

[3] As amended, therefore, Commission rule § 1.10(j)(3) provides in pertinent part:

A guarantee agreement filed in connection with an application for initial registration as an introducing broker in accordance with the provisions of § 3.15(a) of this chapter shall become effective upon the granting of registration or, if appropriate, a temporary license, to the introducing broker. A guarantee agreement filed other than in connection with an application for initial registration as an introducing broker shall become effective as of the date agreed to by the parties.

I. Related Matters

A. Paperwork Reduction Act

The Commission previously submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), an explanation and details of the information collection and recordkeeping requirements which would be necessary to implement these proposals. Part 3 of the Commission's regulations has previously been assigned OMB control number 3038–0023.

Copies of the OMB information collection submission associated with this rule may be obtained from Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503. Telephone: (202) 395–7231.

B. Regulatory Flexibility Act

The Commission has previously determined that futures commission merchants should not be considered small entities for purposes of the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* Specifically, the Commission found that with respect to FCMs, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCM's meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[4] Accordingly, the requirement of the RFA do not apply to FCMs. Moreover, when the Commission first adopted rules governing introducing brokers, it stated that it would "evaluate within the context of a particular rule proposal whether all or some introducing brokers should be considered to be small entities and, if so, to analyze the economic impact on introducing brokers of any such rule at the time."[5] In this connection, these rules impose no additional requirements on applicants for registration as an introducing broker. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

C. Effective Date

Section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(d), provides that rules promulgated by an agency may not be made effective less than thirty days after publication in the **Federal Register** except, *inter alia*, "a substantive rule which grants or recognizes an exemption or relieves a restriction." In proposing these amendments, the Commission stated that, because they essentially relieved a restriction, the Commission may determine that the amendments may take effect on less than thirty days notice. In this connection, NFA has advised the Commission that it will be prepared to issue temporary licenses shortly after January 2, 1987. Therefore, the Commission, pursuant to 5 U.S.C. 553(d), has determined that these rules shall take effect on that date.

List of Subjects

17 CFR Part 1

Contract markets, Futures commission merchants, Guarantee agreements, Guaranteed accounts, Introducing brokers, Minimum financial requirements, Standard fluctuation factor.

17 CFR Part 3

Registration requirements, Conditional registration, Temporary licenses, Statutory disqualifications, Authority delegations, Fingerprinting, Associated persons, Floor brokers, Introducing brokers, Commodity trading advisors, Commodity pool operators, Futures commission merchants, Leverage transaction merchants, Petitions for review.

In consideration of the foregoing, the Commission hereby amends Part 1 and Part 3 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: Secs. 2(a)(1), 2(a)(2), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 5, 5a, 6(a), 8a, 6b, 6c, 6d, 15, 17 and 19 of the Commodity Exchange Act, 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 12a, 13a, 13a-1, 13a-2, 19, 21 and 23.

2. Section 1.10 is amended by revising paragraph (j)(3) to read as follows:

§ 1.10 Financial reports of Futures Commission merchants and introducing brokers.

* * * * *

(j) * * *

(3) A guarantee agreement filed in connection with an application for initial registration as an introducing broker in accordance with the provisions of § 3.15(a) of this chapter shall become effective upon the granting of registration or, if appropriate, a temporary license, to the introducing broker. A guarantee agreement filed other than in connection with an application for initial registration as an introducing broker shall become effective as of the date agreed to by the parties.

* * * * *

PART 3—REGISTRATION

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

Authority: Secs. 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15, 17 and 19 of the Commodity Exchange Act, 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23 (1982).

4. Sections 3.44 through 3.47 are added to Subpart B to read as follows:

Subpart B—Temporary Licenses

* * * * *

§ 3.44 Temporary licensing of applicants for guaranteed introducing broker registration.

(a) Notwithstanding any other provisions of these regulations, and pursuant to the terms and conditions of this subpart, the National Futures Association may grant a temporary license to any applicant for registration as an introducing broker upon the contemporaneous filing with the National Futures Association of:

(1) A properly completed guarantee agreement (Form 1–FR Part B) from a futures commission merchant which is eligible to enter into such an agreement pursuant to § 1.10(j)(2) of this chapter;

(2) A Form 7–R properly completed in accordance with the instructions thereto, the Disciplinary History portion of which contains no "Yes" answers indicating that the applicant may be subject to a statutory disqualification under sections 8a(2) through 8a(4) of the Act;

(3) A Form 8–R for the applicant, if a sole proprietor, and each principal (including each branch office manager) thereof, properly completed in accordance with the instructions thereto, the Disciplinary History portion of which contains no "Yes" answers indicating that the applicant may be subject to a statutory disqualification under sections 8a(2) through 8a(4) of the Act;

(4) A signed and dated certification from the futures commission merchant that has executed the guarantee agreement required by paragraph (a)(1) of this section, signed by an appropriate person as defined in § 1.10(j)(1) of this chapter, stating that:

(i) The futures commission merchant has verified the information on the

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

[5] *See* 48 FR 35248, 35276 (August 3, 1983).

Forms 8–R filed pursuant to paragraph (a)(3) of this section which relate to education and employment history of the applicant's principals (including each branch office manager) thereof during the preceding five years; and

(ii) To the best of the futures commission merchant's knowledge, information, and belief, all of the publicly available information supplied by the applicant and its principals and each branch office manager of the applicant on the Form 7–R and Forms 8–R, as appropriate, is accurate and complete; and

(5) The fingerprints of the applicant, if a sole proprietor, and of each principal (including each branch office manager) thereof on fingerprint cards provided by the National Futures Association for that purpose: *Provided,* That a principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association is not required to submit a fingerprint card if the principal is not otherwise required to be registered as an associated person of the applicant.

(b) The effective date of a guarantee agreement filed in accordance with paragraph (a)(1) of this section is the date upon which the temporary license is granted by the National Futures Association.

(c) An applicant that fails to respond timely to a request by the National Futures Association for clarification or explanation of any information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card will be deemed to have withdrawn its registration application and the temporary license issued to such applicant and any associated person thereof shall terminate immediately.

§ 3.45 Restrictions upon activities.

(a) Subject to the provisions of § 3.46 of this subpart and all of the obligations imposed on such registrants under the Act (in particular, section 14 thereof) and the rules, regulations and orders thereunder, an applicant for registration as an introducing broker who has received written notification that a temporary license has been granted may act in the capacity of a guaranteed introducing broker.

(b) An applicant for registration as an introducing broker who has received a temporary license may be guaranteed by a futures commission merchant other than the futures commission merchant which provided the initial guarantee agreement described in § 3.44(a)(1) of this subpart: *Provided,* That, at least 10 days prior to the effective date of the termination of the existing guarantee agreement in accordance with the provisions of § 1.10 (j)(4)(ii) or (j)(5) of this chapter, or such other period of time as the National Futures Association may allow for good cause shown, the applicant files with the National Futures Association (1) written notice of such termination and (2) a new guarantee agreement with another futures commission merchant effective the day following the last effective date of the existing guarantee agreement.

§ 3.46 Termination.

(a) A temporary license shall terminate:

(1) Five days after service upon the applicant of a notice by the National Futures Association that the applicant for registration may be found subject to a statutory disqualification from registration; or

(2) Immediately upon termination of the applicant's guarantee agreement in accordance with § 1.10(j)(4)(ii) or (j)(5) of this chapter, unless a new guarantee agreement is filed in accordance with § 3.45(b) of this subpart; or

(3) Upon failure of an applicant to respond timely to a request by the National Futures Association for clarification of information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card pursuant to § 3.44(c) of this subpart.

(b) Upon termination, the applicant may not engage in any activity which requires registration as an introducing broker.

§ 3.47 Relationship to registration.

(a) A temporary license shall not be deemed to be a registration or to confer any right to such registration.

(b) Unless a temporary license has terminated, a temporary license shall become a registration upon the earlier of:

(1) A determination by the National Futures Association that the applicant is qualified for registration as an introducing broker; or

(2) The expiration of six months from the date of its issuance.

§§ 3.48 through 3.49 [Reserved]

Issued in Washington, DC on December 16, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–28599 Filed 12–19–86; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 111, 171, and 178

[T.D. 86–161]

Customs Regulations Amendments Relating to Customs Brokers; Correction

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 86–19256, published as T.D. 86–161 on August 26, 1986 (51 FR 30336), Parts 111, 171 and 178, Customs Regulations (19 CFR Parts 111, 171, 178), were extensively revised to implement the statutory changes made by the Trade and Tariff Act of 1984, relating to customs brokers. Corrections were made to T.D. 86–161 on September 5, 1986, in 51 FR 31760, on September 10, 1986, in 51 FR 32208 and on October 9, 1986, in 51 FR 36221. It has come to our attention that another correction is necessary. On page 30346 of T.D. 86–161, it states that § 171.12(b), Customs Regulations (19 CFR 171.12(b)), is amended by removing the words "paragraph (c)" and inserting, in their place, "paragraph (c) or (d)".

It has now been determined that this change is unnecessary because of another change to § 171.12. By T.D. 85–195, published in the **Federal Register** on December 10, 1985 (50 FR 50287), various sections in Parts 162 and 171, Customs Regulations (19 CFR Parts 162, 171), relating to fines, penalties, and forfeiture procedures, were amended. One of the changes made by T.D. 85–195 was to revise § 171.12 in its entirety. As revised, § 172.12(b) no longer contains a reference to paragraph (c).

Accordingly, the change made to § 171.12(b) by T.D. 86–161, which cannot now be made because of the change made by T.D. 85–195, is no longer needed.

To avoid any further confusion in this regard, the change made to § 171.12(b) by T.D. 86–161, is withdrawn.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter or Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch (202–566–5765).

Dated: December 16, 1986.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 28623 Filed 12–19–86; 8:45 am]

BILLING CODE 4820–02–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 200

[T.D. ATF-244, RE: Notice No. 597]

Rules of Practice in Permit Proceedings

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

ACTION: Treasury decision, final rule.

SUMMARY: This final rule amends the regulations for conducting permit proceedings. The amendments will provide a more efficient use of agency and administrative law judge (ALJ) time in uncontested proceedings. The amendments will also require that an appeal to the Director be made prior to court review of agency action.

EFFECTIVE DATE: January 21, 1987.

FOR FURTHER INFORMATION CONTACT: Bradley A. Buckles, Office of Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202) 566-7774.

SUPPLEMENTARY INFORMATION:

Background

Under current regulations, all citations for suspension, revocation, or annulment of permits held by the regulated industry are referred to an ALJ for a hearing. A hearing is held even if the proceeding is uncontested and the permit holder or applicant does not appear. In May 1985, the ALJ position in ATF became vacant and ATF has elected not to fill this position.

Current regulations also permit, but do not require, an appeal to be taken to the Director from an initial decision of an ALJ or regional director (compliance).

Notice of Proposed Rulemaking

In the interests of administrative consistency and judicial economy and to provide a mechanism to expedite treatment of uncontested proceedings, ATF published a notice of proposed rulemaking on July 3, 1986 [Notice No. 597, 51 FR 24383]. During the comment period, which closed August 4, 1986, no comments were received. Accordingly, this document amends Part 200 as published in the notice.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

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

Executive Order 12291

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

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

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

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

Paperwork Reduction Act

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

Drafting Information

The principal author of this document is Bradley A. Buckles, Office of Chief Counsel, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 200

Administrative practice and procedure, Alcohol and alcoholic beverages, Tobacco.

Authority

PART 200—[AMENDED]

27 CFR Part 200—Rules of Practice in Permit Proceedings is amended as follows:

Paragraph 1. The authority citation for Part 200 is revised to read as follows:

Authority: 26 U.S.C. 7805, 27 U.S.C. 204.

Par. 2. The table of contents for 27 CFR Part 200 is amended to reflect the addition of §§ 200.63 and 200.107a, and the revision in the titles of § 200.60, § 200.71, and § 200.118 to read as follows:

Sec.

* * * * *

200.60 Suspension, revocation, or annulment proceedings.

* * * * *

200.63 Suspension, revocation, or annulment proceedings.

* * * * *

200.71 Adjudication based upon written submissions.

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200.107a Regional director's decision.

* * * * *

200.118 Court review.

* * * * *

Par. 3. Section 200.5 is amended to revise the definition of *Initial decision* to read as follows:

§ 200.5 Meaning of terms.

* * * * *

Initial decision. The decision of the regional director (compliance) or administrative law judge in a proceeding on the suspension, revocation or annulment of a permit.

* * * * *

Par. 4. Section 200.36 is revised to permit the regional director (compliance) to dismiss proceedings when a satisfactory settlement is reached between the parties to read as follows:

§ 200.36 General.

In all proceedings in which a permittee is cited to show cause why the permit should not be suspended, revoked or annulled, the permittee shall be afforded opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, where time, the nature of the proceeding, and the public interest permit. Such submittals should be made to the regional director (compliance), but may be made through the attorney for the Government. Where necessary, the date of the hearing may be postponed, pending consideration of such proposals, when they are made in good faith and not for the purpose of delay. If proposals of settlement are submitted, and they are considered unsatisfactory, the regional director (compliance) may reject the proposals and may, either directly or through the attorney for the Government, inform the permittee of any conditions on which the alleged violations may be settled. If the proposals of settlement are considered satisfactory to the regional director (compliance), the permittee shall be notified thereof and the proceeding shall be dismissed, unless such proposals of settlement include a monetary offer in compromise considered satisfactory to the regional

director (compliance), in which event the proceeding shall be held in abeyance pending final action on such monetary offer in compromise.

Par. 5. Section 200.37 is amended by revising the last sentence by eliminating the requirement of a hearing to read as follows:

§ 200.37 Notice of contemplated action.

* * * Where informal settlement is not reached promptly because of inaction of the permittee or proposals are made for the purpose of delay, a citation shall be issued in accordance with §§ 200.55 and 200.56.

Par. 6. Section 200.55 is revised to require a request for a hearing before a hearing will be scheduled to read as follows:

§ 200.55 Content.

(a) Citation for the suspension, revocation or annulment of a permit shall be issued by the regional director (compliance) and shall set forth (1) the sections of law and regulations relied upon for authority and jurisdiction, (2) in separate paragraphs, the matters of fact constituting the violations specified, dates, places, section of law and regulations violated, and (3) the permittee has 15 days within which to request a hearing before an administrative law judge.

(b) Citations for the disapproval of an application for a permit shall set forth (1) the sections of law and regulations relied upon for authority and jurisdiction, (2) in separate paragraphs, the matters of fact and law relied upon for the contemplated disapproval of the application, and (3) that the application will be disapproved unless a hearing is requested within 15 days.

§ 200.56 [Amended]

Par. 7. Section 200.56(a) is amended by replacing the words "Form 1430–A" with the words "Form 5000.6." Section 200.56(b) is amended by replacing the words "Forms 1430–C" with the words "Forms 5000.17."

Par. 8. Section 200.57 is revised to reflect the optional nature of the hearing to read as follows:

§ 200.57 Execution and disposition.

Forms 5000.6 and 5000.17 shall be executed in quintuplicate. A signed duplicated original shall be served on the permittee. If a hearing is requested, one copy shall be sent to the administrative law judge designated to conduct the hearing. The original copy containing the certificate of service shall be placed in the official record of the proceeding; and the remaining copies shall be retained for the office of the regional director (compliance).

Par. 9. Section 200.60 is revised to provide procedures for requesting a hearing before an administrative law judge in suspension, revocation, or annulment cases to read as follows:

§ 200.60 Suspension, revocation, or annulment proceedings.

(a) If a hearing is desired, the respondent shall file a request, in writing, with the regional director (compliance) within 15 days after receipt of the citation or within such time as the regional director (compliance) may allow.

(b) Where a respondent requests a hearing, the regional director (compliance) shall forward a copy of the request together with a copy of the citation to the Director for the assignment of an administrative law judge.

(c) After the Director notifies the regional director (compliance) of the assignment of the administrative law judge, the regional director (compliance) shall serve a notice of designation of the administrative law judge on the respondent.

(d) The administrative law judge shall set a time and place for a hearing and shall serve notice thereof on the parties at least 10 days in advance of the hearing date.

Par. 10. A new § 200.63 is added under "Non-Request for Hearing" to provide that in the case of the failure to request a hearing in a suspension, revocation or annulment case the regional director (compliance) shall make the initial decision to read as follows:

§ 200.63 Suspension, revocation, or annulment proceedings.

If the respondent does not request a hearing within the time specified in § 200.60, and does not file an answer as required in § 200.64, the regional director (compliance) shall make the initial decision in the case in accordance with § 200.79.

Par. 11. Section 200.64 is revised to reflect the optional nature of a hearing and to require an answer in all contested proceedings to read as follows:

§ 200.64 When required.

(a) Where the respondent requests a hearing in accordance with § 200.60, a written answer shall be filed with the administrative law judge and served on the regional director (compliance) within 15 days after service of the designation of the administrative law judge.

(b) Where no hearing is requested, the respondent shall file a written answer with the regional director (compliance) within 15 days after service of a citation.

(c) An answer shall contain a concise statement of the facts that constitute his grounds for defense. The hearing may be limited to the issues contained in the citation and the answer. The administrative law judge, or regional director (compliance) as the case may be, may, as a matter of discretion, waive any requirement of this section.

(d) Answers need not be filed in application proceedings.

Par. 12. Section 200.65 is revised to eliminate the reference to the administrative law judge to read as follows:

§ 200.65 Answer admitting facts.

If the respondent desires to waive the hearing on the allegations of fact set forth in the order to show cause, and does not contest the facts, the answer may consist of a statement that the respondent admits all material allegations of fact charged in the citation to be true. The regional director (compliance) shall thereupon base the decision on the citation and such answer although such an answer shall not affect the respondent's right to submit proposed findings of fact and conclusions of law, or the right to appeal.

Par. 13. Section 200.71 is amended by repealing the existing section as unnecessary, and adding a new procedure for adjudicating citations without a hearing. The revised § 200.71 reads as follows:

§ 200.71 Adjudication based upon written submissions.

The respondent may waive the hearing before the administrative law judge, and stipulate that the matter will be adjudicated by the regional director (compliance) based upon written submissions. Written submissions may include stipulations of law or facts, proposed findings of fact and conclusions of law, briefs, or any other documentary material. The pleadings together with the written submissions of both the attorneys for the Government and the respondent shall constitute the record on which the initial decision shall be based. The election to contest the citation without a hearing under this section does not affect the respondent's right to appeal.

Par. 14. Section 200.72 is amended by revising the second sentence to remove the reference to § 200.71 and by removing the last sentence. As revised § 200.72 reads as follows:

§ 200.72 Before citation.

If a respondent surrenders the permit before citation, the regional director (compliance) may accept the surrender. But if the evidence, in the opinion of the regional director (compliance), warrants citation for suspension, revocation or annulment, the surrender shall be refused and the regional director (compliance) shall issue the citation.

Par. 15. Section 200.73 is revised to allow the regional director (compliance) to move to dismiss the proceeding as moot and by removing the last sentence to read as follows:

§ 200.73 After citation.

If a respondent surrenders the permit after citation and prior to an initial decision, the regional director (compliance) may accept the surrender of the permit and dismiss the proceeding as moot. If, however, in the opinion of the regional director (compliance), the evidence is such as to warrant suspension, revocation or annulment, as the case may be, the surrender of the permit shall be refused, and the proceeding shall continue.

Par. 16. Section 200.77 is revised to reflect the optional nature of the hearing to read as follows:

§ 200.77 General.

If a hearing is requested, it shall be held at the time and place stated in the notice of hearing unless otherwise ordered by the administrative law judge.

Par. 17. Section 200.79 is revised to reflect the alternative decisionmaking options available to the respondent to read as follows:

§ 200.79 Suspension, revocation, or annulment.

(a) The administrative law judge who presides at the hearing in proceedings for the suspension, revocation and annulment of permits shall make the initial decision.

(b) If no hearing is requested, the regional director (compliance) shall make the initial decision.

Par. 18. A new § 200.107a is added describing the contents of an initial decision rendered by the regional director (compliance) to read as follows:

§ 200.107a Regional director's decision.

(a) When the regional director (compliance) issues an initial decision in accordance with § 200.79, the decision shall become a part of the record. The decision shall consist of (1) a brief statement of the issues involved in the proceedings; (2) the regional director's findings and conclusions, as well as the reasons therefor; and (3) the regional director's determination on the record.

Par. 19. Section 200.108 is amended by designating the current section as paragraph (a) and adding a new paragraph (b) covering cases where the regional director (compliance) renders the initial decision to read as follows:

§ 200.108 Suspension, revocation, or annulment proceedings.

* * * * *

(b) In a case where the initial decision is made by the regional director (compliance) in accordance with § 200.79, the regional director will also issue an order suspending, revoking or annulling the permit (on Form 5000.5), or dismissing the proceedings in accordance with his initial decision. A signed duplicated original of the decision and order of the regional director (compliance) shall be served upon the respondent and the original copy placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the regional director's order shall state the time when the suspension period set forth in the initial decision shall commence and terminate.

Par. 20. Section 200.110 is revised to clarify that the regional director issuing a permit will have jurisdiction to respond to violations even if they occur outside the region to read as follows:

§ 200.110 Proceedings involving violations not within region of issuance of permit.

In the event violations occurred at a place not within the region of issuance of a permit, the regional director (compliance) of the region of issuance will take jurisdiction over any proceeding including issuing the citation, and taking appropriate action in accordance with § 200.108.

Par. 21. Section 200.115 is revised to require an appeal to the Director prior to seeking court review to read as follows:

§ 200.115 Appeal on petition to the Director.

An appeal to the Director is required prior to application to the Federal courts for review. An appeal may be taken by the applicant or respondent or by the regional director (compliance). Such appeal shall be taken by filing a petition for review on appeal with the Director within 15 days of the service of the order disapproving an application for a permit or the initial decision suspending, revoking or annulling a permit. The petition must set forth facts tending to show action of an arbitrary nature, or action without reasonable warrant in fact, or action contrary to law and regulations. A copy of the petition shall be filed with the regional director (compliance) or served on the respondent or applicant as the case may be. In the event of such appeal, the regional director (compliance) shall immediately certify and forward the complete original record, by certified mail, to the Director, for his consideration and review.

Par. 22. Section 200.118 is combined with § 200.119 to conform with current court practices. As revised, § 200.118 reads as follows:

§ 200.118 Court review.

If an applicant or respondent files an appeal in Federal court of the Director's decision, the Director, upon notification that an appeal has been taken, shall prepare the record for submission to the court in accordance with the applicable court rules.

§ 200.119 [Removed]

Par. 23. Section 200.119 is removed.

§ 200.126 [Amended]

Par. 24. Section 200.126 is amended by replacing the words "Form 1644" with the words "Form 5600.10" and by replacing the words "Form 1645" with the words "Form 5600.11."

Signed: November 10, 1986.

Stephen E. Higgins,

Director.

Approved: December 3, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86-28600 Filed 12-22-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD8 86-05]

Safety Zone Regulations; Mississippi River Gulf Outlet

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Safety Zone Regulations, 33 CFR Part 165, by disestablishing the safety zone in the Mississippi River Gulf Outlet (MRGO). Improvements to the navigational channel since the safety zone's establishment (**Federal Register** Vol. 46, No. 107/4 June 1981) and the ability of the U.S. Army Corps of Engineers to deal quickly with critical shoaling, have made this safety zone unnecessary. Its removal will provide economic benefits to the shipping industry and the Port of New Orleans without reducing navigation safety.

EFFECTIVE DATE: January 21, 1987.

FOR FURTHER INFORMATION CONTACT: LTJG Robert Holzman at (504) 589–7127.

SUPPLEMENTARY INFORMATION: On Monday, September 8, 1986 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations. Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LTJG Robert Holzman, project officer, Chief Waterways Safety Branch and LCDR James Vallone project attorney, Coast Guard District Legal Office.

Discussion of Comments

No comments were received.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Ships will be able to call at the Port of New Orleans with fewer restrictions on their sailing schedules. Any economic impact would be beneficial due to reduced vessel operating costs.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulations

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

PART 165—[AMENDED]

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

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

§ 165.801 [Removed]

2. Section 165.801 is removed.

Dated: November 28, 1986.

J. E. Lindak,

Captain, U.S.Coast Guard. Captain of the Port.

[FR Doc. 28627 Filed 12–19–86; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 209

Administrative Procedures; Removal of Obsolete Requirements

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The regulations which prescribe the procedures used by the Corps of Engineers in the review and promulgation of regulations governing navigable waters are amended to remove obsolete and unnecessary requirements.

EFFECTIVE DATE: January 21, 1987.

ADDRESS: USACE, DAEN-CWO-N, Washington, DC. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard or Mr. Sam Collinson at (202) 272–0199.

SUPPLEMENTARY INFORMATION: Regulations which establish the procedures to be used by the Corps of Engineers in implementing several navigation laws are promulgated in 33 CFR Part 209. These regulations govern the use, administration and navigation of the navigable waters of the United States. We are amending the regulations in Part 209 only to remove obsolete references and requirements and eliminate duplication where the regulations are repromulgated in the Corps permit regulations in 33 CFR Parts 320 through 330. Sections 209.110 *Purpose* and 209.132 *Permits for work in navigable waters relating to the trans-Alaska pipeline* are obsolete and removed. Section 209.310 *Representation of submarine cables and pipelines on Government charts* is amended to clarify that specific requirements apply only to charts published by the Corps of Engineers. However, district engineers are to furnish permit drawings for submarine cables and pipelines directly to the National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service (NOS) for their use as appropriate for NOAA nautical charts. (Note: Decisions to publish these cables and pipelines of NOAA nautical charts will lie solely within NOAA's discret.)

This regulation is not a major rule within the meaning of E.O. 12291 requiring preparation of a regulatory impact analysis because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices.

Pursuant to 5 U.S.C. section 605(b) I hereby certify that this regulation will not have a significant economic impact on a substantial number of entities.

We have determined that notice of proposed rulemaking in this matter is unnecessary since it involves interpretive rules, general statements of policy and Agency practice and procedures.

List of Subjects in 33 CFR Part 209

Navigation, Navigable waterways, Waterways.

Dated: December 11, 1986.

Approved.

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

PART 209—[AMENDED]

33 CFR Part 209 is amended as follows:

1. The authority citation for Part 209 is revised to read as follows:

Authority: 5 U.S.C. 301, 33 U.S.C. 1, 3, 403, 407, 409, 410, 412, 413, 414, 415, 417, 499, 628, 646, 661, 709, 1323, 1413, 16 U.S.C. 797(e), 10 U.S.C. 3012, 43 U.S.C. 1333(e), Pub. L. 79–526, Pub. L. 85–480, Pub. L. 90–483, Pub. L. 91–611, Pub. L. 92–405, Pub. L. 95–91, Pub. L. 78–534, Pub. L. 93–153, 16 U.S.C. 1456, Pub. L. 92–532, 42 U.S.C. 4321–4347, 16 U.S.C. 472 a *et seq.* 16 U.S.C. 760c, 760g, 16 U.S.C. 661–666c, Pub. L. 93–205, 16 U.S.C. 470.

§§ 209.110 and 209.132 [Removed]

2. Sections 209.110 *Purpose* and 209.132 *Permits for work in navigable waters relating to the trans-Alaska pipeline* are removed.

§ 209.310 [Amended]

3. The heading for § 209.310 is revised to read "§ 209.310 Representation of submarine cables and pipelines on nautical charts."

§ 209.170 [Amended]

4. Section 209.170 *Violations of laws protecting navigable waters* is amended by removing paragraphs (a) and (e) and redesignating paragraph (b) as (a); redesignating paragraph (c) as (b); redesignating paragraph (d) as (c); redesignating paragraph (f) as (d); and redesignating paragraph (g) as (e), as follows:

5. Section 209.200 *Regulations governing navigable waters* is amended by revising paragraphs (a), removing paragraphs (d) and (f) and redesignating paragraph (e) as (d), paragraph (g) as (c) and redesignating paragraph (h) as (f), as follows:

§ 209.200 Regulations governing navigable waters.

(a) *Publication of regulations.* (1) Regulations prescribed by or under the direction of the Secretary of the Army to govern navigation and navigable waters, are contained in the Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Chapter II.

(2) District engineers (or division engineers if considered preferable by the latter to avoid duplication in cases where the regulations involved apply to more than one district) will distribute copies of departmental regulations to all known interested parties as soon as their publication has been noted in the **Federal Register**. In the case of regulations applicable to more than one division, distribution will be handled as agreed upon by the division engineers concerned. Under the Administrative Procedure Act (5 U.S.C. 551–553), publication in the **Federal Register** shall be not less than 30 days prior to the effective date except as otherwise provided upon good cause found and published with the regulations.

* * * * *

(c) *Dumping grounds.* * * *

(e) *Public notice and consultatin with interested parties.* (1) When applications are received for the promulgation of regulations as outlined in this section, district engineers will issue public notices to all parties deemed likely to be interested and specifically to the agencies referred to in these paragraphs. The notice should fix a limiting date within which comments will be received, normally a period not less than 30 days after the actual mailing of the notice. If time is an essential element when adequately explained by the applicant, the district engineer is authorized to give interested parties a minimum of 10 days after receipt of the notice in which to present protests.

(2) Copies of the notices sent to interested parties, together with a list of parties to whom sent, will accompany reports on all applications for promulgation of regulations submitted to the Chief of Engineers for necessary action.

(3) In all instances when response to a public notice has been received from a Member of Congress, the district engineer will inform the Member of Congress of the final action taken on the application.

(f) *Public hearings.* (1) It is the policy of the Chief of Engineers to conduct his civil works activities in an atmosphere of public understanding, trust, and mutual cooperation and in a manner responsive to public needs and desires. To this end, public hearings are helpful and will be held whenever there appears to be sufficient public interest to justify such action.

(2) The policy, practice and procedures contained in Part 327 of this chapter shall be followed in the conduct of public hearings.

* * * * *

6. Section 209.310 *Representation of submarine cables and pipelines on Government charts* is revised in its entirety as follows:

§ 209.310 Representation of submarine cables and pipelines on nautical charts.

(a) The policy of the Corps of Engineers with respect to showing the locations of submarine cables and pipelines on nautical charts published by the Corps of Engineers is as follows:

(1) Within protected waters such as harbors, rivers, bays, estuaries or other inland waterways the location of submarine cables and pipelines is to be indicated by shaded areas marked "Pipeline area" or "Cable area". The extent of the limits of the area will be governed by local conditions but shall include the immediate area which overlies the cable or pipeline.

(2) Ordinarily, the shaded area on a chart which depicts a cable area or pipeline area should not exceed 500 feet on each side of the location of the cable or pipeline except on small scale charts where an area of that width would not be of sufficient prominence.

(3) The shaded area will be designated "cable area" or "pipeline area" as appropriate, but no other information as to the character or ownership of the installation will appear on the chart.

(b) District engineers will furnish copies of all permits issued for submarine cable and pipelines to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service, ATTN: N/CG222, Rockville, MD 20852, with his/her recommendation of whether or not the installation should be shown on NOAA nautical charts. National Ocean Service must be notified of the commencement and completion dates for all permitted activities under this section. [Note: Decisions to publish these cables and pipelines on NOAA nautical charts lie solely within NOAA's discretion.]

[FR Doc. 86–28457 Filed 12–19–86; 8:45 am]

BILLING CODE 3710–92–M

VETERANS ADMINISTRATION

38 CFR Part 21

Changes in the Levels of Review for Authorization of Expenditures for Training and Rehabilitation Services

AGENCY: Veterans Administration.

ACTION: Final regulatory amendment.

SUMMARY: The amendment of 38 CFR 21.430 increases the amounts which Veterans Administration (VA) staff may approve for a program of training and rehabilitation services. The amendment is based upon cost increases since present levels were established.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies, Assistant Director for Policy and Program Development, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 233–2886.

SUPPLEMENTARY INFORMATION: On page 17795 of the **Federal Register** of May 16, 1986, the VA published a proposed amendment to increase the amounts which may be authorized for training and rehabilitation services under 38 CFR 21.430. Interested persons were given 30 days in which to submit their comments, suggestions or objections to the proposed amendment. No comments, suggestions or objections were received, and the amendment is hereby adopted as final without change.

This final regulatory amendment has been found to be nonmajor under Executive Order 12291, Federal Regulation. The final regulatory amendment will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant effect on the economy.

The Administrator hereby certifies that this final regulatory amendment will not, when promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendments only concern VA staff levels at which expenditures for training and rehabilitation services must be approved. Thus, no regulatory burdens are imposed on small entities by these amendments."

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 8, 1986.

By direction of the Administrator.

Thomas E. Harvey,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by revising § 21.430, paragraphs (c)(1), (2) and (3) to read as follows:

§ 21.430 Accountability for authorization and payment of training and rehabilitation services.

* * * * *

(c) Limitations. * * *

(1) The DVB case manager may not authorize payment or program costs which will exceed $3,200 per year. If program costs for a year exceed $3,200, additional concurrence is required as specified in paragraph (c)(2) through (4) of this section;

(2) Program costs which will be greater than $3,200 but not more than $9,500 per year, may be approved by the Vocational Rehabilitation and Counseling Officer;

(3) Program costs which will be greater than $9,500 per year, but not more than $15,000 per year, may be approved by the Director, VA Regional Office; and

* * * * *

(38 U.S.C. 1515(a)(4))

[FR Doc. 86-28575 Filed 12-19-86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 117 and 302

[SW H-FRL-3129-6]

Superfund Programs; Reportable Quantity Adjustments; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects the amendatory language revising the list of hazardous substances and reportable quantities, as set forth in the final rule adjusting 102 reportable quantities under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). The final rule adjusting reportable quantities was published on September 29, 1986 (51 FR 34534). In that rule the Agency incorrectly identified its action as "revising" the list of hazardous substances, resulting in a potential deletion of substances from the Table, rather than revising only certain entries in the list. This action is necessary to correctly codify the list of hazardous substances and reportable quantities in Table 302.4 of 40 CFR Part 302.

DATE: The final rule adjusting reportable quantities will be effective on December 29, 1986.

ADDRESSES: The toll-free telephone number of the National Response Center is 1-800/424-8802; in the Washington, DC metropolitan area, the number is 1-202-426-2675. Docket: Copies of materials relevant to this rulemaking are contained in Room LG at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket is available for inspection between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Senior Project Officer, Response Standards and Criteria Branch, Emergency Response Division (WH-548B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the RCRA/Superfund Hotline at 1-800/424-9346; in Washington, DC, at 1-202/382-3000.

SUPPLEMENTARY INFORMATION: The following correction is made in SW-H-FRL 3032-9 published in the **Federal Register** on September 29, 1986 (51 FR 34534):

1. On page 34541, column 2, the text of numbered paragraph 2 is corrected to read "2. Section 302.4 is amended by (1) revising the introductory note to Table 302.4, (2) adding the following hazardous substances to Table 302.4 and Appendix A: (waste streams F020, F021, F022, F023, F026, F027, F028, K111, K112, K113, K114, K115, K116, K117, K118, K136; o-toluidine, p-toluidine, and 2-ethoxyethanol), and (3) revising the entries for certain other hazardous substances in Table 302.4 and Appendix A as listed below, to read as follows (all other entries not listed below remain unchanged):".

Dated: December 11, 1986.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 86-28383 Filed 12-19-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Education Programs

AGENCY: Public Health Service, HHS.

ACTION: Final regulation.

SUMMARY: These final regulations revise existing regulations governing capitation grants to health professions schools to incorporate amendments made to sections 770-772 of the Public Health Service Act (the PHS Act) by the Health Professions Training Assistance Act of 1985, Pub. L. 99-129, enacted October 22, 1985.

EFFECTIVE DATE: These regulations are effective December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Howard L. Kelly, Public Health Professions Branch, Division of Associated and Dental Health Professions Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fisher Lane, Room 8-95, Rockville, Maryland 20857; 301-443-6896.

SUPPLEMENTARY INFORMATION: These regulations implement amendments made in the Health Professions Capitation Grant legislation (sections 770-772 of the PHS Act) by the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) enacted on October 22, 1985. These regulations incorporate into the existing regulations revisions which are technical and ministerial in nature to conform the regulations to the amendments made by Pub. L. 99-129. These revisions are summarized below according to the section numbers and titles of the regulations.

1. Revise the title of 42 CFR Part 57, Subpart JJ from "Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Education Programs" to "Capitation Grants for Schools of Public Health."

2. Revise the Table of Contents to reflect new section designations.

3. Revise § 57.3501, *"To whom do these regulations apply?"*, and § 57.3503, *"Who is eligible for health professions capitation grants?"*, to delete references to schools of medicine, osteopathy, dentistry, veterinary medicine,

optometry, pharmacy, and podiatry throughout the text.

4. Revise § 57.3502, *"Definitions."*, to add statutory definitions for "Accredited" and "School of public health"; to delete definitions for "Ambulatory care setting", "Dental specialty program", "Medically underserved population", and "Resident of a State"; and to amend the definition of "State" to correct the name of the Northern Mariana Islands.

5. Revise § 57.3503, *"Who is eligible to apply for health professions capitation grants?"*, to amend the title and text to specify only schools of public health as eligible applicants.

6. Revise § 57.3504, *"What assurances are required of all applicants for capitation grants?"* to amend paragraph (a) to delete the current enrollment requirements and add the new statutory requirement to assure maintenance of the 1983 level of enrollment of full-time equivalent students; and to add a new paragraph (c) to reflect the statutory provision authorizing the Secretary to waive this requirement.

7. Delete in their entirety sections: 57.3505, 57.3506, 57.3507, 57.3508, 57.3509, 57.3510, 57.3511, and 57.3512, entitled *"What additional requirements apply to schools of: [medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, podiatry, and pharmacy]?"*, respectively.

8. Redesignate § 57.3513, *"How will the number of students at each school be determined?"*, as § 57.3505, and amend paragraphs (a) and (b) to reflect the statutory requirements that the enrollment of full-time equivalent students will be the sum of the number of full-time students and the number of full-time equivalents of part-time students in graduate degree programs. In the case of a new school, the enrollment shall be the number of full-time students which the school assures will be enrolled in the fiscal year after the fiscal year in which the grant is to be made.

9. Redesignate § 57.3514, *"Under what circumstances and in what amount may these grants be made?"*, as § 57.3506, and amend paragraph (b) to replace general references to health profession schools and health profession categories with specific references to schools of public health.

10. Redesignate § 57.3515, *"What expenses are allowable under these capitation grants?"*, as § 57.3507 and § 57.3516, *"What additional Department regulations apply to grantees?"*, as § 57.3508 and § 57.3518, *"Additional conditions."*, as § 57.3510.

11. Redesignate § 57.3517, *"What audit inspection and reporting requirements apply to grantees?"*, as § 57.3509; and delete "and reporting" from the heading, the letter "(a)" from the first paragraph, and paragraph (b) which was removed by section 708(c) of Pub. L. 99–129.

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 that 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 requirements contained in § 57.3504 and § 57.3509 (formerly § 57.3517) have been approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980 under control number 0915–0089.

Justification for Omitting Notice of Proposed Rulemaking

These technical amendments conform the final regulation in 42 CFR Part 57, Subpart JJ, to amendments made by Pub. L. 99–129. The Secretary has therefore determined, according to 5 U.S.C. 553 and Department policy, that it is unnecessary to follow proposed rulemaking procedures or to delay the effective date of these regulations.

List of Subjects in 42 CFR Part 57

Educational study programs, Grant programs—health, Health professions, Institutional support, Public health.

Accordingly, Subpart JJ of 42 CFR, Part 57 is amended and adopted as set forth below.

(*Catalog of Federal Domestic Assistance*, No. 13.339—Health Professions Capitation Grants)

Dated: October 3, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: October 28, 1986.

Otis R. Bowen,

Secretary.

1. The heading of Subpart JJ is revised to read as follows:

Subpart JJ—Capitation Grants for Schools of Public Health

2. The table of contents is revised to read as follows:

Subpart JJ—Capitation Grants for Schools of Public Health

Sec.
57.3501 To whom do these regulations apply?
57.3502 Definitions.
57.3503 Who is eligible to apply for a public health capitation grant?
57.3504 What assurance are required of all applicants for capitation grants?
57.3505 How will the number of students at each school be determined?
57.3506 Under what circumstances and in what amounts may these grants be made?
57.3507 What expenses are allowable under these capitation grants?
57.3508 What additional Department regulations apply to grantees?
57.3509 What audit inspection requirements apply to grantees?
57.3510 Additional conditions.

3. The authority citation for Subpart JJ is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 770–772, Public Health Service Act, 90 Stat. 2290, as amended by 91 Stat. 391 and 1503, 92 Stat. 3456 and 3457, as amended by 99 Stat. 537–539 (42 U.S.C. 295f).

4. Section 57.3501 is revised to read as follows:

§ 57.3501 To whom do these regulations apply?

The regulations in this subpart apply to the award of annual grants to schools of public health for the support of the educational program of the schools.

5. Section 57.3502 is amended to remove the terms "Ambulatory care setting", "Dental specialty program", Medically underserved population", and "Resident of a State"; revise the definition of "School" and "State"; and add the definition of "Accredited" to read as follows:

§ 57.3502 Definitions.

"Accredited" means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that by reason of an insufficient period of operation is not, at the time of application for a grant, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited if the Secretary of Education finds, after consultation with the appropriate body or bodies, that there is reasonable assurance that the school or program will meet accreditation standards prior

to the academic year following the normal graduation date of the first entering class.

* * * * *

"School of public health" means an accredited public or nonprofit private school in a State that provides training leading to a graduate degree in public health or an equivalent degree.

* * * * *

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

6. The heading and text of § 57.3503 is revised as follows:

§ 57.3503 Who is eligible to apply for a public health capitation grant?

Any school of public health may apply for a grant under this subpart.

7. Section 57.3504 is amended by revising paragraph (a), and adding a new paragraph (c) and the OMB control number to read as follows:

§ 57.3504 What assurances are required of all applicants for capitation grants?

* * * * *

(a) The enrollment of full-time equivalent students enrolled in degree programs in the school, in the school year beginning in the fiscal year in which the grant applied for is to be made, will not be less than the enrollment of such students in degree programs in the school in the school year beginning in the fiscal year ending September 30, 1983.

* * * * *

(c) The Secretary may waive (in whole or in part) application to a school of public health of the requirement of enrollment of full-time equivalent students. Application may be waived if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Secretary of Education), that compliance by the school with such requirement will prevent it from maintaining its accreditation.

(Approved by the Office of Management and Budget under control number 0915–0089)

§§ 57.3505 through 57.3512 [Removed]

8. Section 57.3505 *What additional requirements apply to schools of medicine?* is removed in its entirety.

9. Section 57.3506 *What additional requirements apply to schools of osteopathy?* is removed in its entirety.

10. Section 57.3507 *What additional requirements apply to schools of dentistry?* is removed in its entirety.

11. Section 57.3508 *What additional requirements apply to schools of public health?* is removed in its entirety.

12. Section 57.3509 *What additional requirements apply to schools of veterinary medicine?* is removed in its entirety.

13. Section 57.3510 *What additional requirements apply to schools of optometry?* is removed in its entirety.

14. Section 57.3511 *What additional requirements apply to schools of podiatry?* is removed in its entirety.

15. Section 57.3512 *What additional requirements apply to schools of pharmacy?* is removed in its entirety.

16. Section 57.3513 is redesignated as § 57.3505 and revised to read as follows:

§ 57.3505 How will the number of students at each school be determined?

(a) The number of full-time equivalent students enrolled in a school of public health will be the sum of the number of full-time students and the number of full-time equivalents of part-time students (determined in accordance with section 770(a)(3) of the Act) enrolled in graduate degree programs in the school on September 15 of the fiscal year in which the grant is made. The Secretary may, upon application, approve a date other than September 15 as the official counting date for schools whose academic calendars make the September 15 date inappropriate.

(b) In the case of a new school of public health which applies for a grant in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment shall be the number of full-time students, as determined by the Secretary, based on assurances provided by the school, who will be enrolled in the school in the fiscal year after the fiscal year in which the grant is to be made.

17. Section 57.3514 is redesignated as § 57.3506 and paragraph (b) is revised to read as follows:

§ 57.3506 Under what circumstances and in what amounts may these grants be made?

* * * * *

(b) The amount of each capitation grant will be an amount computed in accordance with the formula set forth in section 770(a) of the Act. If the aggregate of the amounts of the grants to be made for any fiscal year to schools of public health with approved applications exceeds the total of the amounts appropriated for such grants for such schools, the amount of a school's grant for such fiscal year shall be an amount which bears the same ratio to the amount determined for the school as the total of the amounts appropriated for that year for grants to schools of public health bears to the amount required to make grants to each of the schools of public health with approved applications.

§ 57.3515 [Redesignated as § 57.3507]

18. Section 57.3515 is redesignated as § 57.3507.

§ 57.3516 [Redesignated as § 57.3508]

19. Section 57.3516 is redesignated as § 57.3508 to read as follows:

§ 57.3517 [Redesignated as § 57.3509]

20. Section 57.3517 is redesignated as § 57.3509, the heading is revised, paragraph (b) is removed, the "(a)" designation is removed from the text and the OMB control number is added. As revised, § 57.3509 reads as follows:

§ 57.3509 What audit inspection requirements apply to grantees?

Each school which receives a capitation grant must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

(Approved by the Office of Management and Budget under control number 0915–0089)

§ 57.3518 [Redesignated as § 57.3510]

21. Section § 57.3518 is redesignated as § 57.3510.

[FR Doc. 86–28614 Filed 12–19–86; 8:45 am]
BILLING CODE 4160–15–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1803 through 1808, 1812, 1815, 1822, 1827, 1836, 1837, 1839, 1842, 1845, 1846, 1852, and 1853

[NASA FAR Supplement Directive 85–6]

Miscellaneous Changes to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuances or dealing with NASA internal or administrative matters, including physical consolidation of long-standing regulations.

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

SUPPLEMENTARY INFORMATION:

Background

The major changes involve procedures for compliance with Federal Acquisition Circulars 84-16 and 84-18 on voiding and rescinding contracts, synopsis preparation, make or buy thresholds, and priorities and allocations.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. All regulations in NFSD 85-6 fall in the exempted category. These regulations deal with internal NASA policies and procedures. Therefore, NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulations impose no burdens on the public within the ambit of the Paper Work Reduction Work Act, as implemented at 5 CFR Part 1320.

List of Subjects in 48 CFR Parts 1801, 1803 through 1808, 1812, 1815, 1822, 1827, 1836, 1837, 1839, 1842, 1845, 1846, 1852, and 1953

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1803-1808, 1812, 1815, 1822, 1827, 1836, 1837, 1839, 1842, 1845, 1846, 1852, and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Subpart 1801.2 is amended by adding 1801.271 to read as follows:

1801.271 NASA procedures for FAR changes.

(a) NASA is represented on the Defense Acquisition Regulatory Council (DARC) by a Policy member and a Legal member, assigned from the Procurement Policy Division (Code HP) and the Office of General Counsel (Code GK), respectively. NASA staff members are also assigned to standing and *ad hoc* DARC committees in their areas of expertise. The DARC policies and procedures for initiating and reviewing FAR changes shall be followed by the assigned individuals.

(b) Any NASA element or individual may suggest a revision to the FAR. Such suggestions should be in writing and contain, at a minimum: a concise description of the problem the suggested revision is designed to cure or ameliorate; the revision in the form of a marked up copy of the current FAR language or the text of any additional FAR language; the consequences of making no change and the benefits to be expected from a change; and any other information necessary for understanding the actual situation. All suggested FAR revisions shall be sent to the Director, Procurement Policy Division (Code HP).

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1803.101-2 [Amended]

3. Section 1803.101-2 is amended by placing a period after "Inspector General" and removing the remainder of the sentence.

1803.203 [Amended]

4. In Subpart 1803.2, 1803.203 is amended by placing a period after "Inspector General" and removing the remainder of the sentence.

5. Subpart 1803.7 is added to read as follows:

Subpart 1803.7—Voiding and Rescinding Contracts

Sec.

1803.704 Policy.

1803.705 Procedures.

Subpart 1803.7—Voiding and Rescinding Contracts

1803.704 Policy.

The Assistant Administrator for Procurement has been delegated the authority to void or rescind contracts where there is a final conviction for violation of 18 U.S.C. 201-224, Bribery, Graft and Conflicts of Interest, relating to such contracts.

1803.705 Procedures.

(a) The official to whom reports shall be sent pursuant to FAR 3.705(a) is the Assistant Administrator for Procurement. Reports shall be sent by the Procurement Officer.

(b) The Assistant Administrator for Procurement is responsible for the actions and notices required at FAR 3.705 (c) and (d) and the final agency decision required by FAR 3.705(e).

PART 1804—ADMINISTRATIVE MATTERS

6. Subpart 1804.2 is amended by revising 1804.202 to read as follows:

1804.202 Agency distribution requirements.

(a) In addition to the requirements in FAR 4.201, for R&D projects the contracting officer shall distribute one copy of the contract, including the Statement of Work, to the NASA Scientific and Technical Information Facility, Attention: Document Processing Section, P.O. Box 8757, Baltimore/Washington International Airport, MD 21240.

(b) For all contracts and modifications requiring approval of the Assistant Administrator for Procurement, one executed copy will be retained by the Office of Procurement, NASA Headquarters. Upon approval (or disapproval) of the proposed contract or modification, the Assistant Administrator for Procurement will forward the original and two executed copies of the contract or modification together with the contract file to the Procurement Officer or other official as deemed appropriate.

PART 1805—PUBLICIZING CONTRACT ACTIONS

7. Subpart 1805.2 is amended by revising 1805.207 to read as follows:

1805.207 Preparation and transmittal of synopses.

(a) Within NASA, each notice publicizing procurement of architect-engineer services shall be headed "R. Architect-Engineer Services." In addition to other requirements of FAR 5.207(c)(2), the project shall be listed with a brief statement concerning the relative order of importance the Government attaches to the significant evaluation criteria and the date by which responses to the notice must be received, including submission of Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, if required. Appropriate statements shall be made concerning any specialized qualifications, security classifications, and limitations on eligibility for consideration. Qualifications or performance data required from architect-engineer firms shall be described. If the procurement is to be set aside for small business, the notice shall so state, indicating the specific size standard to be used and requiring that eligible responding firms submit a small business certification statement.

Provisions of Note 62 shall apply to this notice except that in the second paragraph of the note: (a) the 'National Aeronautics and Space Administration' is substituted for the 'Department of Defense' wherever the reference appears, and (b) the fourth additional consideration listed is changed to read: '(4) past experience, if any, of the firm with respect to performance on contracts with NASA, other Government agencies, and private industry.'

(b) All options must be included in the description required by FAR 5.207(c)(2)(viii); or there must be a separate synopsis of the option as a new procurement prior to its exercise. (See FAR 17.207(c)(4).)

(c) FAR 5.207(b)(4) requires that each synopsis be identified by a Federal Information Processing Standards (FIPS) number. The numbers assigned to NASA installations by FIPS–95 are:

Headquarters, NASA	8001
Ames Research Center	8020
Goddard Space Flight Center	8026
Johnson Space Center	8032
Kennedy Space Center	8035
Langley Research Center	8038
Lewis Research Center	8041
Marshall Space Flight Center	8044
NASA Residence Office-JPL	8029
National Space Tech. Lab	8047

8. Subpart 1805.3 is amended by revising 1805.303–71(b)(1) introductory text to read as follows:

1805.303–71 Notification of the Public Affairs Office.

* * * * *

(b) *Definitive contracts and supplemental agreements.* (1) This subparagraph pertains to contracts and supplemental agreements which do not require the approval of the Assistant Administrator for Procurement pursuant to 1804.7205 and are in an amount of $5,000,000 or over for the National Space Technology Laboratory, Headquarters Contracts and Grants Division and the NASA Resident Officer-JPL and $10,000,000 or over for the Ames Research Center, Goddard Space Flight Center, Johnson Space Center, Kennedy Space Center, Langley Research Center, Lewis Research Center, and the Marshall Space Flight Center. The above approvals exclude supplemental agreements covering overruns or incremental funding actions. Such contracts and supplemental agreements will not be distributed, nor information be given to any source outside NASA that the contractual instrument has been signed by both parties, until the following procedures are carried out:

* * * * *

PART 1806—COMPETITION REQUIREMENTS

9. Subpart 1806.3 is amended by adding 1806.302–270 and 1806.303–271 to read as follows:

1806.302–270 Support service contracts.

It may become necessary to extend the period of performance of an existing support services contract to avoid a lapse in services pending the completion of a full and open competition for the succeeding period. Under these circumstances, the authority at FAR 6.302–1 is not appropriate because of the pending competition and because it does not cover follow-on contracts for services. However, if the contemplated action otherwise conforms to the requirements at FAR 6.302–2, then the existing support services contract may be extended under this authority provided the additional documentation at NFS 1806.303–271 is included in the Justification for Other Than Full and Open Competition.

1806.303–271 Use of unusual and compelling urgency authority.

When the authority at FAR 6.302–2 is used for extending contracts under the circumstances described at 1806.302–270, the JOFOC shall contain the following information in addition to that required by FAR 6.303–2:

(a) Documentation that the procurement process for the successor contract was started in sufficient time to allow for adequately planning and conducting a full and open competition together with a description of the circumstances that prevented award in a timely manner.

(b) Documentation of the reason(s) no other source could practicably compete for the interim requirement.

PART 1807—ACQUISITION PLANNING

10. Subpart 1807.1 is amended as set forth below:

a. Section 1807.102 is revised to read as follows:

1807.102 Policy.

(a) In R&D procurements over $100,000, when three or fewer sources are known, the contracting officer shall have the requirements office query the Defense Technical Information Center (DTIC) IR&D Database to identify additional sources conducting IR&D in the area of the instant procurement. This is in addition to any other market survey techniques. Where needed, specific information concerning access to and use of the DTIC IR&D Database by a particular NASA Center may be obtained from that Center's designated IR&D Focal Point.

(b) NASA uses several methods to document its acquisition planning. These include the Project Plan, Program Operation Plan (POP), normal budget submissions, and procurement plan. The procurement plan is the only one of these coordinated documents that is a direct procurement responsibility. Instructions and requirements for completing the other documents are in various NMI's. The thresholds and requirements for NASA procurement plans are at 1807.103 below. As authorized in FAR 7.102, NASA will continue to use its existing procurement planning system in lieu of the criteria in FAR Subpart 7.1. However, all procurement plans will comply with FAR 7.104(c), 7.105(b)(2), and when appropriate, 7.106. Regardless of the method employed, all acquisitions shall be adequately planned to allow sufficient time to complete the competitive procurement process and award a contract by the required date.

1807.103 [Amended]

b. In 1807.103(b)(1)(i) (A), (B) and (ii) (A) and (B), the dollar amounts "$1,250,000", "$2,500,000", and "$5,000,000" are revised to read "$2,500,000", "$5,000,000", and "$10,000,000", respectively, wherever they appear.

1807.170 [Amended]

c. In 1807.170–1, the word "and" is added to the end of paragraph (a)(1)(iii); paragraph (a)(1)(iv) is removed; and paragraph (a)(1)(v) is redesignated (a)(1)(iv).

11. Subpart 1807.71 is amended as set forth below:

a. Section 1807.7102(c) is revised to read as follows:

1807.7102 Applicability.

* * * * *

(c) The following are monetary limitations under the Master Buy Plan procedures.

(1) $5,000,000:

(i) National Space Technology Laboratories,

(ii) Headquarters Contracts and Grants Division,

(iii) NASA Resident Office—JPL.

(2) $10,000,000:

(i) Ames Research Center,

(ii) Goddard Space Flight Center,

(iii) Johnson Space Center,

(iv) Kennedy Space Center,

(v) Langley Research Center,

(vi) Lewis Research Center,

(vii) Marshall Space Flight Center.

* * * * *

1807.7105 [Amended]

b. In 1807.7105(a), the dollar amounts "$2,500,000" and "$5,000,000" are revised to read "$5,000,000" and "$10,000,000", respectively, wherever they appear.

PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1808.802 [Amended]

12. Section 1808.802 is amended by revising the reference "NPD" to read "NMI".

PART 1812—CONTRACT DELIVERY OR PERFORMANCE

13. Part 1812 is amended by revising Subpart 1812.3 to read as follows:

Subpart 1812.3—Priorities and Allocations

Sec.
1812.302 General.
1812.303 Procedures.
1812.303-70 NASA procedures.

Subpart 1812.3—Priorities and Allocations

1812.302 General.

(a) The Department of Defense is the "Delegate Agency" for NASA. The Headquarters Procurement Policy Division, Code HP, shall coordinate with DOD, as necessary, to ensure that any DOD imposed requirements are met.

(b) Additional regulatory guidance is available in "DPAS, Defense Priorities and Allocations System," Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Washington, DC 20250, October 1984, 66 pages. (Copies available from Department of Commerce.) This DOC booklet contains the pertinent parts of 15 CFR Part 350 and is the recommended guidance on the DPAS to contractors and suppliers receiving rated orders.

1812.303 Procedures.

1812.303-70 NASA procedures.

(a) The use of priority ratings on NASA contracts and purchase orders is mandatory except as noted in (d) below. Priority ratings are assigned on individual contracts and purchase orders by the contracting officer.

(b) Except where no rating is issued as provided in (d) below, all NASA orders shall be assigned a DO rating, unless NASA has obtained a DX rating from the Delegate Agency. Currently, NASA has no programs with a DX rating.

(c) The program identification numbers (DPAS, 15 CFR Part 350, SCH L.) to be used by NASA are as follows:

A1 Aircraft
A2 Missiles
A3 Ships
A5 Weapons
A6 Ammunition
A7 Electronic and Communications Equipment
B1 Military Building Supplies
B8 Production Equipment (For Contractor's Account)
B9 Production Equipment Government Owned)
C2 Construction
C3 Maintenance, Repair and Operating Supplies for Facilities
C9 Miscellaneous/Other

(d) Priority ratings will not be issued for the following:

(1) Items ordered or requisitioned from the GSA Federal Supply Service.

(2) Items for plant improvement, expansion or construction, unless they will be physically incorporated into a construction project covered by a rated order, or unless NASA has obtained specific priority rating authority.

(3) Production or construction equipment or items to be used for the manufacture of production equipment, unless NASA has obtained specific priority rating authority.

(4) Items which fall under the jurisdiction of delegate agencies other than NASA'S delegate agency. These are: petroleum, gas, solid fuel, electric power, and all other forms of energy; food; civil transportation and the movement of persons and property by all modes; minerals; water; housing facilities; health facilities; radio-isotopes, stable isotopes, source material and special nuclear material produced in government-owned plants or facilities operated by or for the Department of Energy; communication services; copper raw materials; crushed stone; gravel; sand; scrap; slag; central steam heat; and waste paper.

(e) The Headquarters Procurement Policy Division (Code HP) is responsible for coordinating DPAS matters with the delegate agency and the Department of Commerce, as necessary. Installation requests regarding assignment of ratings, special priorities assistance, controlled materials, and other related DPAS topics shall be directed to Code HP.

PART 1815—CONTRACTING BY NEGOTIATION

§ 1815.570 [Amended]

14. Section 1815.570 is amended by revising the reference "NPD" to read "NMI".

§ 1815.613-71 [Amended]

15. Section 1815.613-71(a)(1) introductory text is amended by revising the three dollar amounts of "$5 million" to read "$10,000,000".

16. Subpart 1815.7 is amended by revising 1815.704 to read as follows:

§ 1815.704 Items and work included.

Make or buy programs should not include items or work efforts estimated to cost less than $500,000.

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

17. Subpart 1822.11 is amended by revising 1822.1103(a) to read as follows:

§ 1822.1103 Policy, procedures, and solicitation provisions.

(a) The instructions in paragraph (a) of the clause at FAR 52.222-46, Evaluation of Compensation for Professional Employees, shall be augmented in Section M of the solicitation with an explanation of how the Government will evaluate the offeror's plan. The Government's assessment of the plan shall be a weighted and scored evaluation criterion under a Mission Suitability Factor in order to assure that the plan reflects a sound management approach and understanding of the contract requirements. This criterion shall be accorded sufficient weight and relative order of importance to be effective under the particular circumstances involved. When there is a significant number of professional employees involved, the period of performance is lengthy, and the cost relatively large or there is continuity of the same or similar services at the same location, the weight and relative importance of the criterion shall be in the "most important" or "very important" category, as deemed appropriate. The lesser weighting should be employed only after careful consideration of the possible impact on labor stability.

* * * * *

PART 1827—PATENTS, DATA, AND COPYRIGHTS

18. Subpart 1827.4 is amended as set forth below:

a. 1827.474(b)(2) is revised to read as follows:

§ 1827.474 Procedures—acquisition of data.

* * * * *

(b) Specifying data delivery requirements.

* * * * *

(2)(i) The contractor normally should be required to furnish reports of work performed under all research and development contracts (fixed-price and cost reimbursable), and also may be

required to furnish such reports in cost-reimbursable supply contracts if considered desirable for monitoring contract performance. This should be achieved by including, at a minimum, the following general requirements, modified as needed to meet the particular requirements of the contract, in the section of the contract specifying data delivery requirements:

(A) *Monthly progress reports.* The contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form and brief and informal in content. They shall include a quantitative description of overall progress, an indication of any current problems which may impede performance and proposed corrective action, and a discussion of the work to be performed during the next monthly reporting period. (Normally, this requirement should not be used in contracts with non-profit organizations.)

(B) *Quarterly progress reports.* The contractor shall submit separate quarterly reports of all work accomplished during each three-month period of contract performance. In addition to factual data, these reports shall include a separate analysis section which interprets the results obtained, recommends further action, and relates occurrences to the ultimate objectives of the contract work. Sufficient diagrams, sketches, curves, photographs, and drawings shall be included to convey the intended meaning.

(C) *Final report.* The contractor shall submit a final report which documents and summarizes the results of the entire contract work, including recommendations and conclusions based on the experience and results obtained. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to comprehensively explain the results achieved under the contract.

(D) *Report Documentation Page.* The contractor shall include a completed Report Documentation Page (NASA Form 1626) as the final page of each report submitted pursuant to paragraphs (b)(2)(i)(A) through (C).

(E) *Submission.* The required numbers of copies of the reports specified in paragraphs (b)(2)(i)(A) through (C) shall be submitted to the technical monitor of the contract (in the absence of other instructions from the requesting activity). In addition, a reproducible copy and a printed (or reproduced copy) shall be sent to: NASA Scientific and Technical Information Facility, Attn: Accessioning Department, P.O. Box 8757, Baltimore/Washington International Airport, MD 21240.

(ii) Consideration should be given to the desirability of providing reports on the completion of significant units or phases of work, in addition to periodic reports and reports on the completion of the entire contract. The data delivery requirements section of the contract should also list other data to be delivered under the contract and provide, as necessary, specific instructions regarding delivery, submission dates, report numbering, numbers of copies to be submitted, distribution lists, and any other information to assure appropriate distribution of the required reports of work.

* * * * *

1827.475-10 [Removed]

b. 1827.475-10 is removed.

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

19. In Subpart 1836.6, 1836.602-71(b) is revised to read as follows:

1836.602-71 Conflict of interest.

* * * * *

(b) The chairman, members, or other participants shall promptly report any activity that would give rise to a real or apparent conflict of interest situation, including any indications of extraneous influences being brought to bear on the selection or evaluation process.

PART 1837—SERVICE CONTRACTING

20. Subpart 1837.2 is amended by revising 1837.204-70 (d) and (e) to read as follows:

1837.204-70 NASA policy.

* * * * *

(d) Consulting service tasks assigned to the Jet Propulsion Laboratory and amendments to the contract between the California Institute of Technology and NASA for the operations of the JPL facility must be reviewed and approved by the Associate Administrator for Management Operations (Code N).

(e) Persons or organizations employed as NASA consultants must be free from conflict of interest as delineated in FAR Subpart 9.5 and NFS 1809.5. Caution will also be exercised when considering former Government employees for consulting-service arrangements in order to avoid potential post-employment statutory prohibition (18 U.S.C. 207).

PART 1839—MANAGEMENT ACQUISITION AND USE OF INFORMATION RESOURCES

21. Subpart 1839.70 is amended by revising 1839.7005(a) to read as follows:

1839.7005 Coordination.

(a) Installation APR's are subject to general review, comparison with acquisition plans and discussion between Codes HP and NT prior to the forwarding of an APR to GSA.

* * * * *

PART 1842—CONTRACT ADMINISTRATION

22. Subpart 1842.2 is amended as set forth below:

a. In 1842.202-70, paragraph (a)(1), the reference to "(a)(7)" is revised to read "(a)(6)".

b. Paragraph (b) is revised to read as follows:

1842.202-70 Delegations to contract administration offices.

* * * * *

(b) *Reliability and quality assurance.* When special instructions for reliability or quality assurance are necessary, the requirements shall be clearly identified by the NASA installation personnel responsible for the reliability and quality assurance function and shall be furnished to the contracting officer on NASA Form 1430A for inclusion in the letter of delegation. The procedures for arranging, preparing, and finalizing such delegations and the requirements for NASA direction and management of these functions are contained in installation procedures. The latest edition of NHB 5300.4(2B), Quality Assurance Provisions for Delegated Government Agencies, describes the requirements for agencies or NASA representatives performing quality assurance functions under NASA contracts.

* * * * *

1842.202-71 [Amended]

c. In 1842.202-71, paragraph (b)(2) is removed, and paragraphs (b)(3) and (4) are redesignated (b)(2) and (3), respectively.

23. Subpart 1842.3 is amended by revising 1842.302 to read as follows:

1842.302 Contract administration functions.

The following are additional normal contract administration functions to be performed by the cognizant CAO:

(a) Determine billing rates and final indirect cost rates.

(b) Issue cure and show cause letters after approval of the NASA Contracting Officer.

(c) Monitor the contractor's system for control of overtime.

(d) Assure that overtime compensation is in accordance with the terms of the contract, or in the absence of contractual coverage, that any excepted overtime charged is reasonable and properly allocable.

(e) Negotiate changes to interim billing prices when authorized by the NASA Contracting Officer.

PART 1845—GOVERNMENT PROPERTY

24. Subpart 1845.70 is amended by revising 1845.7103, Section II, Block 16, to read as follows:

1845.7105 Instructions for the preparation of DD Form 1419.

* * * * *

Block 16. Enter the Defense Priority and Allocations System (DPAS) Rating that is assigned to the contract or anticipated purchase order, if applicable.

* * * * *

PART 1846—QUALITY ASSURANCE

25. Subpart 1846.6 is amended by revising 1846.673(a) to read as follows:

1846.673 Distribution of DD Form 250 and DD Form 250c.

(a) DD Forms 250 and 250c shall be distributed in accordance with the procedures prescribed by the installation.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

26. Subpart 1852.2 is amended as follows:

1852.227-82 [Removed]

a. 1852.277-82 is removed.

b. 1852.235-70 is revised to read as follows:

1852.235-70 Scientific and Technical Information Service.

Insert the following clause as prescribed in 18-35.070(a):

Scientific and Technical Information Service (September 1986)

(a) The contractor should make the fullest practicable use of the services provided by the NASA Scientific and Technical Information Facility (STIF) during the conduct of research under this contract. The contractor, if not already registered with STIF, is encouraged to do so by executing express registration forms which will be provided by STIF. Registration forms will informs the contractor of the products and services available in support of work under the contract.

(b) NASA reserves the right, in the event of the unavailability of any scientific and technical information requested, to notify the Contractor of such unavailability.

Failure of NASA to furnish any information requested shall not entitle the Contractor to any adjustment in the price, cost (estimated or target), fee, time required for performance, or delivery schedule of the contract.

(End of clause)

PART 1853—FORMS

27. Subpart 1853.1 is amended by revising 1853.107 to read as follows:

1853.107 Obtaining forms.

(a) NASA installations and offices may obtain forms prescribed in the FAR or in this Part from Goddard Space Flight Center, Code 853.9. Orders should be placed on a NASA Form 2.

(b) Contracting officers, at the time of contract award, shall assure that contractors are notified of or are otherwise aware of the procedures for obtaining NASA forms and the source within the installation of such forms required for performance under the contract.

28. Subpart 1853.2 is amended as shown:

1853.212 [Removed]

a. Section 1853.212 is removed.

b. Sections 1853.223 and 1853.227 are revised to read as follows:

1853.223 Environment, conservation, and occupational safety (NF 566).

NASA Form 566, Application for Radio Frequency Assignment, prescribed at 1823.7102(a), shall be used to request all frequency assignments.

1853.227 Patents, data, and copyrights (NF 1626)

NASA Form 1626, Report Documentation Page, NF 1626, prescribed at 1827.474(b)(2)(i)(D), shall be submitted with contractors' reports.

c. In 1853.251, the title is revised to read as set forth below:

1853.251 Contractor Employee Air Transportation (SF 1169, NF 1622).

[FR Doc. 28670 Filed 12-26-86; 8:45 am]
BILLING CODE 7510-01-M

Proposed Rules

Federal Register
Vol. 51, No. 245
Monday, December 22, 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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2423, 2429, and Ch. XIV

Processing of Cases; Unfair Labor Practice

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority).

ACTION: Withdrawal of proposed amendment of rules and regulations.

SUMMARY: The Authority has decided to retain the existing procedures for processing unfair labor practice cases contained in Part 2423 of the rules and regulations, codified at 5 CFR Part 2423, and not to delegate decision-making in such cases as earlier proposed.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Director of Case Management, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424, (202) 382-0715.

SUPPLEMENTARY INFORMATION: On September 23, 1986, the Federal Labor Relations Authority published proposed amendments to its rules and regulations (51 FR 33840) concerning the delegation of decision-making authority in unfair labor practice cases under 5 U.S.C. 7105 (e) and (f) to its Administrative Law Judges, subject to discretionary review by the Authority. The Authority has decided to retain the existing procedures for processing unfair labor practice cases.

The proposed amendments as published on September 23, 1986, stemmed from suggestions made by various parties in 1984 urging the Authority to delegate decision-making responsibility in unfair labor practice cases to its Administrative Law Judges. The proponents of such delegation believed that it would allow the Authority to utilize its limited resources more efficiently and result in the expeditious processing of cases. In publishing the proposed amendments, the Authority anticipated that the delegation of decision-making would expedite the process by which unfair labor practice cases are resolved. However, after reviewing all the comments received concerning the proposed amendments and considering the recent advances made by the Authority in reducing its case inventory, the Authority finds that a departure from the existing case processing procedures is inadvisable.

Since the delegation of decision-making authority was suggested in 1984, the Authority has made significant improvements in reducing the number of pending unfair labor practice cases and in reducing the average amount of time such cases remain before the Authority. At the beginning of Fiscal Year 1985, there were 281 unfair labor practice cases pending with the Authority. By the end of Fiscal Year 1986, that number had been reduced to 115 cases. Equally significant is the reduction in the age of cases pending before the Authority and the number of "old" cases still awaiting resolution. From October 1985 to October 1986, the number of unfair labor practice cases pending with the Authority for more than 24 months was reduced by more than 50%—from 11 to 5 cases. From December 31, 1985, to October 1986, the average age of pending unfair labor practice cases measured from the date of filing was reduced from 533 to 277 days. Thus, in the past 10 months alone, the average age of pending unfair labor practice cases was cut almost in half (48%). This downward trend is consistent with the Authority's goal of processing all cases within 180 days after their filing. The Authority fully expects to further reduce the existing unfair labor practice case inventory and meet the overall timeliness goal in the near future. The Authority is confident that the purposes behind the proposed delegation of decision-making responsibility can better be achieved through the use of the existing unfair labor practice case processing procedures.

The parties commenting on the proposed delegation expressed widespread concern that authorizing delegation could lead to inconsistent case law and an inability for parties to develop a systematic approach to their day-to-day labor-management relationships. Concern also was expressed about the precedential nature of the decisions issued and their enforceability. Finally, there were questions raised about the bases for accepting review of Administrative Law Judges' decisions and whether there was a need for all unfair labor practice cases to be decided by Judges. These concerns and the considerable improvement in issuing timely unfair labor practice decisions, persuaded the Authority not to authorize delegation of unfair labor practice decision-making responsibility to its Administrative Law Judges.

The Authority is grateful to all the parties who appeared in person or provided written submissions concerning this matter.

The proposed amendment to 5 CFR Part 2424 published in the **Federal Register** on September 23, 1986, page 33845 is withdrawn.

Dated: December 17, 1986.

Jerry L. Calhoun,
Chairman.
Henry B. Frazier III,
Member.
Jean McKee,
Member.

[FR Doc. 86-28611 Filed 12-19-86; 8:45 am]
BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 656

Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs

AGENCY: Soil Conservation Service, USDA.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: On August 15, 1986 the Soil Conservation Service published a proposed rule on Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-Assisted Programs (7 CFR Part 656). This proposed rule was inadvertently processed and signed without the benefit of Office of Management and Budget review required by Executive Order 11291. Accordingly, this proposed rule is being withdrawn. The Soil Conservation Service intends to republish the proposed rule after it has been properly processed.

DATE: This withdrawal is effective December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Gail Updegraff, Director, Economics and Social Sciences Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013. Telephone (202) 447–2307.

J.C. Hytry,

Associate Deputy Chief for Administration.

[FR Doc. 86–28607 Filed 12–19–86; 8:45 am]

BILLING CODE 3410–16–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket 86–095]

Brucellosis; Documentation of Animal Identification on Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the brucellosis regulations to give those who complete certificates an alternative to transcribing individual animal identification or ownership brands directly onto certificates. Under the proposed rule, those who complete certificates could attach to certificates a document already listing this information. The proposed rule would reduce the paperwork burden for those who complete certificates while continuing to ensure adequate identification of animals moved under certificates.

DATE: We will consider your comments if we receive them on or before February 20, 1987.

ADDRESS: Send written comments to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 86–095. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. W.E. Ketter, Chief Staff Veterinarian, Regulatory Communications and Compliance Staff, VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301–436–8565.

SUPPLEMENTARY INFORMATION:

Background

As part of a program to prevent the interstate spread of brucellosis, the regulations in 9 CFR Part 78 require a certificate for certain interstate movements of cattle and bison. A final rule published in the **Federal Register** on September 12, 1986 (51 FR 32574–32600) defines "certificate" in § 78.1 as follows:

> An official document issued by a Veterinary Services representative, State representative, or accredited veterinarian at the point of origin of a movement of animals. It must show the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, or similar individual identification of each animal to be moved; the number of animals covered by the document; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. Ownership brands may be used as identification on certificates for cattle moved interstate when no official test is required under this part, provided the ownership brands are registered with the official brand recording agency and the cattle are accompanied by official brand inspection certificates.

Under this definition, the individual identification or, in certain cases, ownership brands for each animal to be moved under the certificate must be listed on the certificate. This record helps ensure that the animals moved are, in fact, the same animals that were released for movement under the certificate. However, some individuals who complete certificates have indicated that listing identification on certificates for each animal to be moved can be time consuming, especially at markets that handle many animals. So, we are proposing to allow them to attach to certificates, under conditions specified below, a document that already lists this information.

Individual Identification

When individual identification of animals is required on a certificate, we propose to allow individuals completing certificates to provide this information by attaching to the certificate another document, such as a brucellosis test record (VS Form 4–33), that already lists this information. However, the document could be attached only under the following conditions:

—The document must be a State or Veterinary Services form that requires individual identification of animals;

—The document must be imprinted with a serial number;

—The name of the document and the serial number on the document must be written in ink in the identification column on each copy of the certificate, and this information must be boxed or circled, also in ink, on each copy of the certificate so that no numbers may be added;

—The document must identify each animal to be moved under the certificate, but no other animals; and

—A copy of the document must be attached to each copy of the certificate.

These conditions would make it difficult to substitute or add other documents. A document attached to a certificate as proposed would provide reliable and adequate identification of animals to be moved under a certificate and, at the same time, would reduce the paperwork burden for individuals completing certificates. Allowing use of a document as proposed also could facilitate the interstate movement of animals by shortening the waiting time for certificates.

Ownership Brands

Ownership brands identify animals to a particular herd. As prescribed in the definition of certificate, they may be used as identification on certificates for cattle moved interstate when no official test is required under this part, if the ownership brands are registered with the official brand recording agency and the cattle are accompanied by official brand inspection certificates. Cattle that may be identified on certificates by ownership brands are cattle from certified brucellosis-free herds or Class Free States. These cattle present a very low risk of spreading brucellosis. The official brand inspection certificates that must accompany these cattle are forms issued by an official brand inspection agency that certify that a specified number of animals, identifiable by a specific ownership brand, may be moved to another location to be sold. They may be used in conjunction with certificates, under the conditions stated above, when the animals are to be moved interstate to be sold. Official brand inspection certificates are issued by State officials only after the officials have inspected the cattle to be moved and have verified that the cattle are marked with the brand listed on the official brand inspection certificate.

When ownership brands are permitted as identification on certificates, we propose to allow those who provide this information to attach to the certificate the official brand inspection certificate for the cattle to be moved. However, the official brand inspection certificate could be attached only under the following conditions:

The serial number of the official brand inspection certificate must be written in ink in the identification column on each copy of the certificate, and this number must be circled or boxed, also in ink on each copy of the certificate so that no numbers may be added; and

A copy of the official brand inspection certificate must be attached to each copy of the certificate.

We believe that an official brand inspection certificate attached to a certificate as proposed would provide adequate identification of the cattle to be moved and would, at the same time, help reduce the paperwork burden for those who complete certificates.

Official Brand Inspection Certificate

Department officials believe that all official brand inspection certificates are serially numbered. However, the present definition of the term "official brand inspection certificate" does not require that such documents be serially numbered. This proposal would amend the definition of "official brand inspection certificate" to require that they be serially numbered so that any "official brand inspection certificate" could be attached to a certificate under the conditions described above.

Executive Order 12291 and Regulatory Flexibility Act

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

This proposed rule would not change the types of information required for certificates, would not increase the risk of brucellosis spreading interstate, and would not affect procedures for enforcing the interstate movement requirements in Part 78. Rather, the proposed rule would alleviate some of the paperwork burden on those who prepare certificates for the interstate movement of cattle and bison and could, as a result, facilitate the movement of cattle and bison by decreasing the waiting time for certificates.

Under the circumstances explained above, 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.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0570–0064.

Executive Order 12372

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

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are proposing to amend Part 78 as follows:

1. The authority citation would continue to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 78.1, the definition of "certificate" would be revised to read as follows:

§ 78.1 Definitions.

* * * * *

Certificate. An official document issued by a Veterinary Services representative, State representative, or accredited veterinarian at the point of origin of a movement of animals. It must show the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, or similar individual identification of each animal to be moved; the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. Ownership brands may be used in place of individual animal identification on certificates for cattle moved interstate when no official test for brucellosis is required under this part, provided the ownership brands are registered with the official brand recording agency and the cattle are accompanied by official brand inspection certificates. As an alternative to listing ownership brands on a certificate, the official brand inspection certificate for the cattle to be moved may be attached to the certificate, but only under the following conditions: The serial number of the official brand inspection certificate must be written in ink in the identification column on each copy of the certificate, and this number must be circled or boxed, also in ink, on each copy of the certificate so that no numbers may be added; and a copy of the official brand inspection certificate must be attached to each copy of the certificate. Also, as an alternative to writing individual animal identification on a certificate, another document that lists the individual animal identification may be attached to the certificate, but only under the following conditions: The document must be a State form or Veterinary Services form that requires individual identification of animals; the document must be imprinted with a serial number; the name of the document and the serial number on the document must be written in ink in the identification column on each copy of the certificate, and this information must be boxed or circled, also in ink, on each copy of the certificate so that no numbers may be added; the document must identify each animal to be moved under the certificate, but no other animals; and a copy of the document must be attached to each copy of the certificate.

* * * * *

3. In § 78.1, the definition of "official brand inspection certificate" would be revised to read as follows:

* * * * *

Official brand inspection certificate. A serially numbered document issued by an official brand inspection agency in any State which requires such document for movement of cattle.

* * * * *

Done in Washington, DC, this 17th day of December.

J.K. Atwell,

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

[FR Doc. 86–28605 Filed 12–19–86; 8:45 am]

BILLING CODE 3410–34–M

9 CFR Part 92

[Docket No. 86-036]

Importation of Cattle From Canada; Calfhood Vaccination Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the animal import regulations to reflect new Canadian calfhood vaccination requirements. Currently, our regulations permit female cattle under 18 months of age to be imported from Canada without being tested for brucellosis if, among other things, they were vaccinated against brucellosis, according to Canadian regulations, when they were from 2 to 6 months of age if dairy cattle or from 2 to 10 months of age if beef cattle. Recently, the Canadian government changed its regulations to require a reduced dosage *Brucella* vaccine for calfhood vaccination, to be administered when the cattle (whether dairy or beef) are from 4 to 8 months of age. The proposed amendment is necessary to continue to allow certain female cattle to be imported from Canada without being tested for brucellosis.

DATE: Written comments must be received on or before February 20, 1987.

ADDRESS: Send your comments concerning this proposed rule to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that they are in response to Docket Number 86-036. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Jr., Import-Export and Emergency Planning Staff, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville MD 20782; (301) 436-8695.

SUPPLEMENTARY INFORMATION:

Background

The conditions under which cattle may be imported into the United States from Canada are set forth in 9 CDR Part 92. One of the conditions required for most cattle is that they test negative for brucellosis within 30 days before entry into the United States. Certain cattle, however, are exempted from testing. Section 92.20(c)(5) provides that female cattle under 18 months of age may be imported from Canada without a test for brucellosis if, among other things, they were vaccinated against brucellosis, according to Canadian regulations, when they were from 2 to 6 months of age if dairy cattle or from 2 to 10 months of age if beef cattle.

Effective January 1, 1986, Canadian regulations changed. Canada now requires use of a "reduced dosage" *Brucella* vaccine, to be administered to cattle (whether dairy or beef) between the ages of 4 and 8 months. The reduced dosage vaccine is a *Brucella abortus* Strain 19 vaccine, diluted so as to contain at least 3 billion but not more than 10 billion live cells per 2 ml dose. Before July 1, 1985, Canada required use of a "standard dosage" *Brucells abortus* Strain 19 vaccine, which contained 25 billion live cells per 3 ml dose. During a transition period from July 1, 1985, through December 31, 1985, Canada permitted calfhood vaccination against brucellosis with either the standard dosage or the reduced dosage vaccine.

Our regulations concerning the importation of cattle from Canada are intended to prevent the importation of cattle which may spread brucellosis and other contagious cattle diseases. Cattle vaccinated against brucellosis are more resistant to the disease and are less likely to transmit brucellosis to other animals than cattle that are not vaccinated. Test data indicate that cattle given the reduced dosage *Brucella* vaccine develop approximately the same level of resistance to brucellosis as cattle given the standard dosage. Furthermore, tests show that the reduced dosage vaccine given to calves from 4 to 8 months of age would cause fewer blood serum titers than the standard dosage vaccine. Persistent titers sometimes interfere with diagnosis of brucellosis and may result in improper disease classification of vaccinated cattle tested for brucellosis. Based on this evidence, we believe the reduced dosage *Brucella* vaccine, administered to female cattle between the ages of 5 and 8 months, would provide adequate immunization against brucellosis.

We therefore propose to revise § 92.20(c)(5) to allow female cattle under 18 months of age to be imported into the United States from Canada without being tested for brucellosis if, among other things, they were vaccinated after June 30, 1985, while from 4 to 8 months of age, with a reduced dosage *Brucella* vaccine, according to Canadian regulations. However, female cattle under 18 months of age and vaccinated before January 1, 1986, could still be imported under this section if they were vaccinated with a standard dosage *Brucella* vaccine while from 2 to 6 months of age if dairy cattle or from 2 to 10 months of age if beef cattle.

We also propose to revise § 92.20(d) to require that, if cattle are to be imported in accordance with § 92.20(c)(5), the date of vaccination, dosage of vaccine used, and age of each animal on the date of vaccination be stated on the certificate which must accompany the animal to the U.S. port of entry. This will enable Department officials to determine if the provisions in proposed § 92.20(c)(5) have been met.

Executive Order 12291 and Regulatory Flexibility Act

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

The effect of this action would be to retain a provision in our regulations which allows certain female cattle under 18 months of age to be imported into the United States from Canada without being tested for brucellosis. We have determined that this proposed rule would not have any affect on the number of cattle imported into the United States from Canada.

Under the circumstances explained above, 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.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and have been assigned OMB control number 0579-0040.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local

officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, the Animal and Plant Health Inspection Service proposes to amend 9 CFR Part 92 as follows:

1. The authority citation for Part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.20, paragraphs (c)(5) and (d) would be revised and the OMB control number would be added at the end of the sector to read as follows:

§ 92.20 Cattle from Canada.

* * * * *

(c) * * *

(5) Female cattle under 18 months of age may be imported without being tested for brucellosis if they meet all of the following conditions: (i) They were born and remained prior to importation in a herd that meets the requirements of paragraphs (c)(1), (c)(2), or (c)(3)(i) of this section; and (ii) They are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian government stating that they were vaccinated against brucellosis, according to Canadian regulations, as follows: (A) After June 30, 1985, while from 4–8 months of age, with a reduced dosage *Brucella* vaccine; or (B) Before January 1, 1986, while from 2–6 months of age if dairy cattle or from 2–10 months of age if beef cattle, with a standard dosage *Brucella* vaccine.

* * * * *

(d) The certificates prescribed in paragraphs (b) and (c) of this section shall state: (1) The names of the consignor and consignee; (2) a description of the cattle to be imported, including the breed, ages, markings, and tattoo and eartag numbers of each animal; (3) the dates and places of each test required by paragraphs (b) and (c) of this section; and (4) the date of vaccination, dosage of vaccine used, and the age of each animal on the date of vaccination for each vaccination conducted in accordance with paragraph (c)(5) of this section.

(Approved by the Office of Management and Budget under control number 0579–0040)

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

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–28606 Filed 12–19–85; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 70–CE–1–AD]

Airworthiness Directive; Cessna Models T310P, T310Q, 320D, 320E and 320F Airplanes With Teledyne Continental TSIO–520B Engines and Models 401, 401A, 401B, 402, 402A, and 402B Airplanes With Teledyne Continental TSIO–520E Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This revision of AD 70–03–04 will limit the required repetitive inspection of the turbosupercharger turbine housing of those airplanes equipped with the stainless steel turbine heat shields in place of the insulating turbine blanket. This action is being taken because a review has revealed no problems on those airplanes having turbosuperchargers equipped with the stainless heat shields. This revision would limit the required repetitive inspection to those turbosuperchargers equipped with the turbosupercharger turbine blanket.

DATES: Comments must be received on or before January 16, 1987.

ADDRESSES: Cessna Multi-engine Service Letters Nos. ME70–3, dated January 9, 1970, ME70–3 Supplement 1, dated February 9, 1970, and ME72–4, dated March 24, 1972, applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 70–CE–1–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE–140W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4427.

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 or notice 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 Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 70–CE–1–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 70–03–04, applicable to Cessna Models T310P, T310Q, 320D, 320E, and 320F Series airplanes with the Continental Model TSIO–520B engines installed and Models 401, 401A, 401B, 402, 402A, and 402B Series airplanes with the Continental Model TSIO–520E engines installed was published on January 31, 1970 (35 FR 1279) in the Federal Register. This AD calls for inspection to detect incipient failure of the turbosupercharger housing installed in the above listed airplanes. This inspection is conducted within 25 hours time-in-service after the effective date of the AD, on airplanes with turbosupercharger turbine housings having 400 hours or more time-in-service (TIS), or at or before 425 hours TIS on turbosupercharger turbine housings having less than 400 hours TIS and thereafter at intervals not to exceed 100

hours TIS, unless already accomplished. The inspection consists basically of removing the engine top cowling and the turbosupercharger turbine insulation blanket and visually inspecting the surface of the turbine housing for cracks, bulging and burned areas. Subsequent to the issuance of AD 70–03–04, the FAA has determined that relief from the repetitive inspection requirements of AD 70–03–04 is in order for those airplanes equipped with stainless steel turbine heat shields.

Prior to 1972 the affected aircraft were manufactured with an insulating blanket covering the turbine housing of the turbosupercharger. Beginning with the 1972 models, the insulation blanket was replaced with stainless steel heat shields. These shields improved the heat dissipation of the turbosupercharger thereby increasing the turbine housing life. Cessna Multi-engine Service Letter ME72–4, dated March 24, 1972, announced the availability of stainless steel heat shields and also recommended that they be installed whenever field replacement of components was required.

A review of service difficulty reports was made pertaining to the turbosupercharger turbine housing. This review did not reveal any problems on those airplanes having turbosuperchargers equipped with the stainless steel heat shields.

In light of the foregoing, the FAA proposes to revise AD 70–03–04 by: (1) Specifying the serial numbered airplanes that had the insulating turbine blanket as original equipment; (2) eliminating any reporting requirements and; (3) deleting repetitive inspections once stainless steel heat shields are installed as field replacements.

Because the potential cost reduction made available by the proposal is small, and the limited number of affected airplanes is distributed among a small number of owners, few if any small entities are expected to experience a significant economic impact as the result of this proposal. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety

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 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.

2. By revising and reissuing AD 70–03–04 as follows:

Cessna: Applies to the following serial numbered Model T310P, T310Q, 320D, 320E, and 320F airplanes equipped with Teledyne Continental Model TSIO–520B engines, and to the following serial numbered Model 401, 401A, 401B, 402, 402A, and 402B airplanes equipped with Teledyne Continental Model TSIO–520E engines.

Model	Serial No.
T310P	T310P0001 thru T310P0240.
T310Q	T310Q0001 thru T310Q0291.
320D	320D0001 thru 320D0130.
320E	320E0001 thru 320E0110.
320F	320F0001 thru 320F0045.
401	4010001 thru 4010322.
401A	401A0001 thru 401A0132.
401B	401B0001 thru 401B0121.
402	4020001 thru 4020322.
402A	402A0001 thru 402A0129.
402B	402B0001 thru 402B0122.

Compliance: Within 25 hours time-in-service after the effective date of this AD, on airplanes with turbosupercharger turbine housings having 400 hours or more time-in-service (TIS), or at or before 425 hours TIS on turbosupercharger turbine housings having less than 400 hours TIS and thereafter at intervals not to exceed 100 hours TIS, unless already accomplished.

To detect incipient failure of turbosupercharger turbine housings installed in the above airplanes, accomplish the following:

(a) Remove the engine top cowling and the turbosupercharger turbine insulation blanket and visually inspect the complete surface of the turbine housing of the TCM turbosupercharger assembly P/N 632729 (AID P/N 406610) for cracks, bulges and burnt areas. Remove and reinstall the turbosupercharger insulation blanket in accordance with applicable Cessna Service Manuals.

(b) If cracks, bulges or burnt areas are found during the inspection required by paragraph (a) of this AD, prior to further flight replace the defective part with an airworthy part.

(c) Replacement of the turbosupercharger turbine insulation blanket with stainless steel heat shields in accordance with Cessna Multi-Engine Service Letter ME 72–4, dated March 24, 1972, will terminate further time interval repetitive inspections required by this AD. However, the inspection cited in paragraph (a) above and any necessary corrective action in paragraph (b) above must be completed at the time of the heat shield installation.

(d) Any equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201; or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Note 1.—Cessna Multi-engine Service Letter No. ME70–3, dated January 9, 1970, ME70–3 Supplement I, dated February 9, 1970, and ME72–4, dated March 24, 1972, relate to this subject.

Note 2.—Time-in-service on turbosupercharger turbine housings may be determined from the engine maintenance records.

Issued in Kansas City, Missouri, on December 2, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–28594 Filed 12–19–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86–AWP–30]

Revision to the Santa Rosa, CA, Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Santa Rosa, California, transition area and provide controlled airspace for aircraft executing a new instrument approach procedure to the Sonoma County airport. This notice also revises the Santa Rosa control zone and deletes any reference to the Santa Rosa Coddington Airport which no longer exists.

DATES: Comments must be received on or before February 5, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP–530, Docket No. 86–AWP–30, Air Traffic Division, P.O. Box 90027, Worldway

Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260, telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWP-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90260, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of the NPRM. Person interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Santa Rosa, California, control zone and transition area. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Santa Rosa, CA—[Revised]

Within a 5-mile radius of Sonoma County Airport (lat. 38°30'33" N., long. 122°48'42" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/ Facility Directory.

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 38°54'45" N., long. 122°52'33" W.; to lat. 38°27'00" N., long. 122°39'05" W., to lat. 38°22'45" N., long. 122°52'22" W.; to lat. 38°49'30" N., long. 123°08'28" W.; thence to the point of beginning.

Issued in Los Angeles, California, on December 11, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-28584 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

POSTAL SERVICE

39 CFR Part 111

Supplements to Second-Class Publications; Extension of Time for Comment

AGENCY: Postal Service.

ACTION: Proposed rule; extension of time.

SUMMARY: On December 12, 1986, the Postal Service published in the **Federal Register** (51 FR 44801) a proposed rule change intended to clarify and improve current postal regulations and procedures concerning the mailing of supplements to second-class publications. The Postal Service requested comments on the proposed rule change on or before January 11, 1987.

Certain mailer representatives requested a fifteen day extension of the comment period in order to make a more complete assessment of the proposal and its potential effects.

The Postal Service believes that the requested extension is reasonable and will serve the public interest in this case. Accordingly, the Postal Service is extending the deadline for comments on the proposed rule change until January 26, 1987.

DATE: Comments on the proposed rule change must be received on or before January 26, 1987.

ADDRESS: Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5360. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young (202) 268–5321.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–28638 Filed 12–19–86; 8:45 am]

BILLING CODE 7710–12–M

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39 CFR Part 111

Solicitations in the Guise of Bills, Invoices, or Statements of Account

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the regulation implementing statutory provisions on the mailing of solicitations in the guise of bills, invoices, or statements of account. It would clarify an existing regulation by removing possible ambiguity and make more specific and prominent a required warning regarding the true nature of solicitations which resemble bills.

DATE: Comments must be received on or before January 21, 1987.

ADDRESS: Written comments should be directed to the Assistant General Counsel, Consumer Protection Division, Law Department, U.S. Postal Service, Washington, DC 20260–1112. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday in Room 6319, U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–1112.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 268–3076.

SUPPLEMENTARY INFORMATION: Under 39 U.S.C. 3001(d) and implementing postal regulations, i.e., the Domestic Mail Manual, a solicitation in the guise of a bill, invoice, or statement of account is "nonmailable" unless certain warnings are printed on its face making it clear that the solicitation is merely an offer and not a bill that has to be paid. These warnings must be in capital letters of a color prominently contrasting with the background against which they appear.

These regulations specify alternative methods of displaying these warnings. One alternative is to center the warning diagonally across the face of the solicitation. However, experience with the part of the regulation that provides this alternative suggests that it is potentially ambiguous, and that the warning would be more effective if placed close to every part of the solicitation which could be construed as specifying a monetary amount due and owing by the recipient.

In addition, some solicitations have been printed with the warning in ink that does not duplicate on ordinary office copiers, reducing the likelihood that bookkeeping personnel will be made aware of the true nature of the solicitation.

Consequently, the Postal Service proposes to revise the requirement concerning the placement of the warning, in order to improve the likelihood that recipients understand they have received solicitations and not bills; and to add the requirement the warning be printed in ink that does duplicate on ordinary office copiers.

In view of the above, the Postal Service invites comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Revise 123.4 to read as follows:

123.4 Nonmailable Written, Printed or Graphic Matter Generally.

.41 Solicitations in the Guise of Bills, Invoices, or Statements of Account (39 U.S.C. 3001(d); 39 U.S.C. 3005). Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to .41a through .41f below. A nonconforming solicitation constitutes prima facie evidence of violation of 39 U.S.C. 3005. However, compliance with this section will not avoid violation of Section 3005 if any portion of the solicitation or any accompanying information misrepresents a material fact to the addressee. For example, misleading the adressee as to the identity of the sender of the solicitation or as to the nature or extend of the goods or services offered may constitute a violation of section 3005.

a. The solicitation must bear on its face the disclaimer prescribed by 39 U.S.C. 3001(d)(2)(A) or, alternatively, the notice: THIS IS NOT A BILL. THIS IS A SOLICITATION, YOU ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS OFFER. The statutory disclaimer or the alternative notice must be displayed in conspicuous boldface capital letters of a color prominently contrasting (see .41e below) with the background against which it appears, including all other print on the face of the solicitation, and that are at least as large, bold and conspicuous as any other print on the face of the solicitation but not smaller than 30-point type.

b. The notice or disclaimer required by this section must be displayed conspicuously apart from other print on the page immediately below each portion of the solicitation which reasonably could be construed to specify a monetary amount due and payable by the recipient. It must not be preceded, followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or that introduces, modifies, qualifies, or explains the prescribed text, such as "Legal notice requred by law." See example following paragraph f.

c. The notice or disclaimer must not, by folding or any other device, be rendered unintelligible or less prominent than any other information on the face of the solicitation.

d. If a solicitation consists of more than one page or if any page is designed to be separated into portions (e.g., by tearing along a perforated line), the notice or disclaimer required by this section must be displayed in its entirety on the face of each page or portion of a page that might reasonably be considered a bill, invoice, or statement of account due as required by paragraphs .41a and .41b, *supra*.

e. For purposes of this section, the phrase "color prominently contrasting" excludes any color, or any intensity of an otherwise included color, which does not permit legible reproduction by ordinary office photocopying equipment used under normal operating conditions, and which is not at least as vivid as any other color on the face of the solicitation. For the purposes of this section the term "color" includes black.

f. Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

EXAMPLE

SOLICITATIONS INCORPORATED

RETAIL STORES

CAR-RT-SORT
** CR 43
RETAIL STORE
1515 MAIN STREET
ANYWHERE, USA

___ CHECK ENCLOSED
___ BILL ME LATER

X_____
SIGNATURE

IMPORTANT THIS FORM MUST BE RETURNED TO ENSURE YOUR CORRECT DIRECTORY LISTING. Please correct listing and ZIP Code if necessary.

FOLD HERE

MAKE CHECK PAYABLE TO: Solicitations Incorporated, P.O. Box 10000, City, State, ZIP Code

BUSINESS LISTINGS TO APPEAR IN THE 1987 SOLICITATIONS INCORPORATED DIRECTORY

AMOUNT $50.00 FOR EACH LISTING.

THIS IS NOT A BILL.
THIS IS A SOLICITATION.
YOU ARE UNDER NO OBLIGATION
TO PAY THE AMOUNT STATED ABOVE
UNLESS YOU ACCEPT THIS OFFER.

An appropriate amendment to 39 CFR Part 111 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-28604 Filed 12-19-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 264, and 270

[SW FRL 3131-1]

Hazardous Waste Management System; Standards for Owners and Operators of Miscellaneous Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of the comment period.

SUMMARY: The purpose of this notice is to announce a 30 day extension to the comment period for the proposed rule published on November 7, 1986 (51 FR 40726). The Environmental Protection Agency (EPA) proposed a new set of standards under Subpart X of Part 264 that are applicable to owners and operators of new and existing hazardous waste management units not covered under existing regulations. EPA has received a request to extend the comment period that currently ends on December 22, 1986, because of the complexity of the proposed rule. However, in view of the need to finalize the rule as quickly as possible we will extend the period by only 30 days.

DATES: The Agency will accept comments on the proposed rule on or before January 21, 1987.

ADDRESSES: Send original comments plus two copies to: Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Agency, 401 M Street SW., Washington, DC 20460. Comments should be identified as follows: F-86-SPXX-FFFFF.

The public docket for this proposed rule is located at the U.S. Environmental Protection Agency, in room MLG100, 401 M Street SW., Washington, DC, and is available for viewing from 9:00 a.m. to 3:30 p.m., Monday through Friday, excluding holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments.

FOR FURTHER INFORMATION CONTACT: OSSI MEYN (202) 382-7597 or RCRA Hotline at (800) 424-9346 (in Washington, DC, call (202) 382-3000).

Dated: December 16, 1986.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 86-28678 Filed 12-19-86 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR PART 160

[CGD 81-010]

Servicing of Inflatable Liferafts; Notice of Public Meeting and Extension of Comment Period

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking: Notice of public meeting and extension of comment period.

SUMMARY: This is a notification to the public that the Coast Guard will hold a public meeting to discuss some of the issues raised by its Advance Notice of Proposed Rulemaking (ANPRM) published on August 14, 1986. This ANPRM generated comments from all facets of the industry. The responses were mixed, raising new issues, and some of the respondents requested a public meeting. Accordingly, the Coast Guard has extended the comment period to February 10, 1987, and will hold a public meeting to allow participants to present data, views, and comments, on the issues.

DATES: 1. *Comment Period:* The comment period is hereby extended until February 10, 1987.

2. *Meeting:* The public meeting will be held on January 27, 1987.

3. Notice of attendance to the officer listed in **FOR FURTHER INFORMATION CONTACT** should be received by January 16, 1987.

ADDRESSES: 1. The public meeting will be held in room 2415, at U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC, 20593, from 9:30 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy M. Keegan, Office of Marine Safety, Security and Environmental Protection (G–MVI–3/14), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593, Telephone: (202) 267–1444. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On August 14, 1986, the Coast Guard published an ANPRM (51 FR 29117) that discussed a proposed revision to the regulations governing the servicing of Coast Guard approved inflatable liferafts used on U.S. inspected merchant vessels. The Coast Guard invited the public to participate in the earliest stages of this rule making by submitting written views, data or arguments. The Coast Guard also agreed to hold a public meeting, at a time and place to be set in a later notice in the **Federal Register**, if it was requested by a sufficient number of interested persons raising genuine issues and the Coast Guard determined that an opportunity to make oral presentations will aid in the rule making process. Since issues were raised and requests for the public meeting were received, the Coast Guard will hold the public meeting on the date, time, and at the place discussed above. It is requested that all persons interested in attending make their plans known as indicated above.

The Coast Guard intends to limit the discussions at the public meeting to the issues presented in the ANPRM and the following new issues presented by a number of commentors:

a. The training and use of vessel or MODU personnel as manufacturer authorized servicing technicians.

b. The authority to replace, during the annual servicing of an inflatable liferaft outside the continental United States, damaged or expired Coast Guard approved containers of water, provisions, and pyrotechnics with similar equipment approved by another flag state signatory to SOLAS.

c. The extent of authority or influence the manufacturers should have in the selection and retention of servicing facilities authorized to service their inflatable liferafts.

J.W. Kime,

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

December 17, 1986.

[FR Doc. 86–28628 Filed 12–19–86; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 51, No. 245
Monday, December 22, 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 COMMERCE

International Trade Administration

[A-122-605]

Initiation of Antidumping Duty Investigation; Color Picture Tubes from Canada

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether color picture tubes from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before January 12, 1987, and we will make ours on or before May 5, 1987.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230; telephone (202) 377-3965.

SUPPLEMENTARY INFORMATION:

The Petition

On November 26, 1986, we received a petition in proper form filed by: The International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Union of Electronics, Electrical, Technical, Salaried & Machine Workers, AFL-CIO-CLC; United Steelworkers of America, AFL-CIO; Industrial Union Department, AFL-CIO. In compliance with the filing requirements of §353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury to a United States industry.

Petitioners based foreign market value on the delivered sales price of color picture tubes sold to original equipment manufacturers in Canada.

Petitioners based United States price on the weighted-average f.o.b. import price of Canadian color picture tubes derived from both Department of Commerce import statistics and price quotes to United States color picture tube manufacturers.

Based on the above comparisons, petitioners allege dumping margins of 4.62 to 12.78 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on color picture tubes and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether the merchandise subject to this investigation from Canada is being, or is likely to be, sold in the United States at less than fair value.

If our investigation proceeds normally, we will make our preliminary determination no later than May 5, 1987.

Scope of Investigation

The products covered by this investigation are color picture tubes which are provided for the Tariff Schedules of the United States Annotated (TSUSA) items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, 687.3520.

Color picture tubes are defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing.

Petitioners have also requested that the Department examine color picture tubes which are imported as part of color television receiver kits which contain all parts necessary for assembly into complete television receivers, or as part of an incomplete television receiver assembly that has a color picture tube as well as additional components. Color television receiver kits are provided for in TSUSA item 684.9655, while incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658, and 684.9660. In accordance with petitioners' request, we are tentatively including color picture tubes in these kits and assemblies in the scope of this investigation. In the course of this proceeding we will determine whether to continue to include imports of picture tubes in these kits and assemblies in the scope of this investigation.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by January 12, 1987, whether there is a reasonable indication that imports of the merchandise subject to this investigation from Canada are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise,

it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 16, 1986.

[FR Doc. 86-28653 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-609]

Initiation of Antidumping Duty Investigation; Color Picture Tubes From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether color picture tubes from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before January 12, 1987, and we will make ours on or before May 5, 1987.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

The Petition

On November 26, 1986, we received a petition in proper form filed by: The International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, AFL-CIO-CLC; United Steelworkers of America, AFL-CIO; Industrial Union Department, AFL-CIO. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Petitioners based foreign market value on the delivered sales price of color price tubes sold to original equipment manufacturers in Japan.

Petitioners based United States price on the weighted-average f.o.b. import price of Japanese color picture tubes derived from both Department of Commerce import statistics and price quotes to United States color picture tube manufacturers.

Based on the above comparisons, petitioners allege dumping margins of 17.95 to 44.11 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on color picture tubes and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether the merchandise subject to this investigation from Japan is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination no later than May 5, 1987.

Scope of Investigations

The products covered by this investigation are color picture tubes which are provided for in the Tariff Schedules of the United States Annotated (TSUSA) items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520.

Color picture tubes are defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing.

Petitioners have also requested that the Department examine color picture tubes which are imported as part of color television receiver kits which contain all parts necessary for assembly into complete television receivers, or as part of an incomplete television receiver assembly that has a color picture tube as well as additional components. Color television receiver kits are provided for in TSUSA item 684.9655, while incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658 and 684.9660. In accordance with petitioners' request, we are tentatively including color picture tubes in these kits and assemblies in the scope of this investigation. In the course of this proceeding we will determine whether to continue to include imports of color picture tubes in these kits and assemblies in the scope of this investigation. Should we determine such imports fall within the scope of this investigation, we will resolve the issue of any potential overlap in coverage resulting from the outstanding antidumping duty order on television receiving sets from Japan (36 FR 4597, March 10, 1971).

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by January 12, 1987, whether there is a reasonable indication that imports of the merchandise subject to this investigation from Japan are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 16, 1986.

[FR Doc. 85-28654 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-605]

Initiation of Antidumping Duty Investigation; Color Picture Tubes From the Republic of Korea

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether color picture tubes from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before January 12, 1987, and we will make ours on or before May 5, 1987.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

The Petition

On November 26, 1986, we received a petition in proper form filed by: The International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, AFL-CIO-CLC; United Steelworkers of America, AFL-CIO; Industrial Union Department, AFL-CIO. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Petitioners based foreign market value on the constructed value of CPTs in Korea since they are unable to obtain home market or third country prices. Constructed value was calculated using Unites States producers' cost of producing CPTs, adjusted for Korean material and labor costs. The statutory minimum of 10 percent for general, selling and administrative expenses and 8 percent for profit were used.

Petitioners based United States price on the weighted-average f.o.b. import price of Korean color picture tubes derived from Department of Commerce import statistics and price quotes to United States color picture tube manufacturers.

Based on the above comparisons, petitoners allege dumping margins of 7.91 to 50.57 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on color picture tubes and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether the merchandise subject to this investigation from Korea is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminaty determination no later than May 5, 1987.

Scope of Investigation

The products covered by this investigation are color picture tubes which are provided for in the Tariff Schecules of the United States Annotated (TSUSA) items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520.

Color picture tubes are defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing.

Petitioners have also requested that the Department examine color picture tubes which are imported as part of color television receiver kits which contain all parts necessry for assembly into complete television receivers, or as part of an incomplete television receiver assembly that has a color picture tube as well as additional components. Color television receiver kits are provided for in TSUSA item 684.9655, while incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658 and 684.9660. In accordance with petitioners' requests, we are tentatively including color picture tubes in these kits and assemblies in the scope of this investigation. In the course of this proceeding we will determine whether to continue to include imports of color picture tubes in these kits and assemblies in the scope of this investigation. Should we determine such imports fall within the scope of this investigation, we will resolve the issue of any potential overlap in coverage resulting from the outstanding antidumping duty order on color television receivers from Korea (49 FR 18336, April 30, 1984.)

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by January 12, 1987, whether there is a reasonable indication that imports of the merchandise subject to this investigation from Korea are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 16, 1986.

[FR Doc. 86-28655 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-559-601]

Initiation of Antidumping Duty Investigation; Color Picture Tubes From Singapore

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether color picture tubes from Singapore are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before January 12, 1987, and we will make ours on or before May 5, 1987.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–3965.

SUPPLEMENTARY INFORMATION:

The Petition

On November 26, 1986, we received a petition in proper form filed by: The International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, AFL–CIO–CLC; United Steelworkers of America, AFL–CIO; Industrial Union Department, AFL–CIO. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Singapore are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Petitioners based foreign market value on the constructed value of color picture tubes in Singapore since they were unable to obtain home market or third country prices. Constructed value was calculated using United States producers' cost of producing color picture tubes, adjusted for Singapore material and labor costs. The statutory minimum of 10 percent for general, selling and administrative expenses and 8 percent for profit were used.

Petitioners also calculated a foreign market value by applying the "special rule for certain multinational corporations" contained in section 773(d) of the Act, 19 U.S.C. 1677b(d). In this instance, the delivered sales prices of color picture tubes sold to original equipment manufacturers in Japan, by the Singapore producer's related affiliate in Japan, were used as the basis for foreign market value.

Petitioners based United States price on the weighted-average f.o.b. import price of Singapore color picture tubes derived from both Department of Commerce import statistics and price quotes to United States color picture tube manufacturers.

Based on the above comparisons, petitioners allege dumping margins of 19 to 94.39 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on color picture tubes and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether the merchandise subject to this investigation from Singapore is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination no later than May 5, 1987.

Scope of Investigation

The products covered by this investigation are color picture tubes which are provided for in the Tariff Schedules of the United States Annotated (TSUSA), items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520.

Color picture tubes are defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing.

Petitioners have also requested that the Department examine color picture tubes which are imported as part of color television receiver kits which contain all parts necessary for assembly into complete television receivers, or as part of an incomplete television receiver assembly that has a color picture tube as well as additional components. Color television receiver kits are provided for in TSUSA items 684.9655, while incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658, and 684.9660. In accordance with petitioners' request, we are tentatively including color pictures tubes in these kits and assemblies in the scope of this investigation. In the course of this proceeding, we will determine whether to continue to include imports of color picture tubes in these kits and assemblies in the scope of this investigation.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information either publicly or under administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by January 12, 1987, whether there is a reasonable indication that imports of the merchandise subject to this investigation from Singapore are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 16, 1986.

[FR Doc. 86–28656 Filed 12–19–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–533–063]

Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On October 7, 1986, the Department of Commerce published the

preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India. The review covers the period January 1, 1984 through December 31, 1984 and ten programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the net subsidy for the period of review to be 8.08 percent *ad valorem*.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 35676) the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India (October 16, 1980, 46 FR 16921). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. Such merchandise is currently classifiable under items 657.0950 and 657.0990 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1984 through December 31, 1984 and ten programs: (1) The International Price Reimbursement Scheme ("IPRS"); (2) a rebate upon export of indirect taxes under the Cash Compensatory Support program ("CCS"); (3) pre-shipment export loans; (4) income tax deductions; (5) grants through the Market Development Assistance program; (6) the sale of Import Replenishment Licenses; (7) extension of the free trade zones; (8) supply of raw materials at preferential prices; (9) preferential freight rates; and (10) import duty exemptions available to 100 percent export-oriented units.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, Pinkerton Foundry, Inc., and other domestic producers of certain iron metal castings ("the domestic industry"), and the responding exporters, RSI (India) Pvt., Ltd., Kajaria Castings Pvt., Ltd., Kejriwal Iron & Steel Works, Serampore Industries Pvt., Ltd., Uma Iron & Steel Co., Commex Corp., Govind Steel Co., and East Coast Manufacturing & Marketing Pvt., Ltd. ("the exporters"), we held a public hearing on November 6, 1986.

Comment 1: The exporters argue that the IPRS program is not a subsidy because: (1) The program is the functional equivalent of a duty drawback system and does not distort the market process "by artificially increasing revenues or decreasing costs," part of the definition of a countervailable subsidy described in "Identifying and Measuring Subsidies Under the Countervailing Duty Law" (from the publication the *Commerce Department Speaks on Import Administration and Export Administration 1984*, PLI 1984 at 315); (2) the IPRS is consistent with the substance, if not the letter, of item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code") and the precedents established in *Certain Steel Wire Nails from Korea*, (47 FR 39549, September 8, 1982) and *Oil Country Tubular Goods from Taiwan* (51 FR 19583; May 30, 1986); (3) the Illustrative List cannot be disregarded in the context of countervailing duty cases since there is no distinction between countervailing duty and dispute settlement provisions in the Subsidies Code, and because section 771(5) of the Tariff Act incorporates the Ilustrative List into its definition of subsidies; and (4) the GATT (General Agreement on Tariffs and Trade) draft panel report on pasta, which concerned restitution payments under the Common Agricultural Policy ("CAP") of the European Community, is inapposite because the CAP is a comprehensive, market regulating system that functions differently from the IPRS.

Department's Position: We disagree. Given the facts of how the IPRS program operates, we cannot conclude that the IPRS rebates only the difference between domestic and international prices for pig iron consumed in castings exports. The international price used to calculate the rebate is based on a government contract purchase price for pig iron from an earlier period, and we do not know to what extent it reflects current international prices for pig iron. In addition, the rebate formula is based on a standard factor of 70 percent of the exported castings by weight (110 percent during the latter part of the review period), *i.e.*, the rebate was calculated as if pig iron constituted 70 percent of the total volume of pig iron and scrap consumed in the manufacture of castings. Among the exporters we verified, however, we found that the actual consumption of pig iron was significantly lower than this standard factor.

In the precedents concerning exports from Korea and Taiwan cited by the exporters, we determined that the two-tier pricing policies of producers of the relevant input (depending on whether the input was used for domestic or export sale) were commercial responses to segmented markets and the price differentials were a direct function of the amount of import duties on the input. In India, the Joint Plant Committee, a government-directed organization comprised largely of pig iron and steel producers, regulates the domestic pig iron price and determines the rate of rebate, with no apparent relationship existing between the amount of rebate and the actual consumption of pig iron.

Because of these difficulties, we cannot determine whether the IPRS is non-distortive of market forces, a functional equivalent of duty drawback, or consistent with item (d) of the Illustrative List.

Therefore, we have determined that the IPRS rebate is a direct export subsidy and countervailable in its entirety.

Comment 2: The domestic industry maintains that, because the exporters submitted a deficient response, the Department should use the best information available with respect to the IPRS program. In particular, the domestic industry (citing examples from the verification report) noted that: (1) The questionnaire response did not include the value of all IPRS rebates received as well as the date of application, receipt and use of those rebates (*e.g.*, RSI failed to report a claim received during 1984, and Govind failed to report any claims or payments made during 1984); (2) merchant exporters failed to provide complete information regarding the IPRS benefits received by both manufacturer and exporter, which led to the underreporting of such countervailable benefits (*e.g.*, Kajaria did not report the IPRS benefits received by its supplier; Commex failed to report the benefits it received from Uma, its manufacturer; and East Coast reported no benefits at all); (3) the exporters failed to establish any correlation between the date that IPRS payments are received and the date that castings

are exported, without which the Department cannot be sure it has complete information with regard to the total amount of IPRS benefits received. Failure to use the best information available under these circumstances would reward the exporters for lack of cooperation and incomplete questionnaire responses.

The exporters claim that, if the Department considers the IPRS to be a subsidy, it should revise its calculations for three companies because their reported IPRS benefits were based on their total castings exports, not just the castings subject to the order. Since the exporters raised this issue for the first time at the hearing, the domestic industry objects to such a revision because it would be based on untimely and inverified information.

Department's Postion: We consider the data we received sufficient with respect to the IPRS program and are, therefore, not resorting to the best information othewise available in calculating the country-wide rate. With the excepton of the IPRS benefits received by Kajaria's supplier, the deficiencies in the response were corrected during verification.

We were able to determine at verification all of RSI's IPRS receipts during 1984. We also verified that Govind did not receive any IPRS payments in 1984. The merchant exporter, Uma, Commex' supplier, reported the benefits it had received, and Commex was able to demonstrate the amount it received from Uma. We considered the IPRS benefits received by both Uma and Commex in the calculation of the country-wide IPRS benefit for the review period. Because Kajaria was unable to provide information concerning the IPRS benefit received by its supplier, we have increased the amount attributed to castings exported by Kajaria. We based this adjustment on the average differential between the domestic and "international" prices for pig iron that were used when calculating the IPRS benefit. We multiplied this differential by 70 percent of the total tonnage of castings exported to the United States by Kajaria and divided the result in half, since this was the average percentage of the benefit passed from manufacturer to exporter that we verified with other suppliers/exporters. We also revised the calculations for Serampore by allocating the IPRS benefits over its total exports of castings because we verified that this was the basis used for reporting the company's benefits. In calculating the benefit from the IPRS program, we weighted each company's *ad valorem* benefit by its share of exports to the United States, excluding East Coast (see explanation in the response to Comment 10), and we now find the 1984 benefit from the IPRS program to be 7.31 percent *ad valorem*.

Comment 3: The exporters argue that the benefit from the IPRS program is overstated, claiming that it should be offset by the cost of the Rs. 75/metric ton for the Engineering Goods Export Assistance Fund ("EGEAF") levy collected on purchases of pig iron.

Department's Position: We disagree. The EGEAF levy is a tax paid by all consumers of pig iron, not just exporters. It is not a payment required to qualify for the IPRS benefit and, therefore, does not constitute an offset to the IPRS benefit as defined in section 771(6) of the Tariff Act.

Comment 4: The domestic industry claims that, in calculating the permissible amount of the indirect tax rebate in its determination on the CCS program, the Department overstated the average indirect tax incidence per metric ton of finished castings by using the gross price of pig iron. Since the IPRS rebate effectively lowers the price of pig iron, the Department should use the net price of pig iron, after the IPRS payments have been deducted, when calculating the indirect tax incidence on castings.

Department's Position: We disagree. We verified that exporters paid indirect taxes on the published (gross) price of pig iron, not on the net price. Therefore, the basis for our calculation of indirect tax incidence is correct.

Comment 5: The domestic industry argues that the administrative record does not show that castings exporters paid the Freight Equalization Fund ("FEF") levy during the review period. Therefore, the Department should not include the levy as an allowable indirect tax in its CCS rebate calculations.

The Department verified that the EGEAF levy was not collected between April 1982 and June 1984. Since the FEF levy and excise duties are, along with the EGEAF levy, elements included in the pig iron price, it is probable that they were not collected as well. Therefore, these taxes should not be considered an allowable part of the CCS rebate to castings exporters during calendar year 1984.

Department's Position: We disagree. The domestic industry has erroneously assumed that, because EGEAG levies were not collected through June 1984, the FEF levies were also not collected for the same period. The FEF lelvy was included in the price of pig iron, and we have correctly included the FEF levy as an allowable tax in the CCS rebate.

Comment 6: The exporters claim that the Department overstated the benefit from the pre-shipment financing program by using an incorrect commercial benchmark of 18 percent to calculate the benefit. The commercial rate which the Department verified varied between 16.5 percent and 18 percent during 1984, depending on the level of borrowing. Using the maximum rate penalizes the exporters for no reason, and the Department should instead have used an average rate of 17.25 percent.

Department's Position: We chose a commerical benchmark of 18 percent because we were not able to verify with any accuracy a national average interest rate for short-term commercial loans. Information obtained from commercial banks indicates that rates on non-preferential loans ranged between 16.5 and 18 percent, depending on the size of the loan. We chose the high end of the range for short-term financing because we could not know what the rate would be to the exporters.

Comment 7: The exporters argue that the Department should deduct the cost of export credit insurance from the benefit received under pre-shipment financing because the cost to credit insurance is mandatory in order to receive the pre-shipment financing.

Department's Position: We disagree. The cost of export credit insurance is not an offset to a benefit as defined by section 771(6)(A) of the Tariff Act. Credit insurance is part of the cost of obtaining pre-shipment financing and, as such, would be part of the calculation of the effective interest on these loans. However, we lack sufficient information to determine an effective interest rate benchmark. Therefore, we can only compare a nominal interest rate benchmark to a nominal preferential interest rate.

Comment 8: The domestic industry claims that the Department erroneously determined that the exporters did not use Market Development Assistance ("MDA") grants during 1984. The domestic industry had specifically requested that the Department verify the receipt of a grant by S–K Iron Foundry & Engineering Company received in 1983, yet the Department failed to verify this company.

Department's Position: We received questionnaire responses from exporters that covered over 85 percent of exports of the merchandise covered by the order, but S–K Iron Foundry & Engineering Company was not among the respondents. None of the

respondents reported receipt of an MDA grant in 1984, and we verified that this was accurate. We also reviewed a statement issued by the Indian Ministry of Commerce that no exporters of this merchandise received MDA grants during 1984.

Comment 9: The domestic industry argues that the Department should establish company-specific rates, rather than a weighted-average country-wide rate, and cites *Phillip Brothers, Inc. v. United States*, 10 CIT, Slip Op. 86–16 at 11 (February 14, 1986), in which the Court required company-specific rates if the company rates were materially different.

The exporters argue that the request for company-specific rates should be denied because it runs counter to the Department's stated policy in setting a country-wide rate. Contrary to the domestic industry's claim, *Phillip Brothers, Inc. v. United States* actually supports country-wide rates and allows company-specific rates only if the differential between the company-rate and the weighted-average rate was significant, a test not met in this case. The Court held that the purpose of the company-specific provision was to allow importers to obtain lower company-specific rates if they bought from less subsidized suppliers, not to allow a U.S. industry to request company-specific rates at its discretion.

Department's Position: We only establish company-specific rates under section 706(a)(2) of the Tariff Act if the rates between companies are significantly different. After recalculating the rates for individual exporters, we find that the rates are not significantly different and will apply countervailing duties on a country-wide basis.

Comment 10: The domestic industry asserts that the responses from Kajaria, Govind, and East Coast are insufficient and contends that, if the Department calculates a weighted-average country-wide rate, the exports from other companies to the United States should not be included in calculating that average.

Department's Position: We used the information from Kajaria and Govind because we remedied the deficiencies at verification. Since we did not verify the response from the East Coast and consider that response inadequate, we have not used the information in that response for calculating the benefits from any of the programs.

Final Results of Review

After considering all of the comments received, we determine that net subsidy for the period January 1, 1984 through December 31, 1984 to be 8.08 percent *ad valorem*.

The Department will instruct the Customs Service to assess countervailing duties of 8.08 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1984, and on or before December 31, 1984.

The Department will also instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 8.08 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 16, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86–28657 Filed 12–19–86; 8:45 am]

BILLING CODE 3510-DS-M

Massachusetts Institute of Technology, Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86–331. Applicant: Massachusetts Institute of Technology, Cambridge, MA 02139. Instrument: Atom Probe/Field Ion Microscope, Model FIM 100. Manufacturer: VG Scientific Limited, United Kingdom. Intended use: See notice at 51 FR 37623.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of measuring manganese in the presence of iron and chromium at levels in the 0.5–2% range and provides a guaranteed resolution (full-width half max) of 1000. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–28658 Filed 12–19–86; 8:45 am]

BILLING CODE 3510-DS-M

Purdue University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86–178. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Flash Analog to Digital Converter and Computer Interface, Model DL 300. Manufacturer: Dr. B. Struck, West Germany. Intended use: See notice at 51 FR 15821.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is an accessory which provides a 100 megacycle sampling rate and over 1000 parallel channels for processing sub-atomic collision products. The National Bureau of Standards advises in its memorandum dated October 9, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–28659 Filed 12–19–86; 8:45 am]

BILLING CODE 3510-DS-M

University of Kansas; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651,

80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–334. Applicant: University of Kansas, Lawrence, KS 66045. Instrument: Mass Spectrometer, Model VG Sector with Accessories. Manufacturer: VG Isotopes Limited, United Kingdom. Intended use: See notice at 51 FR 37623.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (June 9, 1986).

Reasons: The foreign instrument is equipped with a fully automated multiple (6) collector system capable of providing an external precision on Neodymium (300 ng) of 0.003%. This capability is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no bid response to a formal request for quotation sent to the Nuclide Corporation, it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–28660 Filed 12–19–86; 8:45 am]

BILLING CODE 3510–DS–M

Veterans Administration Medical Center et al; Application for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (a)(4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–321R. Applicant: Veterans Administration Medical Center, Clinical Laboratory (113), 2100 Ridgecrest Drive, SE., Albuquerque, NM 87108. Instrument: Electron Microscope, Model EM–10–CR. Manufacturer: Carl Zeiss Inc., West Germany. INTENDED USE: The instrument is intended to be used for the following ongoing scientific research:

(1) Immunocytochemical investigations of endocrine cells;

(2) Ultrastructural identification of the lymphatic distribution in normal, diseased and neoplastic gastric mucosa;

(3) Immunoelectron-cytochemical marking of lecithins, and

(4) Studies of effects of cis-platinum and the nervous system.

Application received by Commissioner of Customs: September 22, 1986.

Docket Number: 87–053. Applicant: University of Pennsyvania, 415 S. University Avenue, Philadelphia, PA 19104. Instrument: 3–Dimensional Hydraulic Micromanipulator, Model MO–103M–R. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended Use: The instrument will be used in scientific experiment with the aim of understanding the cell—all interaction that occurs during embryonic development. Application Received by Commissioner of Customs: November 24, 1986.

Docket Number: 87–054. Applicant: Howard Hughes Medical Institute, Baylor College of Medicine, HHMI Business Office, room M904, 1200 Moursund Avenue, Houston, TX 77030. Instrument: Mass Spectrometer, Model ZAB-SEQ. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: The instrument is intended to be used for mass spectrometry in the following studies:

(1) Increased sensitivity of detection of derivatized amino acids cleared from proteins/peptides by the gas phase microsequencer.

(2) Structural identification of unusual amino acids and unknown products from conventional protein/peptide microsequencing.

(3) FAB-ZAB-Q analysis and sequencing of low molecular weight peptides or selectively fragmented proteins in the range of 10,000 to 15,000 daltons, particularly biological proteins available in very small quantities.

(4) Comparison of peptide mixtures of similar or identical composition.

(5) Comparisons of domain structure of hydrolyzed molecules to provide insight into the structural basis of the differences in the size of the polypeptide backbone of various MHC class I molecules.

(6) Improved and more rapid structural analyses of proteins and peptides with blocked amino or carboxy termini.

(7) Comparison of peptides structures for changes in neutral amino acids. Application received by Commissioner of Customs: November 25, 1986.

Docket Number: 87–055. Applicant: Bates College, Chemistry Department, 220 Andrews Road, Lewiston, ME 04240. Instrument: Rapid Kinetics Accessory for UV/VIS Spectrophotometers and Spectrofluorimeters, Model SFA–11. Manufacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended use: The instrument is intended to be used for studies of rapid chemical kinetics reactions in the course Chem 306 Physical Chemistry. Application received by Commissioner of Customs: November 25, 1986.

Docket Number: 87–056. Applicant: Argonne National Laboratory, 9700 South Cass avenue, Argonne, IL 60439–4837. Instrument: EMG–201 Excimer Laser and FL 3002 Dye Laser. Manufacturer: Lambda Physik, West Germany. Intended use: The instrument is intended to be used to provide laser

photothermal (e.g. photoacoustic, thermal lensing, photodeflection) and laser induced fluorescence techniques for characterization of ground water solutions of actinides (e.g. U, Pu, Am, Np). Information generated in the experiments shall provided a data base for thermodynamic properties of these elements under conditions relevant to nuclear waste repositories. Application received by Commissioner of Customs: November 25, 1986.

Docket Number: 87–058. Applicant: Hunter College of the City University of New York and Dormitory Authority, 695 Park Avenue, New York, NY 10021. Instrument: Electron Microscope, Model H–600 with Accessories. Manufacturer: Nissei Sangyo (Hitachi Ltd.), Japan. Intended use: The instrument will be used for studies of a variety of tissues, cells and subcellular structures down to the macromolecular level. The experiments to be conducted include the isolation of subcellular structures by means of fractionation techniques (e.g., microtubule arrays, ribosomes, photosynthetic membranes), the localization and identification of protein components by means of antibody labelling and the monitoring of internal and external cellular structural changes which accompany physiological activities, genetic anomalies and cellular differentiation. In addition, the instrument will be used for teaching purposes in the courses: Cell Fine Structure, Laboratory in Cytology and Fine Structure, Cell Biology, Research Tutorial, Honors Research and Masters and Doctoral Research Tutorials. Application received by Commissioner of Customs: November 26, 1986.

Docket Number: 87–059. Applicant: Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96822. Instrument: X-Ray Mode Unit, Model H–7011. Manufacturer: Nissei Sangyo, Japan. Intended use: The instrument is an accessory to an existing electron microscope being used for various associated experiments. Of particular interest are studies of the ultrastructure of organisms and the chemical identity and mineralogy of suspended marine particulates, geothermal deposits and soils. The instrument will also be used to teach practical and theoretical electron microscopy to graduate and exceptional undergraduate students in the course "Analytical Electron Microscopy." Application received by Commissioner of Customs: December 2, 1986.

Docket Number: 87–060. Applicant: Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96822. Instrument: EDX Interface Parts Kit, Model H–6015. Manufacturer: Nissei Sangyo, Japan. Intended use: The instrument is an accessory to an existing electron microscope being used for various associated experiments. Of particular interest are studies of the ultrastructure of organisms and the chemical identity and mineralogy of suspended marine particulates, geothermal deposits and soils. The instrument will also be used to teach practical and theoretical electron microscopy to graduate and exceptional undergraduate students in the course "Analytical Electron Microscopy." Application received by Commissioner of Customs: December 2, 1986.

Docket Number: 87–061. Applicant: Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96822. Instrument: Digital Scan Interface, Model EMO–0500. Manufacturer: Nissei Sangyo, Japan. Intended use: The instrument is an accessory to an existing electron microscope being used for various associated experiments. Of particular interest are studies of the ultrastructure of organisms and the chemical identity and mineralogy of suspended marine particulates, geothermal deposits and soils. The instrument will also be used to teach practical and theoretical electron microscopy to graduate and exceptional undergraduate students in the course "Analytical Electron Microscopy." Application received by Commissioner of Customs: December 2, 1986.

Docket Number: 87–062. Applicant: University of Florida, Department of Chemistry, Gainesville, FL 32611. Instrument: Nanosecond Fluorescence Spectrometer System 2000. Manufacturer: Photochemical Research Associates, Canada. Intended use: The instrument is intended to be used for the study of molecules which have been specially synthesized to undergo intramolecular excited state electron transfer reactions and for study of the interaction of biologically relevant molecules (amino acids and peptides) with membrane model systems (e.g., surfactant micelles and vesicles. The objectives of the research are: (1) To provide fundamental information regarding the mechanism of charge transfer processes in biological and chemical systems and (2) to understand at a basic level the interaction of biomolecules with lipid membranes. Application received by Commissioner of Customs: December 2, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–28661 Filed 12–19–86; 8:45 am]

BILLING CODE 3510–DS–M

National Technical Information Service

Intent to Grant Exclusive Patent License, Agri-Tech Industries, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Agri-Tech Industries, Inc., having a place of business at Gibson City, IL, an exclusive right in the United States and certain foreign countries to manufacture, use and sell products embodied in the inventions entitled "Degradable Starch-Based Agricultural Mulch Films," U.S. Patent 3,949,145, "Biodegradable Starch-Based Films," U.S. Patent 4,133,784 and "Biodegradable Starch-Based Blown Films," U.S. Patent 4,337,181. The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Agriculture.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86–28675 Filed 12–19–86; 8:45 am]

BILLING CODE 3510–04–M

Intent To Grant Exclusive Patent License; Coal Dynamics Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Coal Dynamics Corporation, having a place of business at Camp Hill, PA, an exclusive right in the United States to practice methods embodied in the invention entitled "Method for Controlled Burnout of Abandoned Coal Mines and Waste Banks," U.S. Patent 4,387,655. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of the Interior.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86-28676 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-04-M

Intent to Grant Exclusive Patent License, Digital/Analog Design Associates

The National Technical Informaton Service (NTIS), U.S. Department of Commerce, intends to grant to Digital/Analog Design Associates, having a place of business at New York, NY, an exclusive right in the United States to manufacture, use and sell products embodied in the invention entitled "Image Processor," U.S. Patent 4,611,055. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86-28677 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica, Effective on January 1, 1987

December 16, 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. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984 between the Governments of the United States and Costa Rica establishes a restraint limit of 2,528,526 dozen for man-made fiber brassieres in Category 649, produced or manufactured in Costa Rica and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987. The letter to the Commissioner of Customs which follows this notice establishes this 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.

December 16, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 7 and 8, 1984, between the Governments of the United States and Costa Rica; 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 man-made fiber textile products in Category 649, produced or manufactured in Costa Rica and exported during the twelve-month period which begins on January 1, 1987 and extends through December 31, 1987 in excess of 2,528,526 dozen.

In carrying out this directive, entries of textile products in Category 649, produced or manufactured in Costa Rica, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall to the extent of any unfilled balance, be charged against the limit established for such goods during that twelve-month period. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the limit set forth in this letter.

The limit set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of February 7 and 8, 1984, which provide, in part, that: (1) The specific limit may be increased for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve 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 consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28646 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Limit for Certain Cotton Textile Products Produced or Manufactured in Haiti

December 16, 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 December 22, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

A CITA directive dated December 12, 1985 (50 FR 51448) established limits for certain categories of cotton and man-made fiber textile products, including Category 350 (cotton dressing gowns), produced or manufactured in Haiti and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986.

Effective on December 22, 1986 the limit for Category 350 is being increased from 32,149 dozen to 32,501 dozen by the application of carryover from the previous agreement year, as provided under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 14 and May 4, 1984, between the Government of the United States and Haiti.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) 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.

December 16, 1986.

Committee For The Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 12, 1985 from the Chairman of the 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 Haiti and exported during the twelve-month period which began on January 1, 1986.[1]

Effective on December 22, 1986 paragraph 1 of the directive of December 12, 1985 is hereby amended to included an adjusted twelve-month limit of 32,501 dozen [2] for Category 350.

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.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28648 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Wool Textile Products From the Hungarian People's Republic Effective on January 1, 1987

December 16, 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 Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic establishes specific limits for wool textile products in Categories 433, 435, 443, 444, 445/446 and 448, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Categories 433, 435, 443, 444, 445/446 and 448 in excess of the designated restraint limits.

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.

December 16, 1986.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as

[1] The agreement provides, in part, that: (1) Specific limits shall be increased by seven percent annually; (2) a specific limit may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compensated for by a decreased in equivalent square yards in one or more specific limits; (3) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to account for any imports exported after December 31, 1985.

amended, between the Governments of the United States and the Hungarian People's Republic; 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 wool textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of the following restraint limits:

Category	12-mo. restraint limit (dozen)
433	7,649
435	10,045
443	7,276
444	5,169
445/446	[1] 40,804
448	19,576

[1] Dozen of which not more than 30,603 dozen shall be in Category 445 and not more than 30,603 dozen shall be in Category 446.

In carrying out this directive, entries of wool textile products in the foregoing categories, produced or manufactured in Hungary, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral ageement of February 17 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic, which provide, in part, that: (1) With the exception of Category 433, the levels of restraint may be exceeded by not more than five percent during an agreement year provided the increase is compensated for by an equal decrease in equivalent square yards in another specific limit, other than Category 433, (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, 1984 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that 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. 86-28649 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in Nepal Effective on January 1, 1987

December 16, 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 Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 337-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Cotton Textile Agreement of May 30 and June 1, 1986 establishes specific import limits for cotton textile products in Categories 377, 340, 341 and 342, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in the foregoing categories in excess of the designated twelve-month restraint limits.

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.

December 16, 1986.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and pursuant to the Bilateral Cotton Textile Agreement of May 30 and June 1, 1986, between the Governments of the United States and Nepal; 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 Categories 337, 340, 341 and 342, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of the following restraint limits:

Category	12-mo. restraint limit
337	79,500 dozen.
340	190,800 dozen.
341	636,000 dozen.
342	106,000 dozen.

In carrying out this directive, entries of textile products in Categories 337, 340, 341 and 342, produced or manufactured in Nepal, which have been exported to the United States, in the case of Category 337 on and after October 1, 1985, and in the case of Categories 340, 341 and 342 on and after January 1, 1986, and extending through December 31, 1986, shall to the extent of any unfilled balances, be charged against the limits established for such goods during those restraint periods. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 30 and June 1, 1986 between the Governments of the United States and Nepal which provide, in part, that: (1) Restraint limits may be exceeded by designated percentages; (2) restraint limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems

arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

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 consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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. 86-28647 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Republic of Romania

December 16, 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 December 22, 1986. For further information contact Kathryn Cabral, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of this limit please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Governments of the United States and the Socialist Republic of Romania have exchanged letters dated September 2, 1986 and October 15, 1986 further amending their Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, as amended, to increase the designated consultation level for man-made fiber shirts in Category 640 to 75,000 dozen for goods produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. This change will apply only to the 1986 agreement year.

Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to control the level for Category 640 for the first time in 1986 at the designated amount.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

December 16, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the letter of December 20, 1985 which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption in the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on December 22, 1986, the directive of December 20, 1985 is hereby amended to include an adjusted restraint limit of 75,000 dozen [1] for man-made fiber textile products in Category 640.

Textile products in Category 640 which have been exported to the United States prior to January 1, 1986 shall not be subject to this directive.

Textile products in Category 640 which have been released from custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements had determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The level has not been adjusted to reflect any imports exported after December 31, 1985.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28650 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore Effective on January 1, 1987

December 16, 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 Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31 and June 5, 1986, as amended, between the Governments of the United States and Singapore establishes specific limits for cotton, wool and man-made fiber textile products in Categories 331, 334, 335, 337, 338/339, 340, 341, 342, 347/348, 435, 604, 631, 634, 635, 638, 639, 640, 641, 645/646, 647, 648 and 659-I (infants' sets in TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365), produced or manufactured in Singapore and exported during the twelve-month period which begins on January 1, 1987 and extends through December 31, 1987. The agreement also includes a group limit for cotton, wool and man-made fiber textile products in Categories 300-301, 310/318, 311-317, 319-330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359-369, 400-434, 436-444, 445/446, 447, 448, 459-469, 600-603, 605-630, 632, 636, 637, 642-644, 659-S (swimwear in TSUSA numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400 and 384.9353), 659-V (vests in TSUSA numbers 381.2836, 381.3332, 381.9224,

381.9837, 384.2250, 384.2251, 384.2663, 384.2664, 384.8677, 384.9472 and 384.9473), 659–O (all TSUSA numbers except infants' sets, swimwear and vests), 665–670 and individual categories within the group, produced or manufactured in Singapore and exported during the twelve-month period which beings on January 1, 1987 and extends through December 31, 1987. In accordance with the bilateral agreement, the factor for converting Category 352/652 from dozens to equivalent square yards will be 13.5 square yards equivalent per dozen.

In the letter published below, the CITA Chairman directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the aggregate and individual limits which are in excess of those limits.

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

December 16, 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 the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31 and June 5, 1986, between the Governments of the United States and Singapore; 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, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of the following limits:

Category	12-mo. restraint limit
300–301, 332, 333/633, 336, 310/318, 311–317, equivalent, 319–330, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436–444, 445/446, 447, 448, 459–469, 600–603, 605–630/, 632, 636, 637, 642–644, 659–S, [1] 659–V, [2] 659–O, [3] 665–670, as a group.	45,000,000 square yards.
300/301	434,783 pounds.
310/318	2,000,000 square yards.
331	312,000 dozen pairs.
333/633	41,500 dozen.
334	51,500 dozen.
335	159,650 dozen.
336	70,000 dozen.
337	60,320 dozen.
351/651	38,462 dozen.
352/652	148,148 dozen.
359	434,783 pounds.
338/339	775,665 dozen of which not more than 440,849 dozen shall be in Category 338 and not more than 516,476 dozen shall be in Category 339.
340	542,850 dozen.
341	136,500 dozen.
342	84,000 dozen.
347/348	741,600 dozen of which not more than 463,500 dozen shall be in Category 347 and not more than 360,500 dozen shall be in Category 348.
434	6,000 dozen.
435	6,060 dozen.
442	10,000 dozen.
445/446	20,000 dozen.
447	8,333 dozen.
448	8,333 dozen.
459	75,000 pounds.
604	1,462,600 pounds.
631	315,000 dozen pairs.
634	163,770 dozen.
635	242,050 dozen.
636	200,900 dozen.
637	93,897 dozen.
638	437,750 dozen.
639	3,111,000 dozen.
640	115,500 dozen.
641	189,000 dozen.
642	112,360 dozen.
645/646	113,300 dozen.
647	260,000 dozen.
648	1,515,000 dozen.
659–I [4]	315,000 pounds
659–S	320,000 pounds
659–V	320,000 pounds
659–O	320,000 pounds
669	256,410 pounds
670	1,000,000 pounds

[1] In Category 659, only TSUSA number 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400 and 384.9353.

[2] In Category 659, only TSUSA number 381.2836, 381.3332, 381.9224, 381.9837, 384.2250, 384.2251, 384.2663, 384.2664, 384.8677, 384.9472 and 384.9473.

[3] In Category 659, all TSUSA numbers except those listed in Footnotes 1 and 2 and TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365.

[4] In Category 659, only TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365.

In carrying out this directive, entries of textile products in the foregoing categories, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall, to the extent of any unfilled balances, be charged against the levels established for such goods during that period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of August 21, 1981, as amended, and extended, between the Government of the United States and the Republic of Singapore, which provide, in part, that: (1) Specific limits may be exceeded by certain designated percentages; (2) specific limits may be increased by carryover and carrforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problem arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the cotton, wool and man-made fiber textile cartegories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for comsumptioin into the Commonwealth of Puerto Rico.

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. 86–28651 Filed 12–19–86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Sri Lanka to Review Trade in Categories 350 and 636

December 16, 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 December 22, 1986. For further information contact

Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715. For information on Categories on which consultations have been requested call (202) 377–3740.

Background

On October 31, 1986, the Government of the United States requested consultations with the Government of Sri Lanka with respect to Categories 350 (cotton dressing gowns and robes) and 636 (man-made fiber dresses). This request was made under the agreement between the Governments of the United States and Sri Lanka of May 10, 1983, as amended, relating to trade in cotton, wool and man-made fiber textile products which permits the United States to request consultations when imports from Sri Lanka threaten or cause market disruption.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the United States may establish prorated specific limits for the period which began on October 31, 1986 and extends through May 31, 1987 at levels of 21,825 dozen for Category 350 and 76,982 for Category 636.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in Categories 350 and 636 exported during the ninety-day consultation period which began on October 31, 1986 and extends through January 28, 1987 at the prescribed limits of 10,908 dozen for Category 350 and 38,476 dozen for Category 636.

In the event the limits established for the ninety-day period are exceeded, such excess amounts, if allowed to enter, may be charged to the prorated specific limits specified above.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Sri Lanka, further notice will be published in the **Federal Register.**

Summary market statements for these categories follow this notice.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 350 and 636 under the agreement with Sri Lanka, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because of the exact timing of the consultations is not yet certain, comments should be submitted in response to this notice will be available for public inspection on the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Sri Lanka—Market Statement

Category 350—Cotton Dressing Gowns and Robes

October 1986.

Summary and Conclusions

U.S. imports of Category 350 from Sri Lanka were 35,977 dozen during the year ending August 1986, nearly twice the 18,820 dozen imported a year earlier. During the first eight months of 1986, imports from Sri Lanka were 25,051 dozen, an 85 percent increase over the 13,527 dozen imported during the same period of 1985 and more than the amount imported during the full year 1985.

The U.S. market for Category 350 has been disrupted by imports. The sharp and substantial increase of imports from Sri Lanka has contributed to this disruption.

U.S. Production and Market Share

U.S. production of cotton dressing gowns and robes declined by 11 percent from 680 thousands dozen in 1983 to 605 thousand dozen in 1985. The U.S. producers' share of the market fell from 60 percent in 1983 to 47 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 350 grew from 461 thousand dozen in 1983 to 676 thousand dozen in 1985, a 47 percent increase. Imports continue to grow in 1986. Category 350 imports are up 21 percent in the first eight months of 1986. The ratio of imports to domestic production increased from 68 percent in 1983 to 112 percent in 1985.

Duty-Paid Value and U.S. Producers' Price

Approximately 75 percent of Category 350 imports from Sri Lanka during the first eight months of 1986 entered under TSUSA No. 384.0920—women's and infants' cotton woven dressing gowns and robes, and TSUSA No. 384.4000—women's, girls' infants' cotton woven dressing gowns and robes, except corduroy, not ornamented. These garments entered the U.S. at duty-paid landed values below the U.S. producers' prices for comparable garments.

Sri Lanka—Market Statement

Category 636—Man-made Fiber Dresses

October 1986.

Summary and Conclusions

U.S. imports of Category 636 from Sri Lanka were 114,600 dozen during the year ending August 1986, 88 percent above the level imported a year earlier. During the first eight months of 1986, imports from Sri Lanka were 94,740 dozen, 75 percent above the level imported during the same period of 1985 and 28 percent above the amount imported during the full year 1985.

The U.S. market for Category 636 has been disrupted by imports. The sharp and substantial increase of imports from Sri Lanka has contributed to this disruption.

U.S. Production and Market Share

U.S. production of man-made fiber dresses declined ten percent from 15,806 thousands dozen in 1983 to 14,233 thousand dozen in 1985. The U.S. producers' share of the market declined from 90 percent in 1983 to 85 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 636 grew from 1,177 thousand dozen in 1983 to 2,539 thousand dozen in 1985, a 43 percent increase. During the year ending August 1986, imports of Category 636 were three million dozen, 30 percent above the level imported during the year ending August 1985. Category 636 imports are up 28 percent through the first eight months of 1986 compared to the same period in 1985. The ratio of imports to domestic production increased from 11 percent in 1983 to 18 percent in 1985.

Duty Paid Value and U.S. Producer's Price

Approximately 65 percent of the imports of Category 636 from Sri Lanka during the first eight months of 1986 entered under TSUSA No. 384.8620—women's man-made fiber knit dresses, not ornamented; and 384.9425—women's man-made fiber woven dresses, other than yarn dyed, not ornamented. These dresses entered the U.S. at duty paid landed values below U.S. producers' prices for comparable dresses.

December 16, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 22, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 350 and 636, produced or manufactured in Sri Lanka and exported during the ninety-day period which began on October 31, 1986 and extends through January 28, 1987, in excess of the following restraint levels:

Category	90-day restraint level [1]
350	10,980 dozen.
636	38,476 dozen.

[1] The limits have not been adjusted to account for any imports exported after October 30, 1986.

Textile products in Categories 350 and 636 which have been exported to the United States prior to October 31, 1986 shall not be subject to this directive.

Textile products in Categories 350 and 636 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that 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. 86-28652 Filed 12-19-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Atomic Energy Agreements; Proposed Subsequent Arrangement With European Atomic Energy Community and 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" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the international exchange of obligations applicable to approximately 195,350 pounds of natural uranium. This quantity of material currently located in the European Community and subject to the terms and conditions of the U.S.-EURATOM Agreement, will become subject to the Canada-EURATOM Agreement for Cooperation, and an identical quantity of material currently located in Canada, will become subject to the terms and conditions of the U.S.-Canada Agreement.

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: December 16, 1986.

George J. Bradley,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-28620 Filed 12-19-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-87-06; OFP Case No. 61064-9332-20,21,22,-24]

Acceptance of Petition for Exemption and Availability of Certification By Cogen Technologies NJ Venture, Bayonne, NJ

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition.

SUMMARY: On November 3, 1986, Cogen Technologies NJ Venture (Cogen Technologies or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for three (3) proposed combined cycle gas turbine generators to be located at the Bayonne, New Jersey site of International Matex Tank Terminals, 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).

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, 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 February 5, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESS: 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 Independance Avenue SW., Washington, DC 20585.

Docket No. ERA–C&E–87–06 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–093, Washington, DC 20585 Phone (202) 252–9624

Steven Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585 Phone (202) 252–6947

SUPPLEMENTARY INFORMATION: Cogen Technologies proposes to install a combined cycle powerplant, consisting of 3 gas turbines, 3 heat recovery steam generators and 1 steam turbine, designed to generate 165 MW and 125,000 pounds per hour of process steam at its Bayonne, New Jersey, facility.

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 setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.37.

The planned facility is expected to produce approximately 165 MW electrical power which will be sold to Jersey Central Power and Light Company for distribution. In addition, the facility will produce steam which will be sold to the International Matex Tank Terminals for use in its storage of petroleum products as well as to Exxon Company, U.S.A., for industrial uses in its Bayonne refinery.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify the petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixture is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under section § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council of Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment.

If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Cogen Technologies is 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 this notice.

Issued in Washington, DC, on December 3, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–28621 Filed 12–19–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The collection number(s); (2) Collection title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Affected public; (7) An estimate of the number of respondents annually; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (9) A brief abstract describing the proposed collection and, briefly, the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. Last notice published Thursday, December 11, 1986.

ADDRESS: Address comments to Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503.

(Comments may also be addressed to, and copies of the submissions obtained from, Mr. Gross at the address below.)

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Data Collection Service Division (EI–73), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–2308.

SUPPLEMENTARY INFORMATION: If you anticipate commenting on a collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise Mr. Brousssalian of your intent as early as possible.

Statutory Authority: (Sec. 13(b), 5(b), 5(a), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, (15 U.S.C. 772(b), 764(b), 764(a), and 790(a).

Issued in Washington, DC., December 15, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Energy Information Collections Under Review by OMB

Collection No.(s)	Collection title	Type of request	Response frequency	Response obligation	Affected public	Number of respondents annually	Respondent burden hrs. annually	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
CE								
CE-63A/B	Annual Solar Thermal Collector Manufacturers Survey, CE-63A; Annual Photovoltaic Module Manufacturers Survey, CE-63B.	New collection	Annually	Mandatory	Business or other for profit...	300	1,200	DE-63A/B will collect data about the solar energy industry, e.g., which companies are manufacturing collectors, the type of collectors being manufactured, the quantity, use, and change in the industry. Data will be published. Respondents are manufacturers, importers, and exporters of solar thermal collectors and companies manufacturing photovoltaic modules.
FERC								
FERC-581	Management and Procurement Reporting and Recordkeeping Requirements.	Extension	As specified	Required to obtain or retain a benefit	Businesses or other for profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.	126	4,158	Used to fulfill management accountability requirements and to oversee use of funds for procurements.
IE								
IE-411	Coordinated Regional Bulk Power Supply Program.	Extension (through 4/30/87)	Annually	Voluntary	Businesses or other for profit.	702	20,000	The IE-411 provides a single, comprehensive source of information on current and planned electric power supply for the U.S. The data are used to evaluate the current and projected reliability of bulk electric power supply, and the effects of unforseen changes in powerplant construction schedules. The nine Regional Electric Reliability Councils submit the report.

[FR Doc. 86–28622 Filed 12–19–86; 8:45 am]
BILLING CODE 6450–01–M

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective January 1, 1987. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue SW., Room BE–034, Washington, DC 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama [1]	$2.03
Arizona [1]	1.70
Arkansas	1.96
California [1]	1.70
Colorado [2]	1.74
Connecticut [1]	1.88
Delaware [1]	2.14
Florida	1.88
Georgia	2.01
Idaho [2]	1.74
Illinois	1.87
Indiana [1]	1.89
Iowa	2.00
Kansas	1.95
Kentucky [1]	1.89
Louisiana	1.99
Maine [1]	1.88
Maryland [1]	2.14
Massachusetts	1.79
Michigan [1]	1.89
Minnesota [1]	2.07
Mississippi [1]	2.03
Missouri	1.72
Montana [2]	1.74
Nebraska [1]	2.07
Nevada [1]	1.70
New Hampshire	1.84
New Jersey	1.84
New Mexico [1]	2.00
New York [1]	2.14
North Carolina [1]	2.03
North Dakota [1]	2.07

State	Dollars per million BTU's
Ohio	1.61
Oklahoma [1]	2.00
Oregon	1.68
Pennsylvania [1]	2.14
Rhode Island [1]	1.68
South Carolina [1]	2.03
South Dakota [1]	2.07
Tennessee	1.93
Texas [1]	2.00
Utah [2]	1.74
Vermont [1]	1.88
Virginia	2.01
Washington	1.61
West Virginia	1.85
Wisconsin [1]	1.89
Wyoming [2]	1.74

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM-79-21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during October 1986 was $17.07 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold becomes effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending December 12, 1986, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of October 1986. This lag adjustment factor was applied to the October price yielding $18.26 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective January 1, 1987, is $4.09 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceiling required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of August 1986, September 1986, and October 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective January 1, 1987, (show in section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, August 1986, September 1986, and October 1986. Reported prices for sales in August 1986 were adjusted by the percent change in the nationwide volume-weighted average price from August 1986 to October 1986. Prices for September 1986 were similarly adjusted by the percent change in the nationwide volume-weighted average price from September 1986 to October 1986. The volume-weighted 3-month average of the adjusted August 1986 and September 1986, and the reported October 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in section III.B(2)) was compared to this average low price, and the highest of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling case for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of August 1986, September 1986, and October 1986. The alterantive fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low

period prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending December 12, 1986, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of October 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	

Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	

Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	

Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, DC, December 17, 1986.

L.A. Pettis,

Deputy Administrator, Energy Information Administration.

[FR Doc. 86-28696 Filed 12-19-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-151-000 et al.]

Arizona Public Service Co. et al.; Electric Rate and Corporate Regulation Filings

December 17, 1986.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER87-151-000]

Take notice that on December 10, 1986, Arizona Public Service Company ("APS") tendered for filing a Notice of Termination of the Loop Flow Agreement between the Western Systems Coordinating Council (WSCC) and its participating members and APS, FERC Rate Schedule No. 101.

APS requests termination of said Agreement as of August 31, 1985, pursuant to its terms. APS states that it has served copies of its filing upon the California Public Utilities Commission, the Arizona Corporation Commission and the members of the WSCC.

2. Arizona Public Service Company

[Docket No. ER87-152-000]

Take notice that on December 10, 1986, Arizona Public Service Company ("APS") tendered for filing a Notice of Cancellation of the Power Coordination Agreement between Nevada Power Company ("NPC") and APS, FERC Rate Schedule No. 43, which provides for power coordination with NPC.

APS requests to cancel said Agreement effective January 31, 1987.

Copies of this filing have been served upon NPC, the Public Service Commission of Nevada and the Arizona Corporation Commission.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Cincinnati Gas & Electric Company

[Docket No. ER87-62-000]

Take notice that on December 10, 1986, Cincinnati Gas & Electric Company (CG&E) tendered for filing in this docket a modification of its earlier filing in this docket. CG&E states that its original filing in this docket encompassed a proposed change to FERC Electric Tariff, First Revised Volume No. 1, Rider F, Fuel Cost Adjustment. The proposed change to the Fuel Cost Adjustment in the initial filing encompassed the Villages of Bethel, Blanchester, Georgetown, Hamersville and Ripley (Villages), municipalities in the State of Ohio; The Union Light, Heat and Power Company (Union Light) and the West Harrison Gas and Electric Company (West Harrison), wholly owned subsidiaries of CG&E serving retail customers within the Commonwealth of Kentucky and the State of Indiana, respectively. CG&E states that in response to the earlier filing the Villages contacted CG&E, contending that the application violated CG&E's covenant not to file for a base rate increase until after January 2, 1988. CG&E states that while it disagrees with the Villages' contention that this tariff change is a change in base rates, it appreciates the Villages' position and to avoid an objection by the Villages to the filing and an argument concerning the intent and interpretation of the covenant, it is hereby withdrawing the proposed tariff change from being applicable to the Villages.

By this modification CG&E proposes that two fuel cost adjustment riders be maintained. The present First Revised Sheet No. 7 shall remain in effect and be applicable to the Villages. The Second Revised Sheet No. 7, which reflects the criteria regarding recovery of capacity and demand charges of economic power purchases, as submitted in the initial filing in this docket, shall now be identified as Original Sheet No. 7A and will be applicable to Union Light and West Harrison.

CG&E states that it has served a copy of its filing upon each person receiving a copy of its original filing in this docket.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER 87-150-000]

Take notice that on December 10, 1986, Commonwealth Edison Company tendered for filing tariff changes providing for three sequential decreases in rates under its FERC Electric Service Tariff Rates 80 and 81, applicable to third party service to the Cities of Geneva and Rock Falls, Illinois, respectively. Based on the twelve months ended December 31, 1985, the proposed changes would successively decrease current revenues by approximately $102,000, $44,000 and $32,000. Edison proposes, by means of the second and third decreases, to reflect the effects of the Tax Reform Act of 1986.

Edison seeks an effective date of December 9, 1986 for the first decrease applicable to Rock Falls and of December 10, 1986 for the first decrease applicable to Geneva; of January 1, 1987 for the second decrease for both Cities; and of January 1, 1988 for the third decrease for both Cities. Accordingly,

Edison seeks waiver of the Commission's notice requirements.

Copies of the filing were served upon the Cities of Geneva and Rock Falls, Illinois, and the Illinois Commerce Commission.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

Idaho Power Company

[Docket No. ER87-147-000]

Take notice that on December 9, 1986, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1987, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during October 1986, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company.	Supplement No. 59.
Sierra Pacific Power Company.	Supplement No. 56.
Washington Water Power Company.	Supplement No. 43.
Montana Power Company.....	Supplement No. 44.
Puget Sound Power & Light Company.	Supplement No. 24.
Portland General Electric Company.	Supplement No. 49.
Southern California Edison Company.	Supplement No. 39.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER87-142-000]

Take notice that on December 5, 1986, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Seven to Revised Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Orlando Utilities Commission (Rate Schedule FERC No. 66) and a document entitled Schedule TX Operating Agreement Between Florida Power & Light Company and Orlando Utilities Commission, which document supplements Amendment Number Seven.

FPL states that under Amendment Number Seven, FPL will transmit power and energy for Orlando Utilities Commission as is required in the implementation of its interchange agreements with The Florida Municipal Power Agency, City of Gainesville, Fort Pierce Utilities Authority, Jacksonville Electric Authority, and Seminole Electric Cooperative, Inc.

FPL further states that the Schedule TX Operating Agreement defines the methodology used to determine the additional incremental cost under Section I.4 of Amendment Number Seven. FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment and the proposed Operating Agreement be made effective immediately. FPL states that copies of the filing were served on Orlando Utilities Commission.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Power and Light Company

[Docket No. ER85-757-000]

Take notice that on December 8, 1986, Pacific Power and Light Company (Pacific) tendered for filing a compliance report showing the revision of the Average System Cost (ASC) Rate for the state of Washington applicable to the exchange of power between Bonneville and Pacific.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. ER87-153-000]

Take notice that on December 11, 1986, Pacific Gas and Electric Company (PGandE) tendered for filing what PGandE describes as an initial schedule for firm system sales to the Cities of Anaheim, Azusa, Banning, Colton, and Riverside (Cities).

Service under these five agreements is intended to commence on February 1, 1987. Service shall continue until such time as the agreement is terminated, by one year's advance written notice from either party to the other, effective as of March 1, 1988, or as of any March 1 thereafter.

The system sale agreements provide for PGandE to sell 39 MW of firm capacity and associated energy to the Cities at the Midway substation. The rates are negotiated rates. Capacity rates were negotiated under a split-the-savings principle. The energy charge is divided into three tiers corresponding with capacity factors of zero through 24 percent, 25 through 50 percent, and greater than 50 percent.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Power & Light Company

[Docket No. ER87-18-000]

Take notice that on December 11, 1986, Wisconsin Power & Light Company (WP&L) tendered for filing additional information concerning its filing in this docket. The additional information relates to the monthly carrying charge on the excess investment costs paid by the customer for establishment of a second delivery point.

WP&L states that copies of its supplemental filing have been mailed to the Public Service Commission of Wisconsin and to the affected customer, the Village of Prairie du Sac, Wisconsin.

Coment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Philadelphia Electric Company

[Docket No. ER87-149-000]

Take notice that on December 10, 1986, Philadelphia Electric Company (PECo) tendered for filing on behalf of the parties to the Extra High Voltage Transmission System (EHV) Agreement, Revision No. 1 to Schedule 1 of the Transmission Enhancement Facilities (TEF) Agreement which is filed as a supplement to the EHV Agreement, and revised Schedules 1.03, 2.04, 3.04, 4.04, 6.03, 7.03, 8.05 and 11.05 of the EHV Agreement. The parties to both Agreements are a number of electric utilities operating in the States of New Jersey, Pennsylvania, Delaware and Maryland and the District of Columbia.

PECo states that the purpose of revising the schedule of the TEF Agreement is to add the 500 kV capacitors to be installed by Pennsylvania Power & Light Company (PP&L) at its Alburtis Substation to the facilities included in the cost-sharing provisions of that Agreement. An effective date of January 1, 1987 has been requested for this revision since the Alburtis capacitors may be in service by that date and a waiver of notice requirement has been requested in order not to deprive PP&L of the cost-sharing provisions of the TEF Agreement.

PECo states that copies of the filing have been sent to the regulatory commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia and the District of Columbia.

Coment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this document.

11. Portland General Electric Company

[Docket No. ER87-146-000]

Take notice that on December 9, 1986, Portland General Electric Company

(PGE) tendered for filing its revised Average System Cost (ASC) which reflects PGE's Power Cost Adjustment (PCA) rate change which became effective with meter readings on and after May 1, 1986. This filing includes a revised Schedule 4 to Appendix 1, Exhibit C of the Residential Purchase and Sale Agreement along with the authorization to implement this rate change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows that the second quarter PCA adjustment to the current base ASC is 3.48 mills/kWh credit, which when added with the base ASC results in a net ASC rate effective for this period.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

12. Potomac Electric Power Company

[Docket No. ER87-148-000]

Take notice that on December 9, 1986, Potomac Electric Power Company (PEPCO) and Virginia Electric and Power Company (Virginia Power) jointly tendered for filing a proposed new Schedule 3 to the Interconnection Agreement between PEPCO and Virginia Power, providing for PEPCO to provide certain full requirements electricity service to Virginia Power in the vicinity of Rosslyn, Virginia.

The new Schedule 3 would convert an existing service rendered by PEPCO to Virginia Power pursuant to the Northern Virginia Services Agreement between the Parties (PEPCO FERC No. 38) from repayment-in-kind to cash payment commencing with the completion of Phase I as defined in PEPCO FERC No. 38, expected to occur during December, 1986. Prior to the completion of Phase I, the new Schedule 3 would permit separate accounting for the existing service. The referenced service is PEPCO's supply of Virginia Power's electricity requirements via specified borderline points of interconnection supplied from PEPCO's Georgetown Substation at approximately 13 kilovolts, for resale to a Virginia Power traction power customer. No new facilities will be installed or existing facilities modified in connection with this service; rather, the requirements service by PEPCO is intended to avoid the construction burden on Virginia Power to provide alternate supply to its customer.

The parties request that the requirements of prior notice be waived for an effective date as of June 17, 1986.

Comment date: December 31, 1986, in accordance with Standard Paragraph E at the end of this notice.

13. West Penn Power Company

[Docket No. ER87-156-000]

Take notice that on December 12, 1986, West Penn Power Company tendered for filing proposed changes in its FERC Electric Tariff, Original Volume Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by $1,694,000, based on the twelve-month period ending December 31, 1987. The proposed effective date for the increased rates is February 1, 1987. A rate reduction is scheduled to occur, effective July 1, 1987, to reflect the lower corporate Federal Income Tax rate to become effective on that date under the Tax Reform Act of 1986, which would reduce the annual increase to approximately $1,229,000.

The changes proposed are for the purpose of recovering increased costs incurred by the Company, as well as to add two new customers and to correct and revise its tariff language.

Copies of the filing were served upon the jurisdictional customers and the Pennsylvania Utility Commission.

Comment date: December 31, 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 or 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28634 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-145-000 et al.]

Electric Rate and Corporate Regulation Filings; Minnesota Power & Light Co. et al.

Take notice that the following filings have been made with the Commission:

1. Minnesota Power & Light Company

[Docket No. ER87-145-000]

December 15, 1986.

Take notice that on December 8, 1986, Minnesota Power & Light Company tendered for filing a Participation Power Interchange Service Agreement between Minnesota Power & Light Company and Northern States Power Company. Under this Agreement, Minnesota Power & Light Company will sell participation power from its Clay Boswell steam electric station Unit No. 3 to Northern States Power Company on a participation power interchange basis in acccordance with the Mid-Continent Area Power Pool Agreement, Service Schedule A. This Agreement provides for energy sales only during the period from May 1, 1957 through October 31, 1987 inclusive. The parties request an effective date of the date next following the Commission's 60 day filing period for this Agreement.

Comment date: December 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Arkansas Power & Light Company

[Docket No. ER87-141-000]

December 15, 1986.

Take notice that on December 4, 1986, Arkansas Power & Light Company (AP&L) tendered for filing a proposed Agreement for purchase of electric service by the City of Benton, Arkansas (City) from AP&L.

The proposed Agreement, signed by AP&L and City, covers sales of power and energy by AP&L to City for the period from November 1, 1986 to October 31, 1996. Accordingly, AP&L has requested waiver of the Commission's notice requirements as well as waiver of various cost support filing requirements.

Comment date: December 29, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket Nos. ER86-215-001, ER86-522-001]

December 16, 1986.

Take notice that on November 24, 1986, Idaho Power Company (the Company) tendered for filing a compliance report in response to the Commission's order of November 7, 1986, in Docket Nos. ER86-215-000 and ER86-522-000.

The compliance report includes a revision of Bonneville Power Association's (BPA) determination of Average System Cost (ASC) Rates for the Company's Idaho exchange jurisdiction effective April 16, 1985 and October 16, 1985. The Company states that these modified ASC determinations

have been filed with BPA on November 20, 1986.

Comment date: December 30, 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 considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28617 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-108-000 et al.]

Columbia Gas Transmission Corp. et al.; Natural Gas Certificate Filings

Take notice that the followings filiings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP87-108-000]

December 12, 1986.

Take notice that on December 4, 1986, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP87-108-000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization for service to two new wholesale customers and construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization for new service agreements with Delmarva Power and Light Company (Delmarva) and South Jersey Gas Company (South Jersey). It is stated that Delmarva and South Jersey have requested certain firm natural gas services from Applicant. Delmarva has requested 10,000 dt equivalent of natural gas per day of contract demand service (CDS) and 10,000 dt equivalent of natural gas per day firm transportation service (FTS) and South Jersey has requested 25,000 dt equivalent of natural gas per day of CDS. Both Delmarva and South Jersey have requested that service commence July 1, 1987, or as soon thereafter as the necessary facilities have been constructed. Applicant states that in order to provide the requested service it proposes to extend its main transmission system from Applicant's Downingtown compressor station located in Chester County, Pennsylvania, to the vicinity of Swedesboro, Gloucester County, New Jersey. It is further stated that this extension would consist of the construction of 32.9 miles of 20-inch and 16-inch pipelines and two interconnecting measuring facilities at a total estimated investment cost of $25,968,100.

Specifically, Applicant requests the following authorizations:

SL-1 Initiation of service to Delmarva under Rate Schedule CDS providing for a contract demand of up to 10,000 dt equivalent of natural gas per day effective July 1, 1987;

SL-2 Initiation of service to South Jersey under Rate Schedule CDS providing for a contract demand of up to 25,000 dt equivalent of natural gas per day effective July 1, 1987;

1(a) The construction and operation of approximately 23.7 miles of 20-inch pipeline located in Chester and Delaware Counties, Pennsylvania, and New Castle County, Delaware;

1(b) The construction and operation of approximately 1.2 miles of 16-inch pipeline crossing the Delaware River from New Castle County, Delaware, to Gloucester County, New Jersey;

1(c) The construction and operation of approximately 8.0 miles of 16-inch pipeline located in Gloucester County, New Jersey;

2(a) The construction and operation of an interconnecting measuring facility for a point of delivery (POD) to Delmarva located in New Castle County, Delaware; and

2(b) The construction and operation of an interconnecting measuring for a POD to South Jersey located in Gloucester County, New Jersey.

Comment date: December 29, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. ANR Pipeline Company

[Docket No. CP87-116-000]

December 16, 1986.

Take notice that on December 8, 1986, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP87-116-000 an application pursuant to Section 7 of the Natural Gas Act for authorization to provide interruptible transportation services for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), along with pregranted abandonment upon termination of the contract, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to transport up to 50,000 dt equivalent of natural gas on an interruptible basis from an existing point of interconnection between the pipeline systems of Applicant and Colorado Interstate Gas Company in Beaver County, Oklahoma, to either the interconnection of the pipeline systems of Applicant and Midwestern Gas Transmission Company in Will County, Illinois, and/or to Mobil Oil Corporation's Lowry Plant in Cameron Parish, Louisiana. Applicant states that it currently provides service for Tennessee pursuant to section 311 of the Natural Gas Policy Act. Applicant's authority to provide such Section 311 service would expire on January 17, 1987. In order to insure continuation of the transportation service of these system supply volumes Tennessee has requested Applicant to file for authority to extend the service pending completion of the Commission's review of Applicant's application to provide long term firm service for Tennessee as proposed in Docket No. CP84-572-000. Applicant proposes to charge Tennessee the following rates for service: for delivery to Will County, Illinois, $0.309 per dt; and for delivery to Cameron Parish, Louisiana, $0.341 per dt. No additional facilities would be required to provide the service. Applicant proposes to provide the service through December 31, 1987.

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. Canyon Creek Compression Company

[Docket No. CP87-109-000]

December 16, 1986.

Take notice that on December 4, 1986, Canyon Creek Compression Company (Canyon Creek), 701 East 22nd Street, P.O. Box 1208, Lombard, Illinois 60148, filed in Docket No. CP87-109-000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to transport and compress up to a maximum of 10,000 Mcf of natural gas per day on an interruptible basis for Columbia Gas Transmission Corporation (Columbia), all as more

fully set forth in the application which is on file with the Commission and open to public inspection.

Canyon Creek states that it is presently performing a limited-term transportation for Columbia pursuant to Part 284, Subpart G of the Commission's Regulations at Docket No. ST83-371-000. It is stated that such transportation service would expire on December 30, 1986.

Canyon Creek requests authority to provide an interruptible transportation service for Columbia for a period of two years from the date of first delivery and month-to-month thereafter. Canyon Creek states that it would provide such service pursuant to the terms and conditions contained in a gas transportation agreement between Canyon Creek and Columbia dated November 6, 1986. Canyon Creek states that it has been informed by Columbia that said gas would be used for Columbia's system supply. It is stated that Columbia would cause volumes of natural gas to be delivered to Canyon Creek at the outlet of Amoco Production Company's processing plant located in Section 16, Township 17 North, Range 119 West, Uinta County, Wyoming. Canyon Creek proposes to transport on a fully interruptible basis, compress and deliver said volumes, less Columbia's pro rata share of fuel gas, unaccounted for gas and gas vented, to Overthrust Pipeline Company located in Section 16, Township 17 North, Range 119 West, Uinta County, Wyoming.

Canyon Creek proposes to charge Columbia a negotiated transportation rate based on a 100 percent load factor of Canyon Creek's current Rate Schedule C transportation and compression rate adjusted each month for the workings of Canyon Creek's electric power tracker and interest expense tracker.

Canyon Creek states that no new facilities would be required for this service. Canyon Creek requests authorization to add or delete additional receipt points in the future that may be necessary to support this service.

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Canyon Creek Compression Company

[Docket No. CP87-111-000]

December 16, 1986.

Take notice that on December 4, 1986, Canyon Creek Compression Company (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP87-111-000 an application pursuant to Section 7 of the Natural Gas Act for authorization to transport and compress up to a maximum of 25,000 Mcf of natural gas per day on an interruptible basis for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it had performed a limited-term transportation for Tennessee pursuant to Part 284, Subpart G of the Commission's Regulations at Docket No. ST83-284-000. Such transportation service will expire on January 23, 1987.

Applicant requests authority to provide an interruptible transportation service for Tennessee for a period of two years from the date of first delivery and month-to-month thereafter. Applicant would provide such service pursuant to the terms and conditions contained in a gas transportation agreement between Applicant and Tennessee dated November 5, 1986. Applicant has been informed by Tennessee that said gas would be used for Tennessee's system supply.

Applicant states that it would cause its gas sellers to deliver for Tennessee' account volumes of natural gas to Applicant at the outlet of Amoco Production Company's processing plant located in Section 16, Township 17 North, Range 119, West, Uinta County, Wyoming.

Applicant proposes to transport on a fully interruptible basis, compress and deliver said volumes, less Tennessee's pro rata share of fuel gas, unaccounted for gas and gas vented, to Overthrust Pipeline Company located in Section 16, Township 17 North, Range 119 West , Uinta County, Wyoming for Tennessee's account for further transportation and exchange.

Applicant proposes to charge Tennessee a negotiated transportation rate of 11.7 cents per Mcf which is based on a 100 percent load factor of Applicant's current Rate Schedule C transportation and compression electric power tracker and interest expense tracker.

Applicant states that no new facilities would be requires for this service. Applicant requests authorization to add or delete additional receipt points in the future that may be necessary to support this service.

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP87-113-000]

December 16, 1986.

Take notice that on December 4, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87-113-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate and maintain a delivery point and appurtenant facilities necessary to deliver natural gas to Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples), under the certificate authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that the delivery point would be used to deliver natural gas to Kan-Tex Feeders, Inc. (Kan-Tex), in Grant County, Kansas, who would be served by Peoples. It is states that Kan-Tex's estimated peak day and annual requirements are 180 Mcf and 42,100 Mcf, respectively. Northern states that the cost of the facilities was $5,786 and that Peoples would not be required to make a contribution in aid of construction.

Northern states that its field employees inadvertently relied on the mistaken assumption that Kan-Tex was a right-of-way grantor and therefore installed the small volume delivery point without prior authorization under Section 157.211(a) of the Regulations. Northern states that the delivery point was placed in service and natural gas deliveries to Kan-Tex commenced on April 14, 1986.

Consequently, Northern requests authority to continue to operate and maintain such delivery point to Kan-Tex through Peoples pursuant to Section 157.212 of the Regulations. Northern states that the volumes delivered would be within Peoples current Argus firm entitlement authorized by Commission order issued February 12, 1986, in Docket No. CP86-192-001 and that such deliveries would have no impact on Northern's peak day and annual deliveries. Further, Northern states that the required volumes would be served from the firm entitlement designated by Peoples for delivery to Moscow, Kansas.

Comment date: January 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

6. Southern Natural Gas Company/ South Georgia Natural Gas Company

[Docket No. CP87-101-000]

December 16, 1986.

Take notice that on November 25, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792 hereinafter referred to as Applicants, filed in Docket No. CP87-101-000 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorization, authorizing the transportation of natural gas on behalf of the City of Thomasville Water and Light Department (Thomasville) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request a limited-term certificate, expiring one year from the date of the order, authorizing the transportation of gas on behalf of Thomasville. It is stated that Thomasville has acquired the right to purchase gas from SNG Trading Inc. (SNG Trading). In order to effectuate delivery of the gas, Thomasville has entered into an agreement with South Georgia dated November 10, 1986, (South Georgia Agreement) wherein South Georgia has agreed to transport Thomasville's gas and to act as agent in arranging for the transportation of the gas through Southern's pipeline system. South Georgia, as agent for Thomasville, and Southern entered into a transportation agreement dated November 10, 1986, (Southern Agreement), which sets forth the terms under which Southern will transport gas purchased by Thomasville.

Applicants propose to transport on an interruptible basis up to 3 billion Btu of gas per day purchased by Thomasville from SNG Trading. Applicants state that the Southern Agreement provides that South Georgia would cause gas to be delivered to Southern for transportation at the various existing points of delivery on Southern's contiguous pipeline system specified in Exhibit A to the Southern Agreement. Southern would redeliver to South Georgia at the existing point of interconnection between the pipeline facilities of Southern and those of South Georgia located in Lee County, Alabama (Lee County Redelivery point), an equivalent quantity of gas less 3.25 percent of the volume transported for fuel use, less shrinkage, and less South Georgia's pro-rata share of gas delivered for South Georgia's account which is lost or vented. The South Georgia Agreement provides that Thomasville would cause gas to be delivered to South Georgia for transportation at the Lee County Redelivery Point and would be redelivered to Thomasville at the city of Thomasville Meter Station located in Thomas County, Georgia. South Georgia would redeliver an equivalent volume less 0.5 percent of the volume transported for fuel use, less Thomasville's pro-rata share of gas delivered for Thomasville which is lost or vented.

The Southern Agreement provides that South Georgia would pay Southern each month for performing the transportation service rendered thereunder the following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia do not exceed the daily contract demand of South Georgia the transportation rate shall be 39.9 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia exceed the daily contract demand of South Georgia, the transportation rate for the excess volumes would be 64.9 cents per million Btu.

The South Georgia Agreement states that Thomasville has agreed to pay South Georgia each month a transportation rate of 101.02 cents per million Btu redelivered by South Georgia and reimburse South Georgia for all transportation and fuel charges and other costs South Georgia pays Southern pursuant to the Southern Agreement. The Agreements also provide for collection of the GRI surcharge.

Southern states that the transportation arrangement would enable Thomasville to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern would obtain take-or-pay credit on the gas Thomasville may obtain from its suppliers.

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Company a Division of Tenneco Inc.

[Docket No. CP87-115-000]

December 16, 1986.

Take notice that on December 8, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP87-115-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations (18 CFR 284.221) for a blanket certificate of public convenience and necessity authorizing transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states that it intends to transport natural gas on behalf of others and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. RM85-1-000. Tennessee also requests pregranted authorization to abandon transportation services as provided in Subpart G of Part 284 of the Commission's Regulations. Tennessee states that it would accept and comply with the conditions in paragraph (c) of Section 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations provided the Commission excludes Tennessee's storage facilities and service from the open access conditions of Order Nos. 436, *et al.*

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

8. Trailblazer Pipeline Company

[Docket No. CP87-110-000]

December 16, 1986.

Take notice that on December 4, 1986, Trailblazer Pipeline Company (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP87-110-000 an application pursuant to Section 7 of the Natural Gas Act for authorization to transport up to a maximum of 75,000 Mcf of natural gas per day on an interruptible basis for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it had performed a limited-term transportation for Tennessee pursuant to Part 284, Subpart G of the Commission's Regulations at Docket No. ST83-184-000. Such transportation service expired on October 25, 1986.

Applicant requests authority to provide an interruptible transportation service for Tennessee for a period of two years from the date of first delivery and month-to-month thereafter. Applicant would provide such service pursuant to the terms and conditions contained in an interruptible gas transportation agreement between Applicant and Tennessee dated November 5, 1986. Applicant has been informed by Tennessee that said gas would be used for Tennessee's system supply.

Applicant proposes to receive natural gas for the account of Tennessee at an existing interconnection between the facilities of Applicant and Wyoming Interstate Company, Ltd. located near Rockport in Section 5, Township 11 North, Range 66 West, Weld County, Colorado.

Applicant proposes to transport on a fully interruptible basis and would redeliver volumes of gas for the account of Tennessee to: (1) Natural Gas Pipeline Company of America (Natural) at an existing point of interconnection between the facilities of Applicant and Natural located near Beatrice in Section 15, Township 4 North, Range 6 East, Gage County, Nebraska; and (2) Northern Natural Gas Company (Northern) at an existing point of interconnection between the facilities of Applicant and Northern located near Beatrice in Section 9, Township 4 North, Range 5 East, Gage County, Nebraska.

Applicant proposes to charge Tennessee a transportation rate of 32.34 cents per Mcf.

Applicant states that no new facilities would be required for this service. Applicant requests authorization to add or delete additional receipt points in the future that may be necessary to support this service.

Comment date: January 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28635 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9066-001 et al.]

Surrender of Preliminary Permits; Burlington Energy Development Associates et al.

December 16, 1986.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Burlington Energy Development Associates

[Project No. 9066-001]

Take notice that the Burlington Energy Development Associates, permittee for the Conway Dam Project No. 9066, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9066 was issued on December 18, 1985, and would have expired on November 30, 1988. The project would have been located on the South River, in Franklin County, Massachusetts.

The permittee filed the request on November 13, 1986.

2. Burlington Energy Development Associates

[Project No. 9287-001]

Take notice that the Burlington Energy Development Associates, permittee for the Stearns Reservoir Project No. 9287, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9287 was issued on November 7, 1985, and would have expired on November 30, 1988. The project would have been located on the Sudbury River, in Middlesex County, Massachusetts.

The permittee filed the request on November 13, 1986.

3. Burlington Energy Development Associates

[Project No. 9288-001]

Take notice that the Burlington Energy Development Associates, permittee for the Saxonville Dam Project No. 9288, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9288 was issued on November 7, 1985, and would have expired on November 30, 1988. The project would have been located on the Sudbury River, in Middlesex County, Massachusetts.

The permittee filed the request on November 13, 1986.

4. Burlington Energy Development Associates

[Project No. 9329-001]

Take notice that the Burlington Energy Development Associates, permittee for the Leeds Dam Project No. 9329, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9329 was issued on December 30, 1985, and would have expired on November 30, 1988. The project would have been located on the Mill River, in Hampshire County, Massachusetts.

The permittee filed the request on November 13, 1986.

5. Burlington Energy Development Associates

[Project No. 9330-001]

Take notice that the Burlington Energy Development Associates, permittee for the Nonotucket Street Dam Project No. 9330, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9330 was issued on December 11, 1985, and would have expired on November 30, 1988. The project would have been located on the Mill River, in Hampshire County, Massachusetts.

The permittee filed the request on November 13, 1986.

6 Burlington Energy Development Associates

[Project No. 9331-001]

Take notice that the Burlington Energy Development Associates, permittee for the Spring Street Dam Project No. 9331, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9331 was issued on December 30, 1985, and would have expired on November 30, 1988. The project would have been located on the Mill River, in Hampshire County, Massachusetts.

The permittee filed the request on November 13, 1986

7. Burlington Energy Development Associates

[Project No. 9332-001]

Take notice that the Burlington Energy Development Associates, permittee for the Paradise Pond Project No. 9332, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9332 was issued on December 30, 1985, and would have expired on November 30, 1988. The project would have been located on the Mill River, in Hampshire County, Massachusetts.

The permittee filed the request on November 13, 1986.

8. Burlington Energy Development Associates

[Project No. 9333-001]

Take notice that the Burlington Energy Development Associates, permittee for the Cochrane Dam Project No. 9333, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9333 was issued on December 13, 1985, and would have expired on November 30, 1988. The project would have been located on the Charles River, in Norfolk County, Massachusetts.

The permittee filed the request on November 13, 1986.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28618 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-58-000 et al.]

El Paso Natural Gas Co.; Filing

December 17, 1986.

Take notice that on December 9, 1986, El Paso Natural Gas Company (El Paso) filed its notice that no change in rates is required as of January 1, 1987, due to the change in the statutory Federal income tax rate. El Paso states that this filing is made pursuant to Article XII, *Tracking of Changes in Federal Taxes,* of the "Stipulation and Agreement in Settlement of Rate Proceedings" approved by the Federal Energy Regulatory Commission's letter order dated August 14, 1985 in the above-captioned proceeding.

In compliance with Article XII of the Stipulation and Agreement, El Paso states that it has calculated the impact on its rates of the 1986 Tax Reform Act. The reduction in the statutory corporate income tax rate lowers El Paso's revenue requirement but when offset by other changes in the Federal tax Legislation, such revenue requirement is increased resulting in a change of less than one (1) mill to El Paso's jurisdictional rates. Therefore, El Paso states that its current rates will not change as of January 1, 1987. El Paso claims that it will review the rate impact of the 1986 Tax Reform Act and the Internal Revenue Code again before January 1, 1988 to determine any effect on El Paso's jurisdictional rates at that time pursuant to Article XII of the Stipulation and Agreement.

El Paso has served copies of this filing on all parties of record in Docket No. RP85-58-000, all its interstate pipeline system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28636 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-1-53-002 and TA87-2-53-002]

K N Energy, Inc.; Compliance Filing

December 17, 1986.

Take notice that on December 11, 1986, K N Energy, Inc. (K N) tendered for filing Substitute Twenty-Fifth Revised Sheet No. 4, and Substitute Fourth Revised Sheet No. 4B to its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to its gas cost adjustment provision (section 19), to comply with Ordering Paragraph (A)(1) of the Commission's Order issued November 28, 1986, in Docket No. TA87-1-53-000. The effective date for these sheets is December 1, 1986.

K N also filed Substitute Twenty-Sixth Revised Sheet No. 4 and Substitute Fifth Revised Sheet No. 4B to its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to its Gas Research Institute (GRI) charge adjustment provision (section 22). The revised rates required by the Commission's November 28, 1986 order have been reflected in these substitute tariff sheets which had previously been filed in K N's GRI filing in Docket No. TA87-2-53-000. The effective date for these sheets is January 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervane or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28637 Filed 12-19-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Statement of Policy; Special Purpose Finance Subsidiaries

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of withdrawal of proposed policy statement.

SUMMARY: The FDIC hereby gives notice that it has withdrawn its proposed Statement of Policy on Finance Subsidiaries that was published in the **Federal Register** on April 11, 1986 (51 FR 12560). The policy statement, as proposed, would seek to minimize the potential for inappropriate uses of special purpose finance subsidiaries by setting forth specific policy guidelines that state nonmember banks and insured savings banks would be encouraged to consider when evaluating plans to establish finance subsidiaries.

The proposal was issued for a 45-day public comment period, which expired on May 27, 1986. After further review of the policy statement proposal, including the public comments that were received in response to the FDIC's request for comments, the FDIC Board of Directors has determined that it is appropriate to withdraw the proposed policy statement from further consideration.

Although inappropriate uses of finance subsidiaries are possible, the FDIC believes that such situations should be handled on a case-by-case basis by using existing supervisory powers rather than by trying to address potential problems through the issuance of specific guidelines. Nonetheless, bank management still has the responsibility to carefully consider the impact of finance subsidiary transactions on the bank's overall financial position. In those situations where finance subsidiary transactions are conducted in an unsafe or unsound manner, the FDIC will seek appropriate supervisory remedies.

DATE: The withdrawal of the proposed Statement of Policy on Special Purpose Finance Subsidiaries is effective December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Stephen G. Pfeifer, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-6894.

SUPPLEMENTARY INFORMATION: On April 7, 1986, the FDIC Board of Directors approved the issuance for public comment of a proposed Statement of Policy on Special Purpose Finance Subsidiaries. The policy statement, as proposed, would attempt to address the safety and soundness considerations associated with finance subsidiaries through the adoption of policy guidelines pertaining to:

(1) Establishment and structure of finance subsidiaries;

(2) Investment and collaterialization limitations;

(3) Notification requirements; and

(4) Call Report and capital adequacy treatment for finance subsidiary transactions.

The intent of the proposed policy statement was to facilitate the prudent use of finance subsidiaries that are economically advantageous to state nonmember banks and insured savings banks while minimizing the potential for abusive or unsafe and unsound transactions. In an attempt to achieve these dual objectives, the policy statement would encourage banks to provide timely information to FDIC Regional Directors as to the nature and extent of finance subsidiary transactions. The policy statement would also provide bankers with more definitive guidance as to appropriate methods for structuring and reporting these financing transactions.

Nature of Finance Subsidiaries

Finance subsidiaries are generally established in order to provide funds to the parent bank at favorable borrowing rates. However, based on several of the comment letters received by the FDIC, the subsidiaries can also be used solely for the purpose of generating arbitrage profits rather than for the purpose of obtaining an additional source of funds. For example, a subsidiary might issue collateralized mortgage obligations (CMOs) and use the proceeds to simultaneously buy the mortgage-related collateral that will secure the CMO issue. Thus, no additional funds would be received by the parent bank since the proceeds of the securities issuance are used to purchase the underlying collateral.

Two basic types of finance subsidiaries exist—those that issue preferred stock and those that issue CMOs or other forms of debt securities. The preferred stock usually has a short-term adjustable rate that is repriced every 49 days through an auction bidding process among an organized group of existing and/or potential investors. The CMOs or other debt instruments are generally long-term fixed-rate obligations, although some banks are interested in issuing short-term commercial paper through such subsidiaries.

Except for the arbitrage transactions mentioned above, the parent bank transfers a sufficient amount of its assets to the finance subsidiary in order to collateralize or otherwise support the subsidiary's preferred stock or debt issue. Although the collateral required for CMOs usually is less than 110 percent of the amount received from the CMO issuance, the support required for preferred stock issues usually is 150 percent or more. The above precentages are based on the market value of the underlying collateral rather than the collateral's book value.

Policy Statement Issues

Several important policy issues were considered in the decision to withdraw the policy statement proposal. These issues are discussed below, along with the public comments received on this proposal.

Applicability

in their comment letters, both the U.S. League of Savings Institutions and the National Council of Savings Institutions objected to the inclusion of federally chartered savings banks within the scope of the proposed policy statement. Not only did they contend that the Federal Home Loan Bank Board (FHLBB) should have jurisdiction over all federal savings banks for rules affecting finance subsidiaries owned by these savings banks, since the FHLBB is the primary supervisory authority for federal savings banks, but the U.S. League and National Council also believed that the FDIC has no statutory authority to apply such a policy statement to FHLBB-chartered institutions.

The above objection has become a moot point since the FDIC has decided to withdraw the policy statement proposal. Rather than establishing specific guidelines, the FDIC will consider the safety and soundness of finance subsidiary transactions, and their overall impact on the parent bank, during the course of regular onsite examinations and in conjunction with other activities over which the FDIC has supervisory authority, including the review and approval of certain merger and branch applications.

Investment Limitation

The policy statement as proposed would establish a guideline limiting a bank's aggregate investments in finance subsidiaries to 10 percent of a bank's total assets. This contrasts with the FHLBB regulation, which allows investments in finance subsidiaries equal to 30 percent of total assets. Of the 13 comment letters received in response to the FDIC policy statement proposal, 10 respondents commented on the investment limitation and all of these commentators believed the limitation was too restrictive. While some of the respondents indicated that the investment limitation should be increased to 20 or 30 percent, others viewed a numerical or percentage limit as unnecessary and suggested that more flexibility be allowed by simply indicating that investments should be subject to prudential limits.

Several respondents also stated that transfers of assets by the parent bank to the subsidiary should not be included in the investment limitation if the bank does not make an investment in the finance subsidiary, but rather actually sells some of its assets to the subsidiary at fair market value in exchange for cash. In such a transaction, no overcollateralization occurs and the respondents therefore believed that the need for an asset transfer limitation to cover such transactions is not necessary.

Based upon further analysis of the issues, the Board of Directors has determined that a 10 percent investment limitation, or any other arbitrary figure, may prove to be inappropriate as a guideline. Such a figure may quickly become irrelevant due to the accelerating pace at which the market for asset securitization is evolving. As a consequence, it is possible that case-by-case exceptions would need to be made to any arbitrary investment limitation in order to allow reasonably structured finance subsidiary transactions to be consummated. In addition, an overall constraint on the volume of finance subsidiary transactions would still exist via existing regulatory requirements, since these transactions would normally be reflected as additional assets and liabilities on the bank's consolidated FDIC Report of Condition balance sheet. Because the transactions would result in an increase in total assets with no increase in capital, the potential negative impact on the capital to assets ratio would effectively limit the total dollar volume of such transactions.

Overcollateralization

The proposed policy statement indicated that the assets transferred to the finance subsidiary should not exceed 200 percent of the gross proceeds raised by the finance subsidiary from the securities issuance, net of underwriting costs and related expenses. The FHLBB limit for overcollateralization is 250 percent rather than 200 percent.

Although the market value of the collateral required for CMOs is normally less than 110 percent of the gross proceeds raised, the assets needed to support a finance subsidiary's issuance of preferred stock can easily exceed 150 percent of the gross proceeds raised and in some cases might require more than 200 percent for a favorable investment rating from a nationally recognized rating service. At least seven respondents addressed the 200 percent collateralization limit proposed by the FDIC and all of these commentators believed that this collateral limitation would be unduly restrictive in at least some cases.

While some respondents believed that raising the limit to 250 percent is appropriate, others suggested that the limit should be whatever is customary and necessary in order to obtain a favorable investment rating. Other respondents believed that the policy statement should simply indicate that overcollateralization should be maintained within "prudential" limits or that waivers of overcollateralization limitations should be allowed if any numerical restriciton or guideline is imposed.

The FDIC believes that as the market for securitized assets continues to evolve, there may be changes in the livels of overcollateralization that are deemed customary or necessary for various transactions and these levels can vary based on a number of considerations, including the overall credit quality of the underlying collateral. Establishing one overcollateralization limit to cover the myriad of securities transactions that could be initiated might very well result in a guideline that has little or no relevance when compared to the manner in which actual finance subsidiary transactions might need to be structured in order to be accepted by the marketplace.

Presently, the FDIC has no arbitrary overcollateralization limit for collateralized borrowings that are initiated directly at the bank level. Rather, existing practice and overcollateralization levels are normally reviewed on a case-by-case basis during onsite examinations to ensure that the transactions have been conducted in a safe and sound manner. The FDIC believes it is appropriate for finance subsidiary transactions to be analyzed on a similar basis—that is, examiner judgment should provide a sufficient basis for analyzing the safety and soundness of the finance subsidiary transaction without a need to refer to an arbitrary overcollateralization limitation.

Notification Requirements

The proposed policy statement would have required both 30-day prior notification and subsequent confirmation of finance subsidiary transactions. The prior notification would include a description of the transaction, the intended use of proceeds, and financial projections as to the impact on capital and earnings. The subsequent confirmation would include information on the amount of assets transferred to the subsidiary, the gross proceeds raised, the net proceeds transferred to the parent bank, and an itemized reconciliation of the difference between the gross proceeds raised and the net proceeds transferred to the bank.

Five respondents addressed the notification requirements as being too burdensome. Alternative suggestions ranged from imposing a prior notification of only five days to no notification requirement. Other commentators believed that notification requirements should apply only to problem banks or that sound well-run banks should be able to receive specific waivers or exemptions from the notification requirements.

Based on further evaluation, the FDIC believes it appropriate to minimize the notification provisions. Although it might be of some benefit to the FDIC Regional Office for a bank to submit a prior notification, the FDIC does not believe that a policy statement should be instituted for the sole purpose of mandating such a prior notification, especially since many other forms of collateralized borrowings, securitized asset sales, and other asset-backed transactions do not require prior notification.

Consolidation and Capital Adequacy Requirements

For Reports of Income and Condition filed with the FDIC, subsidiaries that meet any one of the "significance" tests set forth in the Call Report instructions must be consolidated. Thus, securities issued to outside parties by a finance subsidiary that is wholly owned by the parent bank generally would be

reported as a liability on the bank's consolidated financial statements. The FHLBB allows such liabilities to be excluded from total liabilities for regulatory capital purposes if the securities issued by the finance subsidiary are "duration-matched" with the underlying collateral. Five of the respondents indicated that they believe the FDIC should also ignore duration-matched liabilities when viewing capital adequacy requirements for regulatory purposes.

With the exception of securities subsidiaries that fall within the definitions set forth in § 337.4 of the FDIC rules and regulations, all subsidiaries that are required to be consolidated for Call Report purposes are also consolidated for capital adequacy purposes under the FDIC's Part 325 capital maintenance regulation. Although the investment in such a § 337.4 securities subsidiary is not consolidated for capital adequacy purposes, Part 325 requires the amount of the investment to be deducted directly from capital.

The FDIC believes that rather than attempting to unilaterally revise the interagency Call Report instructions as they pertain to consolidation of subsidiaries, the existing instructions should continue to be followed. Thus, subsidiaries, including finance subsidiaries that meet the "significant subsidiaries" test in the Call Report instructions, should continue to be consolidated for Reports of Income and Condition filed with the FDIC. With the exception of securities subsidiaries that are established pursuant to § 337.4 of the FDIC rules and regulations, all subsidiaries that are consolidated for Call Report purposes are also required to be consolidated for the purposes of evaluating capital adequacy under the FDIC's Part 325 capital maintenance regulation.

The above criteria are presently followed for any Call Reports filed with the FDIC and for any capital adequacy evaluations that the FDIC is authorized or required to make in conjunction with its supervisory responsibilities. Based on further evaluation of the issues, the FDIC believes it appropriate to continue to follow these criteria.

Other Provisions

The policy statement also proposed that 100 percent of the finance subsidiary should be owned by the parent bank and that all proceeds from the finance subsidiary's issuance of securities should be transferred to the parent bank. However, several respondents indicated that a requirement for all proceeds to be transferred to the parent bank should not apply to situations where the subsidiary uses the proceeds to purchase the underlying collateral for the securities issuance or where the bank's finance subsidiary is part of a conduit program involving several other finance subsidiaries that pool their resources to allow for the issuance of a larger block of securities on more favorable terms. Another commenter suggested that the FDIC clarify that the 100 percent stock ownership requirement would not need to include other forms of equity such as preferred stock.

The FDIC believes that rather than setting explicit guidelines with regard to ownership and asset transfers, these aspects of a finance subsidiary's activities, along with those mentioned above, should be evaluated on a case-by-case basis during the course of regular onsite examinations.

Withdrawal of Proposed Policy Statement

After considering the issues relating to finance subsidiaries, the evolving nature of the market for asset securitization, and the responses provided during the public comment period, the FDIC has decided to withdraw from consideration the proposed Statement of Policy on Special Purpose Finance Subsidiaries. As a consequence, finance subsidiary transactions, as well as other forms of collateralized transactions in which the bank pledges assets or provides a senior or preferred claim to others, such as securitized asset transactions, sales of assets with puts, and collateralized standby letters of credit, will continue to be evaluated as to their safety and soundness on a case-by-case basis.

By Order of the Board of Directors.

Dated at Washington, DC, this 16th day of December, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Security.

[FR Doc. 86-28641 Filed 12-19-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM

ASB Corp. et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) to become a bank holding company or to acquire a bank holding company. The factors that are considered in action on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than January 9, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *ASB Corporation*, Scarsdale New York; to become a bank holding company by acquiring 100 percent of the voting shares of Prime Savings Bank, Mamaroneck, New York (a *de novo bank*).

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *WIN Bancorp, Inc.*, Winchester, Illinois; to become a bank holding company by acquiring 100 percent of voting shares of Winchester National Bank, Winchester, Illinois.

2. *First State Bancshares, Inc.*, Farmington, Missouri; to acquire 100 percent of the voting shares of Iron County Security Bank, Ironton, Missouri.

Board of Governors of the Federal Reserve System, December 16, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28571 Filed 12-19-86; 8:45 am]

BILLING CODE 6210-01-M

Bank of Montreal et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Act (12 U.S.C. 1843(c)(8)) and §225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is

listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are indispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 2, 1987.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bank of Montreal*, Montreal, Canada; Bankmont Financial Corporation, New York, New York; and Harris Bankcorp, Inc., Chicago Illinois; to acquire Harris Brokerage Services, Inc., Chicago Illinois, and thereby engage in providing securities brokerage services pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, December 16, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28572 Filed 12-19-86; 8:45 am]

BILLING CODE 6210-01-M

Donald Helgeson et al.; Acquisitions of Banks or Bank Holding Companies

The notificants listed below have applied 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 31, 1986.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Donald Helgeson*, St Cloud, Minnesota; to acquire 34.86 percent of the voting shares of Chisago Bancorporation, Chisago City, Minnesota; and thereby indirectly acquire Chisago State Bank, Chisago City, Minnesota.

2. *Mr. Stanley Nemer*, Minneapolis, Minnesota; to acquire the general partnership interests in D.L. Shares Limited Partnership, Detroit Lakes, Minnesota; and therby acquire D.L. Bancshares, Inc., Detroit Lakes, Minnesota, and thereby indirectly acquire The First National Bank of Detroit Lakes, Detroit Lakes, Minnesota.

Board of Governors of the Federal Reserve System, December 16, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28573 Filed 12-19-86; 8:45 am]

BILLING CODE 6210-01-M

Signet Banking Corp. et al.; Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under §225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in §225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 9, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Signet Banking Corporation*, Richmond, Virginia; to engage *de novo* through its subsidiary, Landmark Financial Services, Inc., Silver Spring, Maryland, in acting as principal, agent, or broker for insurance that is: (a) directly related to an extension of credit by the bank holding company or any of its subsidiaries; and (b) limited to assuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor pursuant ot §225.25(b)(8)(i) of Regulation Y.

2. *South Carolina National Corporation*, Columbia, South Carolina; to engage *de novo* through its subsidiary, Provident Financial Corporation, Columbia, South Carolina, in providing consumer finance activities which may include the extension of direct loans to consumers, the discount of retail and installment notes of contracts, servicing loans and other extensions of credit for the account of others, and acting as agent for sales of credit life, credit accident and health, and property and casualty insurance directly related to its extensions of credit pursuant to §225.25(b)(1) and (8)(i)(A). Property and casualty insurance will be offered pursuant to section 4(c)(8)(D) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, December 16, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28574 Filed 12-19-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings

The following advisory committee meetings are announced:

Circulatory System Devices Panel

Date, time, and place. January 16, 8:30 a.m., Rm. 703-727A, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7594.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 2, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications (PMA's) for an external dual chamber pacemaker, a laser catheter, and possibly a pulse generator system.

Closed committee deliberations. If necessary, the committee may discuss trade secret or confidential commercial or financial information regarding the PMA's listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Immunology Devices Panel

Date, time, and place. January 29 and 30, 9 a.m., Rm. 703-727A, 200 Independence Ave., SW., Washington, DC.

Type of meeting and contact person. Open public hearing, January 29, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data, 1 p.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 5 p.m.; open committee discussion, January 30, 9 a.m. to 10 a.m.; closed committee deliberations, 10 a.m. to 12 m.; open committee discussion, 1 p.m. to 5 p.m.; S. K. Vadlamudi, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 16, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for an in vitro diagnostic tumor marker assay.

Closed presentation of data. Trade secret or confidential commercial information will be presented to the committee regarding the PMA for the in vitro diagnostic tumor marker assay. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information regarding the above PMA. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. January 29, 9 a.m., and January 30, 8:30 a.m., Bldg. 29, Rm. 115, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Closed committee deliberations, January 29, 9 a.m. to 5 p.m.; open public hearing, January 30, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 2:30 p.m.; Jack Gertzog, Center for Drugs and Biologics (HFN-31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases. The committee also reviews and evaluates the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

Agenda—Open public hearing. Interested persons who wish to present data, information, or views, orally or in writing on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss influenza vaccine formulation for the 1987-1988 influenza season.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to pending license applications and investigational new drug (IND's). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b.(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public

participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: December 16, 1986.

Frank E.Young,

Commissioner of Food and Drugs.

[FR Doc. 86–28596 Filed 12–19–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[IOA–005–N]

Meeting of the Task Force on Long-Term Health Care Policies

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

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), this notice announces a meeting of the Task Force on Long-Term Health Care Insurance Policies.

DATE: The meeting will be held on January 22, 1987 from 8:00 a.m. to 4:30 p.m., and on January 23, 1987 from 8:00 a.m. to 3:00 p.m., M.S.T. The meeting will be open to the public.

ADDRESS: The meeting will be held in the Ramada Valley Ho Resort, 6850 Main Street, Scottsdale, Arizona.

FOR FURTHER INFORMATION CONTACT: Dennis DeWitt, 202–245–0063.

SUPPLEMENTARY INFORMATION:

Purpose

The Task Force on Long-Term Health Care Policies, established under section 9601 of the Consolidated Omnibus Budget Reconciliation Act of 1985, will evaluate current issues relating to private long-term care insurance. To ensure the evolution of sound private long-term care policies and to help foster consumer confidence in them, the Task Force will develop guidelines that can be used by State regulators, persons involved in the insurance industry, and consumers who may wish to purchase such policies.

The term "long-term health care policy" means an insurance plan, or similar health benefits plan, that is designed for or marketed as providing (or making payment for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

The Task Force on Long-Term Health Care Policies will advise the Secretary of Health and Human Services and the Administrator of the Health Care Financing Administration concerning the development of insurance policies for long-term care that are privately marketed to individuals or groups. The Task Force will develop recommendations for long-term health care policies, including recommendations designed to: (1) Limit marketing and agent abuse for those policies; (2) assure the dissemination of

information to consumers necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage; (3) assure that benefits provided under the policies are reasonable in relationship to premiums charged; and (4) promote the development and availability of long-term health care policies that meet these recommendations.

Agenda

Agenda items for the meeting will include Task Force discussion on long-term care insurance benefits and cost control including the definition of long-term care, the definition of long-term care insurance, level of care, service definition, management of care, employer reluctance to offer the long-term care insurance benefit and the portability of this benefit.

Agenda items are subject to change as priorities dictate.

(Sec. 10(a)(2) of Pub. L. 92-463, as amended (5 U.S.C. App. I, Sec. 1-15))

Dated: December 16, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-28645 Filed 12-19-86; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 26-27, 1987, Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to recess on January 26 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to public on January 27 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Executive Secretary, National Advisory Dental Research Council, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892, (telephone 301-496-7723) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior; Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health.)

Dated: December 15, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28578 Filed 12-19-86; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contract Review Committee, National Cancer Institute, National Institutes of Health.

This meeting will be open to the public to discuss administrative details. Attendance by the public will be limited to space available.

This meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892 (301-496-5708), will provide a summary of the meeting and a roster of the committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: Cancer Biology—Immunology Contract Review Committee.

Executive Secretary: Wilna A. Woods, Ph.D., National Cancer Institute, DEA, CRB, 5333 Westbard Avenue, Room 807, Bethesda, Maryland 20892, (301) 496-7153.

Date of Meeting: January 9, 1987.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Building 31A, Conference Room 2, Bethesda, Maryland 20892.

Open: January 9, 1987, 9 a.m.-9:30 a.m.

Agenda: To discuss administrative details.

Closed: January 9, 1987, 9:30 a.m.—adjournment.

Closure Reason: Contract proposals review.

Dated: December 15, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28579 Filed 12-19-86; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Board of Regents, the Extramural Programs Subcommittee, the Lister Hill Center Subcommittee, and the Program Outreach Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on Jan. 29-30, 1987, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, the meetings of the Lister Hill Center and the Extramural Programs Subcommittees of the Board of Regents on the preceding day, Jan. 28, from 1:00 to 2:00 p.m., in the 7th floor Conference Room, and from 1:00 to 2:00 p.m. in the 5th floor Conference Room of the Lister Hill Center Building, respectively, and the Program Outreach Subcommittee on Jan. 28 from 2:00 to 3:00 p.m. in Conference Room "B" of the Library.

The meeting of the Board will be open to the public from 9:00 a.m. to 5:15 p.m. on Jan. 29 and from 9:00 to approximately 11:15 a.m. on Jan. 30 for administrative reports and program discussions. The entire meetings of the Lister Hill Center and the Program Outreach Subcommittees will be open to the public. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on Jan. 28, will be closed to the public, and the regular Board meeting on Jan. 30 will be closed from approximately 11:15 a.m. to adjournment for the review, discussion, and evaluation of individual

grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: December 15, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–28580 Filed 12–19–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health.

This meeting will be open to the public to discuss administrative details. Attendance by the public will be limited to space available.

This meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708), will provide a summary of the meeting and a roster of the committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: Biometry and Epidemiology Contract Review Committee.

Executive Secretary: Harvey P. Stein, Ph.D., National Cancer Institute, DEA, CRB, 5333 Westbard Avenue, Room 804, Bethesda, Maryland 20892 301/496–7030.

Date of Meeting: January 30, 1987.

Place of Meeting: National Institutes of Health, Conference Room 2, Building 31A, 9000 Rockville Pike, Bethesda, Maryland 20892.

Open: January 30, 1987, 9 a.m.–10 a.m.

Agenda: To discuss administrative details.

Closed: January 30, 1987, 10 a.m.—adjournment.

Closure Reason: Contract proposals review.

Dated: December 15, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–28581 Filed 12–19–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meeting of National Advisory Council on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, (NIA), on February 5–6, 1987, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on Thursday, February 5, from 10:30 a.m. until noon for a status report by the Director, National Institute on Aging, and the annual review for the NIA Epidemiology, Demography, and Biometry Program. It will be open to the public on Friday, February 6, from 9:00 a.m. until adjournment for a report on the ad hoc Committee on Program, a report on the Director's Advisory Committee Meeting, and a report on the NIA Centennial Activities. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on February 5 from 1:00 p.m. to recess for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Because this meeting is scheduled so far in advance, it is suggested that you contact Mrs. June McCann, Council Secretary for the National Institute on Aging, National Institutes of Health, Building 31, Room 2C05, Bethesda, Maryland 20892, (301/496–9322), for specific information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: December 15, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–28582 Filed 12–19–86; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Resources; Meeting of the National Advisory Research Resources Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), February 2–3, 1987, 9:00 a.m., Conference Room 10, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on February 2 from 9:00 a.m. until recess and from 9:00 a.m. until approximately 10:45 a.m. on February 3 during which time there will be discussions on administrative matters such as previous meeting minutes; the Report of the Director, DRR; review of the Council Operating Procedures; and budget and legislative updates. The film, "What's NIH," will be shown, and Mr. Geoffrey Grant, Grants Policy Officer, Office of Extramural Research and Training, NIH, will present an overview of the NIH Study of Escalation of Costs in Research Grants. In addition, the General Clinical Research Centers Program, DRR, will be the highlighted DRR Program at this meeting. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 522b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 3 from approximately 10:45 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide a summary of the meeting and a

roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20892, 301/496-6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.375, Minority Biomedical Research Support, National Institutes of Health)

Dated: December 15, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-28583 Filed 12-19-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the Interagency Technical Committee (IATC) Working Group on Lung Diseases, sponsored by the National Heart, Lung, and Blood Institute on February 17, 1987, from 9 a.m. to 4 p.m., Building 31, C Wing, Conference Room 10, 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) Working Group on Lung Diseases Coordinates Federally-supported research and research training concerning pulmonary diseases. This meeting will address mechanical ventilation of patients in the home, with emphasis on research needs and possible areas of collaboration. Attendance by the public will be limited to space available.

For program information, agenda, and minutes of the meeting, contact: Dr. William Sanslone, Office of the Director, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, Westwood Building, Room 6A16, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496-7208.

Dated: December 17, 1986.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 86-28643 Filed 12-19-86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Services

National Commission on Orphan Diseases; Public Meeting

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing a forthcoming meeting of the National Commission on Orphan Diseases scheduled to meet on January 22 and 23, 1987.

DATE: Date, Time and Place: January 22, 1987, at 1 p.m.; January 23, 1987, 9 a.m., Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to: Stephen C. Groft, Pharm. D., Executive Director, National Commission on Orphan Diseases, Office of the Assistant Secretary for Health, 5600 Fishers Lane, Room 18-38, Rockville, MD 20857, 301-443-6156.

Agenda: Open Public Hearing

Interested persons may present data, information, or views orally or in writing on issues pending before the Commission or on any of the duties and responsibilities of the Commission as described below. Those desiring to make formal presentations should notify the contact person before January 9, 1987 and submit a brief statement of the information they wish to present to the Commission. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Commission Discussion

Discussion will center on the organizational structure of the Commission, definition of the problem, role of the Commission, charges to the Commission, and election of the chairperson. The primary focus of the meeting will center on the identification of the issues to be addressed in future meetings and methods to respond to these issues.

SUPPLEMENTARY INFORMATION: Public Law 99-91 (Orphan Drug Amendments of 1985) established the National Commission on Orphan Diseases. The Commission shall assess the activities of the National Institutes of Health (NIH), the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), the Food and Drug Administration (FDA), other public agencies, and private entities in connection with:

(1) Basic research conducted on rare diseases;

(2) The use in research on rare disease of knowledge developed in other research;

(3) Applied and clinical research on the prevention, diagnosis, and treatment of rare diseases; and

(4) The dissemination to the public, health care professionals, researchers, and drug and medical device manufacturers of knowledge developed in research on rare diseases and other diseases which can be used in the prevention, diagnosis, and treatment of rare diseases.

In assessing the activities of the NIH, ADAMHA, and FDA in connection with research on rare diseases, the Commission shall review the following:

(1) The appropriateness of the priorities currently placed on research on rare diseases;

(2) The relative effectiveness of grants and contracts when used to fund research on rare diseases;

(3) The appropriateness of specific requirements applicable to applications for funds for research on rare diseases taking into consideration the reasonable capacity of applicants to meet such requirements;

(4) The adequacy of the scientific basis for such research, including the adequacy of the research facilities and research resources used in such research and the appropriateness of the scientific training of the personnel engaged in such research;

(5) The effectiveness of activities undertaken to encourage such research;

(6) The organization of the peer review process applicable to applications for funds for such research to determine if the organization of the peer review process could be revised to improve the effectiveness of the review provided to proposals for research on rare diseases;

(7) The effectiveness of the coordination between the national research institutes of the National Institutes of Health, the institutes of the Alcohol, Drug Abuse, and Mental Health Administration, the Food and Drug Administration, and private entities in supporting such research; and

(8) The effectiveness of activities undertaken to assure that knowledge developed in research on nonrare

diseases is, when appropriate, used in research on rare diseases.

The Commission shall transmit to the Secretary and to each House of the Congress a report on the activities of the Commission. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for:

(1) A long range plan for the use of public and private resources to improve research into rare diseases and to assist in the prevention, diagnosis, and treatment of rare diseases; and

(2) Such legislation or administrative actions as it considers appropriate.

Meetings of the Commission shall be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notices. Changes in the agenda will be announced at the beginning of the open portion of the meeting.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of Commission members and the charter of the Commission will be available at the meeting. Those unable to attend the meeting may request this information from the contact person. Summary minutes of the meeting will be made available upon request from the contact person.

This notice is issued under 10(a) (1) and (2) of the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C. Appendix I).

Dated: December 10, 1986.

Lowell T. Harmison,

Acting Assistant Secretary for Health.

[FR Doc. 86–28615 Filed 12–19–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Theodore Salas, Englewood, CO—PRT–713869

The applicant requests a permit to import 4 male and 2 female bar-tailed pheasants (*Syrmaticus humaie*), 2 male and 2 female white eared pheasants (*Crossoptilon crossoptilon*), 2 male Edward's pheasants (*Lophura edwardsi*), 4 male and 2 female Elliot's pheasants (*Syrmaticus elliotí*), 2 male and 2 female Mikado pheasants (*Syrmaticus mikado*), 1 male Palawan peacock pheasant (*Polyplectron emphanum*), and 2 male Hawaiian (-nene) geese (*Nesochen* (-Branta) sandvicensis) from South View Aviaries in Burnaby B. C. for the purpose of breeding.

Applicant: Henry Doorly Zoo, Omaha, NE—PRT–714109

The applicant requests a permit to import one female captive born maned wolf (*Chryscocyon brachyurus*) from St. Martin-la-Plaine, Rive de Gier, France, for the purpose of captive propagation.

Applicant: Varnadoe Nurseries, Inc., Colquitt, GA—PRT–713917

The applicant requests a permit to sell in interstate commerce artificially propagated specimens of Chapman rhododendron (*Rhododendron chapmanii*) for enhancement of propagation.

Applicant: White Oak Plantation, Yulee, FL—PRT–713938

The applicant requests a permit to import one male maned wolf (*Chrysocyon brachyurus*) from Parc Zoologique, St. Martin-la-Plaine, Rive de Gier, France, for the purpose of breeding. Import of this captive born specimen will improve the genetic variability of the applicant's breeding group.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: December 16, 1986.

R.K. Robinson,

Acting Chief, Federal Wildlife Permit Office.

[FR Doc. 86–28624 Filed 12–19–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7313, with copies to Norman J. Hess; Acting Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Applying for Notices or Permits, 30 CFR 251.5.

Abstract: Respondents are required to apply for permits or file notices in order to conduct activities offshore. The information is necessary to evaluate applications to conduct prelease exploration offshore and to monitor activities of scientific exploration conducted under notices to ensure there is no environmental degradation, personnel harm, damage to historical or cultural sites, or interference with other uses.

Bureau Form Number: Form MMS–327

Frequency: On Occasion

Description of Respondents: Federal offshore permittees

Annual Responses: 405

Annual Burden Hours: 6,440

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213

Dated: December 4, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86–28673 Filed 12–19–86; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5409, Block 96, Vermilion 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 Intracoastal City, Louisiana.

DATES: The subject DOCD was deemed submitted on December 12, 1986. Comments must be received on or before January 6, 1987 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 Certificate 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, Telephone (504) 736-2867.

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: December 15, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 28674 Filed 12-19-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; Oregon Inlet Fishing Center, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Oregon Inlet Fishing Center, Inc. authorizing it to continue to provide a fishing center and charter boat booking service at Cape Hatteras National Seashore for a period of ten years from January 1, 1987, through December 31, 1996.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1986, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: May 5, 1986.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 86-28601 Filed 12-19-86; 8:45am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 13, 1986. Pursuant to § 60.13 of 36 CFR Park 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 6, 1987.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Fairfield County

Stamford, *Long Ridge Village Historic District*, Old Long Ridge Rd. bounded by the New York State Line, Rock Rimmon Rd., and Long Ridge Rd. (CT 104)

FLORIDA

Charlotte County

Punta Gorda, *Freeman, A. C., House*, 639 E. Hargreaves Ave.

Duval County

Jacksonville, *Springfield Historic District*, Roughly bounded by Twelfth, Clark, and First Sts., Hogans Creek and Boulevard

MINNESOTA

Jackson County

Jackson vicinity, *Moore, George M., Farmstead*, CR 4

Watonwan County

La Salle vicinity, *Nelson and Albin Cooperative Mercantile Association Store*, CR 6 St. James, *Watonwan County Courthouse*, Seventh St., S and Second Ave., S

MISSISSIPPI

Harrison County

Deer Island-Deer Island Shell Midden Site (22HR500)

Leake County

Steep Mound Site (22LK526)

Tunica County

Canon Site (22-Tu-523)
Dundee Site (22-Tu-501)
Evansville Mounds (22-Tu-502)
Johnson Cemetery Site (22-Tu-516)
Owens Site (22-Tu-512)

NEW MEXICO

Rio Arriba County

Adams Canyon Site (LA 55824) (Navajo—Refuge Pueblo TR)
Adolfo Canyon Site (LA 5665) (Navajo—Refuge Pueblo TR)
Boulder Fortress (LA 55828) (Navajo—Refuge Pueblo TR)

Cabresto Mesa Tower Complex (LA 2138) (Navajo—Refuge Pueblo TR)
Cagle's Site (LA 55826) (Navajo—Refuge Pueblo TR)
Canyon View Ruin (LA 55827) (Navajo—Refuge Pueblo TR)
Casa Mesa Diablo (LA 11100) (Navajo—Refuge Pueblo TR)
Citadel, The (LA 55828) (Navajo—Refuge Pueblo TR)
Compressor Station Ruin (LA 5658) (Navajo—Refuge Pueblo TR)
Crevice Ruin (LA 13218) (Navajo—Refuge Pueblo TR)
Crow Canyon Site (LA 20219) (Navajo—Refuge Pueblo TR)
Deladito Pueblito (LA 5649) (Navajo—Refuge Pueblo TR)
Foothold Ruin (LA 9073) (Navajo—Refuge Pueblo TR)
Frances Canyon Ruin (LA 2135) (Navajo—Refuge Pueblo TR)
Garcia Canyon Pueblito (LA 36608) (Navajo—Refuge Pueblo TR)
Gomez Canyon Ruin (LA 55831) (Navajo—Refuge Pueblo TR)
Gomez Point Site (LA 58832) (Navajo—Refuge Pueblo TR)
Gould Pass Ruin (LA 5659) (Navajo—Refuge Pueblo TR)
Hill Road Ruin (LA 55833) (Navajo—Refuge Pueblo TR)
Hooded Fireplace Ruin (LA 5662) (Navajo—Refuge Pueblo TR)
Kin Naa daa (Maize House) (LA 1872) (Navajo—Refuge Pueblo TR)
Kin Yazhi (Little House) (LA 2433) (Navajo—Refuge Pueblo TR)
Largo School Ruin (LA 5657) (Navajo—Refuge Pueblo TR)
Old Fort (LA 1869) (Navajo—Refuge Pueblo TR)
Overlook Site (LA 10732) (Navajo—Refuge Pueblo TR)
Pointed Butte Ruin (LA 10733) (Navajo—Refuge Pueblo TR)
Pork Chop Pass Site (LA 5661) (Navajo—Refuge Pueblo TR)
Pueblito Canyon Ruin (LA 1684) (Navajo—Refuge Pueblo TR)
Pueblito East Ruin (LA 55834) (Navajo—Refuge Pueblo TR)
Ridge Top House (LA 6287) (Navajo—Refuge Pueblo TR)
Rincon Largo Ruin (LA 2436 and LA 2435) (Navajo—Refuge Pueblo TR)
Rincon Rockshelter (LA 55835) (Navajo—Refuge Pueblo TR)
Romine Canyon Ruin (LA 55836) (Navajo—Refuge Pueblo TR)
Romine Ranch Site (LA 55837) (Navajo—Refuge Pueblo TR)
Shaft House (LA 5660) (Navajo—Refuge Pueblo TR)
Split Rock Ruin (LA 5664) (Navajo—Refuge Pueblo TR)
Tapicito Ruin (LA 2298) (Navajo—Refuge Pueblo TR)
Three Corn Ruin (LA 1871) (Navajo—Refuge Pueblo TR)
Tower of the Standing God (LA 55839) (Navajo—Refuge Pueblo TR)
Truby's Tower (LA 2434) (Navajo—Refuge Pueblo TR)
Unreachable Rockshelter (LA 55841) (Navajo—Refuge Pueblo TR) (also in San Juan County)
Wall, The (LA 55840) (Navajo—Refuge Pueblo TR)

San Juan County

Christmas Tree Ruin (LA 11097) (Navajo—Refuge Pueblo TR)
Cottonwood Divide Site (LA 55829) (Navajo—Refuge Pueblo TR)
Hadlock's Crow Canyon #1 (LA 55830) (Navajo—Refuge Pueblo TR)
Prieta Mesa Site (LA 11251) (Navajo—Refuge Pueblo TR)
Simon Canyon (LA 5047) (Navajo—Refuge Pueblo TR)
Star Rock Refuge (LA 55838) (Navajo—Refuge Pueblo TR)

NORTH CAROLINA

Pender County
Wilmington vicinity, *Moore's Creek National Military Park (Boundary Increase)*, NW of Wilmington on NC 210

OREGON

Multnomah County

Bonneville, *Bonneville Dam Historic District*, Roughly bounded by Mitchell Creek Bypass, SW District boundary, Union Pacific right-of-way, and hatchery service rd.

TEXAS

Bowie County

Tilson Mounds—Summerhill Lake Place (41BW14)

VIRGINIA

King George Country

Port Conway, *Emmanuel Church*, US 301

Loudoun County

Ashburn vicinity, *Janelia*, N side of VA 7, 6 mi E of Leesburg
Pulaski County
Snowville, *Snowville Historic District*, Along VA 693

WISCONSIN

Milwaukee County

Whitefish Bay, *Ullius, Fred W. Jr., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 5775 N. Santa Monica Blvd.

Waukesha County

Waukesha, *Arlington Apartments (Waukesha MRA)*, 309 Arlington St.
Waukesha, *Wisconsin Industrial School for Boys (Waukesha MRA)*, 621 and 627 W. College Ave.

[FR Doc. 86-86602 Filed 12-19-86; 8:45 am]
BILLING CODE 4310-70-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before January 21, 1987.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202–786–0233) and Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) and estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instruction Forms for the Editions Category
Form Number: Not applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Application for funding
Estimated Number of Respondents: 79
Estimated Hours for Respondents to Provide Information: 52 per respondent

Susan Metts,
Director of Administration.

[FR Doc. 86-28642 Filed 12-19-86; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-286]

Power Authority of the State of New York Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR 50 to Power Authority of the State of New York (the licensee), for the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

Environmental Assessment

Identification of proposed action: The exemption relieves the technical requirements of 10 CFR 50 Appendix R in the areas of the Primary Auxiliary Building, Cable Tunnel, Auxiliary Feedwater Pump Room, 8-hour battery powered emergency lighting in the yard area and Yard Areas-Service Water Pumps based on the provision of an equivalent level of fire safety in the affected areas.

The need for the proposed action: The proposed exemption is needed because the features described in the licensee's requests regarding the existing fire protection at the plant for these items are the most practical means for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental impacts of the proposed action: The proposed exemption will provide a degree of fire protection that is equivalent to that required by Appendix R for the affected areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative use of resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Indian Point Nuclear Generating Unit No. 3.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for exemption dated August 16, 1985, and June 14 and September 19, 1985, and supplemented on March 15, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated At Bethesda, Maryland, this 15th day of December, 1986.

For the Nuclear Regulatory Commission.

Steven A. Vanga,

Director, PWR Project Directorate #3, Divsion of PWR Licensing-A.

[FR Doc. 86-28631 Filed 12-19-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. (Trojan Nuclear Power Plant); Receipt of Petition for Director's Decision

Notice is hereby given that by a Petition pursuant to 10 CFR 2.206 dated November 3, 1986, Petitioners Forelaws on Board, Elaine Kelley and Lloyd K. Marbet sought suspension of the operating license for the Trojan Nuclear Power Plant operated by the Portland General Electric Company (Licensee). The Petition alleged that the Licensee had failed to disclose to the NRC conditions that undermine the safety of the reactor in case of a seismic event. Specifically, it was alleged that the licensee had failed to disclose the magnitude and extent of structural deficiencies in the walls of the Trojan facility and, that as a consequence, the facility could not withstand the Safe Shutdown Earthquake. The Petition, in addition to alleging a failure on part of the licensee to disclose information to the NRC generally, also alleged that the licensee had failed to comply with the Commission's regulations calling for the reporting of defects, specifically 10 CFR Part 21.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken on the request within a reasonable time. The Petition is being temporarily withheld from placement in the Commission's Public Document Room, 1717 H Street NW, Washington, DC 20555 and the Local Public Document Room for the Trojan Facility, Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon, pending a review of the Petition by the licensee and the Bechtel Corporation. The Petition suggests that a number of documents which were attached to the Petition were the subject of a non-disclosure agreement in litigation between the Licensee and Bechtel Corporation. Consequently, these parties have been provided an opportunity to review the Petition and determine whether or not they wish to request withholding in accordance with the standards of the Commission's regulations regarding withholding, specifically 10 CFR 2.790. For further information as to whether or not all or part of the Petition will be placed in the Public Document Rooms, please contact Terence L. Chan, Office of Nuclear Reactor Regulation, 301-492-7136.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 16 day of December, 1986.

[FR Doc. 86-28633 Filed 12-19-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15478 812-6500]

Metropolitan Life Insurance Co. et al.; Application for Exemption Under Investment Grouping Act

December 15, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Metropolitan Life Insurance Company ("Metropolitan"), Metropolitan Variable Account B of

Metropolitan Life Insurance Company ("Separate Account B"), Metropolitan Life Variable Account C ("Separate Account C") and Metropolitan Life Variable Account D ("Separate Account D"), collectively the "Accounts," Metropolitan Life Separate Account E ("Separate Account E") and Metropolitan Series Fund, Inc. (the "Fund"), (collectively "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 17(b) from section 17(a) and approval of the terms of a joint venture requested under section 17(d) and Rule 17d-1.

Summary of Application: Applicants seek an order exempting and approving to the extent necessary, the proposed reorganization of the Accounts into Separate Account E, a separate account of Metropolitan registered with the Commission as a unit investment trust, and the issuance of shares of the Fund in exchange for the assets of the Accounts.

Filing Date: The application was filed on October 14, 1986, and an amendment thereto on November 24, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on January 9, 1987. request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 1 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Staff Attorney David S. Goldstein (202) 272–2622 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations and Statements:

1. Metropolitan is a mutual life insurance company, registered with the Commission as an investment adviser and as a broker-dealer, which acts as the investment adviser for and principal underwriter of the Accounts and the Fund and as sponsor-distributor for Separate Account E. State Street Research & Management Company ("State Street Research"), a wholly-owned subsidiary of Metropolitan, is the sub-investment manager for the Fund (other than the Fund's Money Market Portfolio) and of each of the Accounts.

2. Separate Account B was established by Metropolitan in 1969 under the insurance laws of New York and is registered under the Act as an open-end diversified management investment company. In 1970 Metropolitan commenced a public offering of variable annuity contracts funded by Separate Account B. The investment objectives of Separate Account B are long-term growth of capital primarily and income secondarily. In March 1985, Metropolitan discontinued sales of contracts funded by Separate Account B.

3. Separate Accounts C and D were established by Metropolitan under the insurance laws of New York in 1974, and each registered under the Act as an open-end diversified management investment company. In 1975, Metropolitan commenced a public offering of contracts funded by Separate Accounts C and D, designed as a retirement program for persons not entitled to special tax benefits under the Code. The investment objectives of Separate Accounts C and D are long-term growth of capital primarily and income secondarily. In June 1978, Metropolitan ceased to offer the contracts funded by Separate Accounts C and D.

4. The Fund, a Maryland corporation, registered under the Act as an open-end diversified management investment company in November, 1982. The Fund is a series investment company currently with five portfolios, including the Growth Portfolio. The investment objectives of the Growth Portfolio are to achieve long/term growth of capital and income, and moderate current income, by investing primarily in common stocks that are believed to be of good quality or to have good growth potential or which are considered to be undervalued based on historical investment standards.

5. The Fund is the funding vehicle for contracts, which are combination fixed and variable annuity contracts, the variable portion being funded by Separate Account E, a unit investment trust registered under the Act. Payments under the contracts may be allocated to the five investment divisions of Separate Account E, investing in the corresponding portfolios of the Fund.

6. The Board of Directors of Metropolitan and of the Fund, and the *Committees* (functioning as directors of the Accounts under the Act) have adopted an Agreement and Plan of Reorganization (the "Plan") under which the assets of each of the Accounts will be transferred to Separate Account E. Separate Account E will immediately transfer the assets received from the Accounts to the Growth Portfolio of the Fund, which will immediately issue shares of the Growth Portfolio to Separate Account E in an amount equal to the value of the assets received.

7. Under the Plan, Metropolitan will assume all costs and expenses associated with effecting the Plan.

8. The transaction will not have any adverse economic impact on contract holders of the Accounts, Separate Account E or shareholders of the Fund, and Metropolitan represents that the charges provided for in any contract affecting any of them will not increase as a result of the reorganization.

9. The charges for investment management for the contracts funded by Separate Account C and Separate Account D will be reduced since Metropolitan will waive any portion of the investment advisory fee exceeding the annual investment advisory fee paid by the Fund for investment advisory services provided by Metropolitan. Sales, administrative and mortality and expense charges under the contracts will remain unchanged, and no sales charge is imposed upon the issuance of the Fund's shares to Separate Account E.

10. No portfolio securities will be liquidated in connection with the proposed transaction. Applicants do not expect any tax liability to arise from the reorganization, but Metropolitan will bear any such expense which may arise.

11. Metropolitan votes all the Fund shares held by Separate Account E based upon instructions received from persons having the voting interests in the contracts participating in Separate Account E. Metropolitan votes all Fund shares held by Separate Account E for which no timely voting instructions are received in proportion to voting instructions received.

12. The terms of the proposed transaction and the consideration to be paid are reasonable and fair and do not involve overreaching.

13. The exchange of assets and related liabilities of the Accounts for the Fund shares of the Growth Portfolio will be

made on the basis of the current value of the assets of the Accounts.

14. The Board of Directors of the Fund and the Committees of the Accounts, including a majority of those who are not interested persons of such investment companies, have determined that the participation of the investment companies in the transaction is in the best interests of the investment companies and of existing contractholders. That determination was based in part on the fact that contractholders will benefit from being combined into what will be a larger, more viable investment vehicle, rather than continuing to be managed as separate smaller portfolios of assets allocated to the Accounts, for which contracts are no longer being issued. A broader diversification of investments possible in a combined and presumably increasingly larger portfolio will tend to lessen overall investment risk, and perhaps will also enhance investment performance.

15. The economic interests of contractholders will not be adversely affected by the transaction, since the contract charges will remain the same or be slightly reduced in the cases of Separate Accounts C and D.

16. Although phrased differently, the investment objectives and policies of the Growth Portfolio of the Fund are consistent with the investment objectives and policies of the Accounts and the investment manager and the sub-investment manager of the Accounts and the Growth Portfolio are the same.

17. While voting rights in the Fund will be shared by contractholders with other persons, the persons holding voting interests under the contracts funded by the Accounts will be given an opportunity to vote on the reorganization and can weigh the benefits from broader diversification against this change.

18. The terms of the reorganization are fair and reasonable and consistent with the provisions, policies and purposes of the Act. The investment companies involved will not be participating in the reorganization on a basis less advantageous than any other participant.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28668 Filed 12-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23888; File No. SR-OCC-86-23]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change Filed by Options Clearing Corporation

On November 19, 1986, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") to enable certain customers of OCC Clearing Members to settle foreign currency option exercises and assignments directly with OCC's agent bank. To allow Clearing Members' customers to use the procedures contemplated by the proposal for exercises and assignments in the December series of foreign currency options, OCC requested accelerated approval of the proposed rule change. The Commission published notice of the proposal in the **Federal Register** on December 3, 1986.[1] This Order approves the proposal on an accelerated basis.

I. Description

The proposal would enable certain customers of OCC Clearing Members to settle their foreign currency option exercises and assignments directly with OCC's correspondent bank, instead of through their Clearing Member. Those customers would include banks that act as agents for OCC Clearing Members or customers whose custodian banks also act as agents for OCC Clearing Members. The proposal would establish procedures to identify exercises and assignments that are to be settled directly by the customer's agent and mechanisms for settling those exercises and assignments.

More specifically, the proposal would revise OCC's Rules to enable Clearing Members' customers to use the delivery-versus-payment ("DVP") settlement procedures set forth in OCC Rule 1606A.[2] The proposal also would adjust OCC's Rules concerning Clearing Member settlement of exercises and assignments to require Clearing Members to settle remaining exercises and assignments (for proprietary and all other account positions) in whole or in part through the DVP system or in accordance with OCC Rule 1606.[3]

Under the proposal, a customer wishing to use the DVP procedures would instruct its Clearing Member to submit DVP authorizations[4] to OCC on its behalf. On the business day after an exercise notice in respect of a foreign currency option is properly tendered to OCC, OCC will issue to each Foreign Currency Clearing Member, before 7:00 a.m.,[5] an Exercise and Assignment Report. That report lists all exercises and assignments by account and shows projected net obligations both within and across accounts.[6] On the basis of that report and the customer's instructions, Clearing Members than can instruct OCC to settle specific exercises and assignments through the DVP system, by submitting DVP authorizations. Clearing Members must submit DVP authorizations by 12:00 noon on the date of issuance of the Exercise and Assignment Report, together with any other DVP authorizations that are to apply to the Clearing Members' remaining net settlement obligations. Clearing Members must adjust any DVP authorizations covering the net settlement obligations, of course, to reflect any exercises and assignments that are to be settled directly by customers ("adjusted net obligations").[7]

[1] Securities Exchange Act Rel. No. 23840 (November 24, 1986), 51 FR 43699.

[2] The DVP system was approved in Securities Exchange Act Rel. No. 21359 (September 27, 1984), 49 FR 39138. DVP settlement procedures involve contractual commitments directly between the Clearing Member's agent bank and OCC's correspondent bank. The DVP system reduces a Clearing Member's financing costs by relying on a guarantee by a Clearing Member's agent bank rather than on advance payment by the Clearing Member, to protect OCC from the member's failure to pay its U.S. dollar settlement amount or to deliver a designated quantity of foreign currency.

[3] Under Rule 1606, deliveries of foreign currency are made between the Clearing Member's agent bank and OCC's correspondent bank on the exercise settlement date. Settlement of related dollar obligations occurs between OCC and the Clearing Member. If the Clearing Member has a net dollar payment obligation, the Clearing Member must settle that obligation two business days before the exercise settlement date, because OCC must give irrevocable instructions to its correspondent bank to deliver foreign currencies at that time. Two business days following issuance of the Exercise Settlement Report, a Delivering Clearing Member must cause its agent bank to guarantee delivery of foreign currency on the exercise settlement date. On exercise settlement date, OCC delivers foreign currency to a Receiving Clearing Member's account at its agent bank (providing such Clearing Member has paid its net U.S. dollar settlement amount) and pays a Collecting Clearing Member or its agent bank any settlement amount.

[4] A DVP authorization constitutes an instruction from the Clearing Member to its agent bank directing the agent bank to guarantee to OCC's correspondent bank, via international bank wire, delivery on the exercise settlement date in immediately available funds of either (i) a designated quantity of foreign currency against payment of U.S. dollars, or (ii) a sum in U.S. dollars against delivery of a designated quantity of a foreign currency.

[5] All times referred to herein are Central Time.

[6] *See* OCC Rule 1605(a)(4)

[7] *See* OCC Rule 1606A (b) and (c). Paragraph (c) further provides that any combination of DVP authorizations may be submitted so long as the total currency and dollars deliverable under DVP

Continued

OCC will process the DVP authorizations and apply accepted customer-related DVP authorizations [8] against the Clearing Member's non-netted totals.[9] OCC then nets the Clearing Member's remaining obligations (if any) and applies the DVPs accepted for the Clearing Member's net obligations to calculate the Clearing Member's net delivery and payment obligations. At or before 3:00 p.m., OCC would issue the Exercise Settlement Report, reflecting accepted DVP authorizations, the netting process, and net settlement and delivery obligations. The Clearing Member must settle any remaining payment or delivery obligations, as indicated in the Exercise Settlement Report, under Rule 1606.[10]

To accommodate the procedures described above, the proposed rule change also makes several technical and conforming changes to other OCC rules.[11] In particular, because certain exercises and assignments would be excluded from OCC's net delivery system, they would also be excluded from OCC's net margin system and must be margined separately.[12] In addition, with respect to exercised option contracts of a suspended Clearing Member, the proposal would clarify that, if a bank defaulted in its DVP settlement obligation, OCC would have the authority to execute or direct a buy-in or a sell-out of the foreign currency.

II. OCC's Rationale

OCC believes the proposed rule change is consistent with the purposes and requirements of the Act. OCC believes that the proposal promotes prompt and accurate customer-side settlement of foreign currency option exercises and fosters cooperation and coordination with institutions that regularly engage in such settlements.

In its filing, OCC indicates that several Clearing Members' agent banks purchase foreign currency options through OCC Clearing Members or act as agents for other customers who purchase foreign currency options. OCC that Clearing Members and their customers have expressed an interest in settling exercises and assignments directly with OCC's correspondent bank.

III. Discussion

The Commission believes that the proposal will promote the efficient clearance and settlement of securities transactions. Although the proposal would increase the number of foreign currency settlements with OCC's agent bank, the proposal would eliminate the need for separate street-side and customer-side settlements of foreign currenty option exercises and assignments in circumstances where the Clearing Member's agent bank also acts as agent for a Clearing Member's customer. Moreover, by combining street-side and customer-side settlement, the proposal would reduce, somewhat, settlement credit risks associated with the use of multiple financial intermediaries to settle foreign currency option exercises and assignments.[13] Accordingly, the Commission believes that the proposal is consistent with the Act.[14]

The Commission is concerned that five hours may not be sufficient time for Clearing Members to review Exercise and Assignment Reports and file necessary DVP authorizations with OCC. Under the procedures set out above, OCC will deposit the Exercise and Assignment Report in Clearing Members' lock boxes by 7:00 a.m.[15] Clearing Members would have until 12:00 noon to submit DVP authorizations that would specify whether a specific authorization applies to the Clearing Member's gross activity or to the projected net obligation.

Nevertheless, OCC has assurred the Commission that it will monitor Clearing Members' performance and revise these time frames if necessary. OCC currently offers electronic dissemination of these reports to its Data Service subscribers and has agreed to consider ways to expand automated dissemination of these reports in order to permit more efficient Clearing Member processing and to reduce potential processing delays. Moreover, OCC has noted that a Clearing Member's failure to file DVP authorizations on a timely basis will result in net settlement of all exercises and assignments under Rule 1606.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, section 17A.

The Commission finds good cause for approving the proposed rule change on an accelerated basis, before the thirtieth day after notice of the proposed rule change appeared in the **Federal Register**. OCC is prepared to implement the proposed service enhancements in connection with exercises and assignments on foreign currency option contracts that expire December 13, 1986. Based on the increased volume of trading in foreign currency options in recent months, OCC has indicated that it expects a high volumn of foreign currency deliveries associated with this expiration date. Accordingly, as discussed above, OCC Clearing Members would benefit from immediate implementation of the proposed rule change.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–

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authorizations against the Clearing Member's adjusted net obligations does not exceed the respective amount of those net obligations. Previously, Rule 1606A(c) required that dollars delivered or received via DVP equal the net exercise price payable or receivable against the net quantity of foreign currency covered by the DVP. Revised paragraph (c) recognizes that this restriction applies only with respect to gross DVPs, rather than to net settlement obligations.

[8] Rule 1606A(d) provides that OCC will endorse its acceptance and return an accepted DVP authorization to the Clearing Member if: (i) it is consistent with OCC's records as to the initiating Clearing Member's settlement obligations on the applicable exercise settlement date; (ii) it is addressed to an agent bank approved by OCC; and (iii) it would not, when aggregated with other outstanding DVP Authorizations addressed to the same bank, cause the bank's obligations to OCC's correspondent bank to exceed such credit limits as the latter may from time to time impose.

[9] *See* OCC Rule 1605(b)(1). The Interpretation and Policy to Rule 1605 would also be revised to clarify that, an addition to performing the operations described in Rule 1605, OCC may issue the reports described in Rule 1605 on a day other than that specified in the Rule if necessary or desirable because of holidays or unforeseen circumstances.

[10] *See* OCC Rule 1605(b)(2).

[11] Proposed changes to Rule 1602 would delete present paragraph (b), the subject matter of which is covered in amended Rule 1605, and would conform paragraph (a) to reflect the nomenclature used in amended Rule 1605. An amendment to Rule 1603(b) reflects the previous adoption of Rule 602A and the revised terminology used in that Rule. Finally, changes to Rule 1606 (a) and (e) and 1606A (b) and (h) conform the provisions of those Rules to reflect the revised settlement procedures described above.

[12] *See* OCC 602A(f)(3).

[13] Previously, the Clearing Member settled foreign currency option exercises and assignments on a net basis with OCC and then effected settlement with each of its customers. Accordingly, the customer was exposed to the risk of the Clearing Member's insolvency. By effecting settlement directly with OCC's agent bank, as provided in this rule change, that risk to the customer can be reduced. The risk is not eliminated entirely, however, because OCC's obligation as an issuer runs only to its Clearing Members. If OCC's agent bank were to default on a customer-initiated DVP settlement, only the customer's Clearing Member could demand performance from OCC, and to that extent the customer would again be relying on its broker.

[14] *See* sections 6(b)(5), 11A(a)(1)(C), and 17A(b) of the Act.

[15] Depositing notices in Clearing Members' lockboxes is OCC's customary method of communicating with its Clearing Members. *See* OCC Rules 201 and 205.

OCC-86-23) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: December 12, 1986.

[FR Doc. 86-28603 Filed 12-19-86 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements 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.

DATE: Comments should be submitted within 21 days of this publication in the **Federal Register.** If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-6623

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Submission of Business Financial Statements

Form No. SBA 1532

Frequency: On occasion

Description of Respondents: This form is required from each applicant to determine if they have the necessary elements of responsibility to perform the contract and can be certified to the procuring activity.

Annual Responses: 5,000

Annual Burden Hours: 10,000

Type of Request: New.

Elizabeth M. Zaic,

Deputy Director, Office of Administrative Services, Small Business Administration.

[FR Doc. 86-28597 Filed 12-19-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area 2263]

Washington; Declaration of Disaster Area

As a result of the President's major disaster declaration on December 15, 1986, I find that the Counties of King, Lewis, Pierce and Snohomich in the State of Washington consitute a disaster loan area because of heavy rains, flooding, slides and winds occurring on November 22-29, 1986. Eligilbe persons, firms and organizations may file applications for physical damage until the close of business on February 13, 1987, and for economic injury until the close of businesss on September 15, 1987, at:

Disaster Area 4 Office,
Small Business Administration,
77 Cadillac Drive, Suite 158,
Sacramento, California 95825

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.500
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	9.500

The number assigned to this disaster is 226306 for physical damage and for economic injury the number is 647700.

(Calalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 16, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-28598 Filed 12-19-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0337]

Pioneer Ventures Limited Partnership; Issuance of a Small Business Investment Company License

On June 19, 1986, a notice was published in the **Federal Register** (VOL. 51-22372) stating that an application has been filed by Pioneer Ventures Limited Partnership, 60 State Street, Boston, Massachusetts 02109 with the Small Business Administration (SBA) pursuant to §107.102 of the Relations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business July 21, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0337 on November 20, 1986, to Pioneer Ventures Limited Partnership to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: December 15, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-28603 Filed 12-19-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending December 12, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44552

Parties: USAir Group, Inc., PS Group, Inc., and Pacific Southwest Airlines

Date Filed: December 12, 1986

Subject: Joint Application of USAir Group, Inc., PS Group, Inc., and Pacific Southwest Airlines, requests an exemption from Section 416(b) of the Act to permit USAir Group, Inc. to Acquire control of PSA.

Docket No. 44552

Parties: USAir Group, Inc., and Pacific Southwest Airlines, Inc.

Date Filed: December 9, 1986

Subject: Application of USAir Group, Inc. request the Department to approve a voting trust agreement that would permit Group's purchase of up to: (A) 51 percent of the common shares of Pacific Southwest Airlines, Inc. and (B) 51 percent of the common shares of PS Group, Inc., the parent corporation of PSA, on the condition that Group, Inc. (PS Group), the parent corporation of PSA, on condition that Group place all shares of PSA's or PS Group's stock that it acquires in excess of 9.9 percent in either PSA or PS Group into an independent voting trust pending the Department's approval process.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-28576 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended December 12, 1986

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each applicaton. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44547

Dated Filed: December 8, 1986

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 5, 1987.

Description: Application of Pakistan International Airlines Corporation, pursuant to section 402 of the Act and Subpart Q of the Regulations, for amendment of its foreign air carrier permit to engage in foreign air transportation to points between the United States and Pakistan.

Docket No. 44554

Date Filed: December 9, 1986

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: January 6, 1987.

Description: Application of Rich International Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to engage in interstate and overseas scheduled air transportation of persons, property and mail.

Docket No. 44556

Date Filed: December 9, 1986

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: January 6, 1987.

Description: Application of International Parcel Express, Inc. pursuant to section 401 (d)(3) of the Act and Subpart Q of the Regulations, requests that it be issued a certificate of public convenience and necessity authorizing IPX to engage in foreign charter air transportation of property and mail on a worldwide basis.

Docket No. 44555

Date Filed: December 9, 1986

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: January 6, 1987.

Description: Application of Austin Airways Limited, pursuant to section 402 of the Act and Subpart Q of the Regulations, to engage in foreign scheduled air transportation of persons, property and mail between Minneapolis, Minnesota and Kenora, Ontario, Canada.

Phyllis, T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-28577 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 86-077]

Houston/Galveston Navigation Safety Advisory Committee; 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 the thirteenth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 22, 1987 in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas. The meeting is scheduled to begin at approximately 9:30 a.m. and end at approximately 5:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the Committee.
3. Presentation of any additional new items for consideration of the Committee.
4. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: December 8, 1986.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard, Commander Eighth Coast Guard District.

[FR Doc. 86-28530 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-068]

Alcohol-Blended Gasoline Used in Recreational Boats; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Open Meeting.

SUMMARY: The Recreational Boating Safety Act of 1986 (Pub. L. 99-626) requires the Coast Guard to submit a report to Congress on the use and effect of alcohol-blended gasoline in recreational boats. The Coast Guard will hold a meeting of a Subcommittee of the National Boating Safety Advisory Council to discuss information and recommendations required to be included in the report. Attendance is open to the interested public.

DATES: The meeting will be held on January 27, 1987, beginning at 9:00 a.m. To ensure that space is available, those desiring to attend should contact Mr. Richard Bergen by January 5, 1987, at the address or telephone number listed under **FOR FURTHER INFORMATION CONTACT.** Persons wishing to present oral statements at the meeting should notify Mr. Bergen, at the address or telephone number listed under **FOR FURTHER INFORMATION CONTACT,** no later than January 20, 1987. In addition, interested persons may submit written comments on the topics required to be included in the report. Written comments should be received by January 5, 1987.

ADDRESSES: The meeting will be held in room 6319, U.S. Coast Guard

Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. Written comments should be mailed or delivered to Mr. Bergen at the address listed under for **FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Richard Bergen at the Office of Boating, Public, and Consumer Affairs (G-BC), Room 4224, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001. Phone toll-free at 800-368-5647 (267-0972 in the Washington, DC area). Normal office hours are between 7:30 a.m. and 4:00 p.m. eastern time, Monday thru Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Recreational Boating Safety Act of 1986 (Pub. L. 99-626) requires the Coast Guard to prepare a report to Congress relating to the use and effect of alcohol-blended gasoline in recreational boats. Section 2(a) of the Act requires that the report must include the following:

(a) The results of (1) testing performed and (2) a review of fire and explosion boating incidents, under the recreational boating safety program of the Coast Guard.

(b) A survey of published test data performed in the private sector.

(c) A listing of sales of alcohol-blended gasoline by State and type of alcohol.

(d) A listing of State requirements for labeling of alcohol-blended gasoline including type of alcohol, percent of alcohol, label requirements, alcohol test standards, enforcement and compliance measures, and any other relevant data.

(e) An assessment of the effectiveness of State labeling requirements in promoting recreational boating safety and in providing information to the consumer regarding alcohol-blended gasoline.

(f) A listing of Federally mandated requirements that require labeling of alcohol-blended gasoline or regulate or concern the use of alcohol in gasoline.

(g) A recommendation as to whether further Federal legislation or regulations are required to promote recreational boating safety or advance consumer information regarding the use of alcohol-blended gasoline.

(h) Any other relevant data or information.

To provide assistance and advice in the preparation of the report, the Coast Guard has formed a special subcommittee from among members of the National Boating Safety Advisory Council. The Council is a 21 member advisory committee that advises the Coast Guard on significant boating safety matters.

The members of the Council are drawn equally from the three principal sectors of the boating community: the marine industry, State boating officials, and the boating public. Members of the Alcohol Fuels Report Subcommittee are: Mr. Richard H. Lincoln (industry), Mr. Kim Elverum (State), and Mr. Don Webster (public). In preparing the report, the Coast Guard is also consulting with members of the general public having experience and expertise with alcohol-blended gasolines.

Interested persons are invited to provide information or comments to the Subcommittee in writing prior to the meeting. Written comments should refer to this notice (CGD 86-068). Oral presentations may also be offered at the meeting with advance notice to the Coast Guard.

The purpose of the meeting is to provide the Subcommittee with an opportunity to discuss information gathered on alcohol-blended gasoline and provide advice to the Coast Guard on the recommendations required to be included in the report.

Issued in Washington, DC, December 17, 1986.

T.T. Matteson,

Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 86-28629 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 147—Traffic Alert and Collision Avoidance 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 147 on Traffic Alert and Collision Avoidance Suystem to be held on January 7-9, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Twentieth Meeting; (3) Status Report on the FAA Notice of Proposed Rulemaking for TCAS II; (4) Briefing on Air-to-Air Coordination Tests; (5) Open Discussion on Future Committee Work Program; (6) Review of Pilot Working Group Activities; (7) Status Report on FAA TCAS Program; (8) Review and Consideration of TCAS I Working Group Report on Minimum Operational Performance Standard for an Active TCAS I; (9) Review of Change 4 Working Group Activities; (10) Review and Consideration of Change 4 to RTCA/DO-185 for TCAS II; (11) Working Group Meetings in Separate Session; (12) Other Business.

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, D.C. 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 December 12, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86-28595 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Ottumwa, IA; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Ottumwa, Iowa; Closure.

SUMMARY: Notice is hereby given that on December 15, 1986, the Flight Service Station at Ottumwa, Iowa, will be closed. Thereafter services to the general public at Ottumwa, Iowa, will be provided by the Flight Service Station at Fort Dodge, Iowa. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on December 11, 1986.

T.R. Beckloff, Jr.,

Manager, Air Traffic Division.

[FR Doc. 86-28586 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Vichy, MO; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Vichy, Missouri; Closure.

SUMMARY: Notice is hereby given that on January 3, 1987, the Flight Service Station at Vichy, Missouri, will be closed. Thereafter services to the general public at Vichy, Missouri, will be provided by the Flight Service

Station at Columbia, Missouri. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on December 11, 1986.

T.R. Beckloff, Jr.,

Manager, Air Traffic Division.

[FR Doc. 86-28589 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Omaha, NE; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Omaha, Nebraska; Closure.

SUMMARY: Notice is hereby given that on December 15, 1986, the Flight Service Station at Omaha, Nebraska, will be closed. Thereafter services to the general public at Omaha, Nebraska, will be provided by the Flight Service Station at Columbus, Nebraska. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354).

Issued in Kansas City, Missouri, on December 11, 1986.

T.R. Beckloff, Jr.,

Manager, Air Traffic Division.

[FR Doc. 86-28587 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Sidney, NE; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Sidney, Nebraska; Closure.

SUMMARY: Notice is hereby given that on December 15, 1986, the Flight Service Station at Sidney, Nebraska, will be closed. Thereafter services to the general public at Sidney, Nebraska, will be provided by the Flight Service Station at Columbus, Nebraska. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354).

Issued in Kansas City, Missouri, on December 11, 1986.

T.R. Beckloff, Jr.,

Manager Air Traffic Division.

[FR Doc. 86-28588 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Chadron, NE; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Chadron, Nebraska; Closure.

SUMMARY: Notice is hereby given that on January 3, 1987, the Flight Service Station at Chadron, Nebraska, will be closed. Thereafter services to the general public at Chadron, Nebraska, will be provided by the Flight Service Station at Columbus, Nebraska. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on December 11, 1986.

T.R. Beckloff, Jr.,

Manager, Air Traffic Division.

[FR Doc. 86-28590 Filed 12-19-86; 8:45 am]

BILLING CODE 4910-13-M

Definitions of Small Entity and Significant Economic Impact for Making Determinations Required by the Regulatory Flexibility Act of 1980

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final notice and response to public comment on additional definitions of small entity and significant economic impact for making determinations required by the Regulatory Flexibility Act of 1980.

Background and Purpose

Under the Regulatory Flexibility Act of 1980 (RFA), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. Because FAA's regulations are specific to particular products or services, these industries require standards that apply to specialized products and services defined more precisely than 4-digit Standard Industrial Classification (SIC) categories. But the SBA's final rule on small business size standards (49 FR 5024) is limited to 4-digit SIC codes. Therefore, the SBA size standards are not appropriate to the FAA's needs. In this case the agency is permitted, after consultation with the SBA Office of Advocacy, to establish small business definitions which are more appropriate to the activities of the FAA. Such standards regarding size of firm and value of significant impact have been adopted by the FAA.

This is the fourth notice to appear in the **Federal Register** describing FAA's efforts to specify its size and significant economic impact standards for making Regulatory Flexibility Act determinations. Previous notices were:

(1) Public Notice, July 29, 1982, 47 FR 32825; (2) Public Notice, August 23, 1984, 49 FR 34597; (3) Public Notice, March 21, 1986, 5 FR 9914.

FAA's first notice proposed definitions of small entity and significant economic impact for several aviation industries, and guidance for making determinations required by the RFA. That notice solicited public comment on the proposed definitions and guidance.

The second notice explained FAA's responses to the public comments and published FAA Order 2100.14, FAA's guidance for the conduct of regulatory flexibility analyses and reviews. It also defined the criteria for use by rulemaking officials to determine if a proposed or existing rule has a significant economic impact on a substantial number of small entities.

The third notice proposed to amend the FAA's definitions of small entity and significant economic impact by incorporating into FAA Order 2100.14, threshold values for twenty-nine (29) additional entity types that were not specified in the order. That notice solicited public comment on the proposal.

Response to Public Comment and Final Notice of Order 2100.14A

This notice informs the public that the FAA received no public comment in response to its solicitation of public comment. FAA's expanded set of standards for "size" and "significant" economic impact is contained in FAA Order 2100.14A for SIC codes and/or product lines which FAA regulations affect. This order carries forward the FAA's guidance for the conduct of regulatory flexibility analyses and reviews. It also maintains the criteria for use by rulemaking officials to determine if a proposed or existing rule has a significant economic impact on a substantial number of small entities. FAA Order 2100.14A, "Regulatory Flexibility Criteria and Guidance," September 16, 1986, is presented below.

FOR FURTHER INFORMATION CONTACT: Leonard Oberlander, Regulatory Analysis Branch, APO-210, Systems Analysis Division, Office of Aviation Policy and Plans, Federal Aviation Administration, Department of Transportation, Federal Office Building 10-A, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-

267–3289. Additional copies of this notice may be obtained from the same address.

[2100.14A]

Order

September 16, 1986.

SUBJ: Regulatory flexibility criteria and guidance.

1. Purpose

This order provides guidance on FAA's procedures for implementing the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, September 19, 1980). The order provides guidance for the conduct of regulatory flexibility analyses and reviews. It also provides criteria for rulemaking officials to apply when determining if a proposed or existing rule has a significant economic impact on a substantial number of small entities.

2. Distribution

This order is distributed to the division level in Washington, the regions, and the Mike Monroney Aeronautical Center.

3. Cancellation

Order 2100.14, Regulatory Flexibility Criteria and Guidance, of July 15, 1983, is canceled.

4. Explanation of Changes

This change incorporates threshold values for size and annualized cost levels for twenty-nine (29) entity types not previously specified in the order. It also adjusts all cost values formerly expressed in 1981 dollars to 1983 dollars.

5. General Provisions

An FAA official exercising regulatory issuance authority, who must determine whether an existing Federal Aviation Regulation or a proposed change has a significant economic impact on a substantial number of small entities, shall use the definitions and criteria in paragraphs 6 through 11. However, if paragraph 10 does not contain a small entity definition for the type of entity the proposed or existing regulation affects, the official shall use the Small Business Administration's (SBA) definition in Title 13 of the Code of Federal Regulations. Also, if paragraph 11 does not contain a significant cost threshold for the type of entity the proposed or existing regulation affects, the official shall adopt one using appropriate judgment. When, using these criteria, an FAA rulemaking official finds or believes that a proposed rule would have, or an existing rule has, a significant economic impact on a substantial number of small entities, the official shall prepare a regulatory flexibility analysis or review of that rule and follow paragraph 9.

6. Small Entities

Small entities are those small businesses and small not-for-profit organizations which are independently owned and operated and have no more employees or own no more aircraft than the threshold levels listed in paragraph 10; and airports operated by small governmental jurisdictions which have no more population than the threshold level listed in paragraph 10.

7. Substantial Number of Small Entities

A substantial number of small entities means a number which is not less than eleven and which is more than one-third of the small entities subject to a proposed or existing rule, or any number of small entities subject to the rule which is substantial in the judgment of the rulemaking official.

a. Small entities subject to the rule

A small entity subject to the rule is one required by the rule to alter its practices. Included are those small entities already in voluntary compliance with a proposed rule and those small entities prevented by the rule from engaging in an aviation activity.

b. Notices of proposed rulemaking or final rules containing multiple unrelated rule changes

A notice of proposed rulemaking (NPRM) or final rule may include two or more substantive rule changes so unrelated that each affects different small entities. A substantial number of small entities subject to that NPRM or final rule means a substantial number of small entities subject to any one of the changes.

8. Significant Economic Impact on a Small Entity

A significant economic impact on a small entity means annualized net compliance cost to that entity, which when adjusted for inflation is greater than or equal to the threshold significant cost level for the entity type shown in paragraph 11. Annualized net compliance cost includes uniform annualized costs for purchase of capital items. An NPRM or final rule may include two or more substantive rule changes so closely related that they affect the same small entities. If, for any entity, the total annualized net compliance cost, adjusted for inflation, of all rule changes proposed in that NPRM or final rule equals or exceeds the threshold significant cost level for that entity, each such rule change in that NPRM or final rule has a significant economic impact on that small entity.

9. Small Entity Impact Considered in a Regulatory Flexibility Analysis or Review

Whenever an FAA rulemaking official conducts a regulatory flexibility analysis or review, the official shall, in that analysis or review, consider the effects of the rule not only on the small entities directly subject to the rule, but also on other small entities with a direct economic relationship (i.e. customer relationship where money, goods or services are exchanged) to those small entities directly subject to the rule.

10.

Size Thresholds For Small Entities.

Size thresholds for entity types and Standard Industrial Classifications are:

Standard industrial classification	Entity type	Size threshold
3721	Aircraft and aircraft parts manufacturers	75 employees.
3724	Aircraft engine and engine parts manufacturers	375 employees.
3728	Manufacturers of aircraft parts and auxiliary equipment not elsewhere classified.	175 employees.
4511	Operators of aircraft for hire [1]	9 aircraft owned, but not necessarily operated.
4582	Airports	49,999 [2] [3] population in town, city or county which operates the airport.
4582, 7629, 7699.	Aircraft repair facilities	200 employees.
8299	Pilot schools	10 employees.
Dies not apply.	Non-for-profit aviation organizations	The same standard applicable to an equivalent for profit aviation enterprise.
0721	Aerial Agricultural and Pest Control	30
2399	Parachutes	500
	Aircraft Seat Belts, Except Leather	1,000
	Aircraft Tie Down Strap Assemblies, Except Leather	1,000
2531	Aircraft Seats	450
3011	Aircraft Tires and Inner Tubes	1,000
3069	Rubberized Survival Equipment	500
3537	Pallets and Containers	300
3585	Aircraft Environmental Control Equipment	150

Standard industrial classification	Entity type	Size threshold
3592	Fuel Control Equipment Including Carburetors	750
	Aircraft Piston and Piston Rings	50
	Aircraft Engine Valves	50
3599	Other Aircraft Valves, N.E.C.	1,000
3647	Aircraft Lighting Systems and Fixtures	300
3662	Aircraft Communications Equipment	750
	Aircraft Navigational Equipment	750
3691	Aircraft Batteries	1,000
3694	Engine Starting and Electrical Generating Equipment	250
	Spark Plugs for Internal Combustion Engines	1,000
	Voltage Regulators	1,000
3811	Aircraft Flight Instruments	250
3829	Aircraft Fuel System Instruments	1,000
	Aircraft Engine Instruments	200
	Aircraft Measuring Instruments, N.E.C.	450
	Air Traffic Control Equipment	1,000
7622	Aircraft Radio Equipment Repair	30
7319	Aerial Advertising, Including Skywriting	10
8299	Aircraft Maintenance Technician Schools	150
7999	Parachute Lofts	90

[1] Entity types are those entities to which FAA regulations apply in 14 CFR Parts 121, 127, and 135.
[2] If two or more towns, cities, or counties operate an airport jointly, the populations should be totaled to determine whether the airport is small.
[3] Privately owned, public-use airports are considered small.

11. Threshold Significant Regulatory Costs.

Threshold annualized cost levels for entity types and Standard Industrial Classifications are:

Standard industrial classification	Entity type	Threshold annualized costs levels (in December 1983 dollars)
3721	Aircraft and aircraft parts manufacturers	$13,100
3724	Aircraft engine and engine parts manufacturers	20,700
3728	Manufacturers of aircraft parts and auxiliary equipment not elswehere classified	9,800
4511	Operators of aircraft for hire:	
	Scheduled (Entire fleet has a seating capacity of over 60) [1]	83,900
	Other scheduled [1]	46,900
	Unscheduled	3,300
4582	Airports	5,400
4582	Aircraft repair facilities	
7629		
7699		
8299	Pilot schools	
Does not apply.	Not-for-profit aviation organizations	
0721	Aerial Agriculutural and Pest Control	1,600
2399	Parachutes	800
	Aircrafts Seat Belts, Except Leather	7,400
	Aircraft Tie Down Strap Assembles, Except Leather	4,700
2531	Aircraft Seats	14,200
3011	Aircraft Tires and Inner Tubes	
3069	Rubberized Survival Equipment	23,100
3537	Pallets and Containers	10,800
3585	Aircraft Environmental Control Equipment	15,600
3592	Fuel Control Equipment, Including Carburetors	16,900
	Aircraft Pistons and Piston Rings	2,800
	Aircraft Engine Valves	2,800
3599	Other Aircraft Valves, N.E.C.	35,500
3647	Aircraft Lighting Systems and Fixtures	10,600
3662	Aircraft Communications Equipment	9,900
	Aircraft Navigational Equipment	20,600
3691	Aircraft Batteries	

Standard industrial classification	Entity type	Threshold annualized costs levels (in December 1983 dollars)
3694	Engine Starting and Electrical Generating Equipment	11,900
	Spark Plugs for Internal Combustion Engines	2,900
	Voltage Regulators	23,800
3811	Aircraft Flight Instruments	11,300
3829	Aircraft Fuel System Instruments	35,900
	Aircraft Engine Instruments	1,600
	Aircraft Measuring Instruments, N.E.C.	4,900
	Air Traffic Control Equipment	36,400
7622	Aircraft Radio Equipment Repair	1,200
7319	Aerial Advertising, Including Skywriting	4,700
8299	Aircraft Maintenance Technician School	22,400
7999	Parachute Lofts	900

[1] A scheduled operator is one holding out to the public air transportation service for passengers from identified air terminals at a set time announced timetable or schedule published in a newspaper, magazine, or other advertising medium.

Donald D. Engen,

Administrator.

Issued at Washington, DC, on September 16, 1986.

Ellen Kranidas,

Director, Office of Aviation Policy and Plans.

[FR Doc. 86-28300 Filed 12-19-86; 8:45 am]

BILLING CODE 4916-13-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 245
Monday, December 22, 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 COMMUNICATIONS COMMISSION

December 16, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, December 23, 1986, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

General—1—Title: Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985. Summary: The Commission will consider whether to adopt a Report and Order implementing new legislation which authorized the Commission to collect charges for certain regulatory services it provides to the public.

Common Carrier—1—Title: Regulatory Policies and International Telecommunications. Summary: The Commission will consider whether to institute a rulemaking proceeding concerning the role that the telecommunications policies of foreign governments should play in the formulation of Commission regulations concerning the provision of telecommunications goods and services within the United States and the provision of telecommunications services between the United States and foreign countries.

Common Carrier—2—Title: Separation of costs of regulated telephone service from costs of nonregulated activities. Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies, to provide for nonregulated activities and to provide for transactions between telephone companies and their affiliates. Summary: The FCC will consider whether to adopt a Report and Order regarding accounting and allocation methodologies for separation of costs incurred in the provision of regulated and nonregulated activities by telephone companies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, FCC Office of Congressional and Public Affairs, telephone number (202) 632-5050.

Issued: December 16, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-28756 Filed 12-18-86; 2:59 pm]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, December 16, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Haymarket Co-operation Bank, an operating noninsured co-operative bank located at 280 Atlantic Avenue, Boston, Massachusetts, for Federal deposit insurance.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,802-NR (Amendment)
Bank of Commerce and Trust Company, Tulsa, Oklahoma

Recommendation regarding the Corporation's assistance agreement with an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 17, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-28723 Filed 12-18-86; 12:40 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, December 16, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,816-NR
Penn National Bank, National Association, Oklahoma City, Oklahoma

Case No. 46,818
The Bowery Savings Bank, New York City (Manhattan), New York

Case No. 46,821-L (Amendment)
City and County Bank of Knox County, Knoxville, Tennessee

Case No. 46,822-L (Amendment)
Midland Consolidated Office, Midland, Texas

Case No. 46,824-NR
Security National Bank of Lubbock, Lubbock, Texas

Case No. 46,826-SR
The Bank of Bronson, Bronson, Kansas

Case No. 46,830-NR
Penn Square Bank, National Association, Oklahoma City, Oklahoma

Memorandum and Resolution re:
Heritage Bank, Anaheim, California

Memorandum and Resolution re:
The First National Bank of Midland, Midland, Texas

Memorandum regarding a request for funding for 1987 for two contractors for LAMIS Project.

Memorandum regarding upgrading the FDIC computer.

Personnel Matters:

Resolution establishing an Office of Consumer Affairs.

Appointment of Janice M. Smith to the position of Director of the Office of Consumer Affairs.

Appointment of James O. Foster to the position of Deputy Regional Director (Atlanta Region), Division of Bank Supervision.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 17, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-28724 Filed 12-18-86; 12:41 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION:

December 16, 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: In addition to the previously announced item, the Commission will consider and act upon the following:

2. *Kelley Trucking Co.*, Docket No. CENT 85-109. Issues include consideration of Kelley Trucking's request for relief from a final order of the Commission.

3. *Leo Klimczak v. General Crushed Stone Co.*, 5 FMSHRC 684 (1983) (ALJ), *aff'd mem.*, No. 83-4122 (2nd Cir. March 9, 1984). Issues include consideration of Leo Klimczak's request for a new hearing.

It was determined by a unanimous vote of Commissioners that these items be included on the agenda and no earlier announcement of the additions was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-28684 Filed 12-18-86; 10:44 am]

BILLING CODE 6735-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, January 7, 1987.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of December, 1986.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

Date of notice: December 15, 1986.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR. Doc. 86-28705 Filed 12-18-86; 12:42 pm]

BILLING CODE 7550-01-M

SECURITIES AND EXCHANGE COMMISSION

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW. Washington, DC.

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 held a closed meeting on Friday, December 12, 1986, at 3:00 p.m., to consider the following items:

Settlement of administrative proceeding of an enforcemnet nature.

Commissioner Peters, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272-2092.

Jonathan Katz,

Secretary.

December 12, 1986.

[FR Doc. 86-28822 Filed 12-18-86; 3:51 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 51, No. 245
Monday, December 22, 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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

Peanut Warehouse Storage Loans and Handler Operations for the 1986 Through 1990 Crops

Correction

In rule document 86–27953 beginning on page 44758 in the issue of Friday, December 12, 1986, make the following corrections:

§ 1446.72 [Corrected]

1. On page 44766, in the first column, in § 1446.72(o), in the first line, "to" should read "or".

2. On page 44766, in the third column, in § 1446.72(bb), in the third line, "of" should read "or".

§ 1446.105 [Corrected]

3. On page 44773, in the second column, in § 1446.105(b), in the fifth line, "provide evidence" should read "provide written evidence".

§ 1446.124 [Corrected]

4. On page 44778, in the third column, in § 1446.124, in the ninth line, "peanuts products" should read "peanuts or peanut products".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3125-8;FIFRA Docket No.59]

Pesticide Products Containing Dinoseb

Correction

In notice document 86–27709 appearing on page 44513 in the issue of Wednesday, December 10, 1986, make the following correction:

On page 44513, in the second column, after the "Dated" paragraph, the signature and title was omitted. It should read as follows:

J. F. Greene,
Administrative Law Judge.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-056-GNC]

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During Fiscal Year 1987

Correction

In notice document 86–27698 beginning on page 44524 in the issue of Wednesday, December 10, 1986, make the following corrections:

1. On page 44528, in the third column, in the fifth line from the bottom, "Respond" was misspelled.

2. On page 44529, in the second column, in the eighth paragraph, in the first line, "accurate" was misspelled.

BILLING CODE 1505-01-D

Federal Register

Monday
December 22, 1986

Part II

Department of Labor

Employment and Training Administration

20 CFR Part 617
29 CFR Part 91
Trade Adjustment Assistance for Workers; Final Rules

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 617

29 CFR Part 91

Trade Adjustment Assistance for Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations for implementing the program of trade adjustment assistance for workers provided under Chapter 2 of Title II of the Trade Act of 1974 (Pub. L. 93–618). The final regulations implement the amendments to the Trade Act of 1974 made by Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) and by section 2 of Pub. L. 98–120. The final regulations also reorganize and revise the existing rules affecting the rights and obligations of workers for services and allowances, and further clarify the respective responsibilities of the Department of Labor and the State agencies. Inclusion of these revisions and clarifications conform to the recent practice in writing regulations for unemployment compensation and related benefit programs. The final regulations incorporate the substantive changes and improvements set forth in the published proposal. The proposal was published in the **Federal Register** on March 4, 1983, and was numbered Part 635. The final rule in this document revises and replaces the regulations at 29 CFR Part 91. The Department is currently drafting regulations implementing amendments to the Trade Act of 1974 made by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272). These latter amendments as of their effective dates take precedence over any inconsistent provisions in these final regulations.

EFFECTIVE DATE: January 21, 1987.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, DC 20213. Telephone: (202) 376–6636 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Trade Act of 1974 made major changes in the Trade Adjustment Assistance (TAA) Program for workers displaced by increased imports of articles like or directly competitive with articles produced by the workers. 19 U.S.C. 2271 *et seq.* On the filing of a petition by a group of workers or their representative, the Department of Labor conducts an investigation of adverse impact of imports, and if it is found that the workers of a firm or a subdivision of a firm have been adversely affected by import competition, a certification is issued declaring that the adversely affected workers are eligible to apply for TAA.

Title XXV of the Omnibus Budget Reconciliation Act of 1981 made major changes in the TAA Program and extended the termination date of the TAA Program to September 30, 1983. Pub. L. 97–35. Section 2 of Pub. L. 98–120 made no further changes in the benefit provisions of the TAA Program but extended the termination date of the TAA Program to September 30, 1985.

The amended TAA provisions are designed to assist adversely affected workers to return to work in equivalent or better employment as quickly as possible. The Act provides for TAA in the form of weekly trade readjustment allowances (TRA), reemployment services, training, and job search and relocation allowances.

The 1981 amendments change the TAA Program to strengthen the emphasis of getting workers reemployed as soon as possible, and to modify the TRA provisions as to the qualifying requirements, the weekly and maximum amounts of TRA payable, and the eligibility periods in which TRA is payable. Most of the 1981 amendments were effective on October 1, 1981.

Under the 1981 amendments, workers separated from employment adversely affected by imports are eligible for reemployment services, training, and job search and relocation allowances immediately after the Department of Labor issues a certification of eligibility to apply for TAA. They are not eligible for weekly TRA payments until after they have exhausted all rights to State or Federal unemployment insurance (UI).

In addition, the 1981 amendments increase the amounts of subsistence and transportation allowances payable to a worker in training approved under the Act, and the amounts of job search and relocation allowances. They also reduce the weekly and maximum amounts of TRA payments and the eligibility periods for receipt of TRA payments. The amount of the weekly TRA payment will be equal to the UI weekly benefit amount. Generally, workers are now eligible to receive a combination of UI (including Extended Benefits (EB) and (until 1985) Federal Supplemental Compensation (FSC)) and TRA not to exceed an amount derived by multiplying the TRA weekly benefit amount by 52. In addition, workers receiving TRA are required to apply for and accept offers of work and actively seek work in accordance with the work test provisions of State law which apply to EB claimants, except when the workers are engaged in training approved under the Trade Act or training approved under State law.

Workers in training approved under the Act may receive up to 26 additional weeks of TRA to complete such training.

Additional weeks of TRA, previously payable to workers solely because they reached age 60 on or before their separation from adversely affected employment, are no longer payable for any weeks beginning after September 30, 1981.

Note.—The Deficit Reduction Act of 1984, Pub. L. 98–369, §§ 2671 and 2672, contained amendments to the Trade Act of 1974, to specify an alternative eligibility period for payment of additional weeks of TRA to workers in approved training (Section 233), and to increase the aggregate amount of job search allowances payable and the lump sum portion of a relocation allowance (Sections 237 and 238). These changes are not reflected in these final regulations, but are being implemented effective from their enactment on July 18, 1984. The amended sections will take precedence over the counterpart sections in these final regulations in accordance with their effective dates as prescribed by the amended Act. The Department thus is proceeding to put these final regulations in place, and concurrently publishing final amendments to the regulations to incorporate the amendments made in the Deficit Reduction Act of 1984.

Note.—The Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, signed by the President April 7, 1986, contained further amendments to the Trade Act of 1974. Sections 221 and 222 are changed to include agricultural firms in the definition of a firm. Section 231 is changed to reflect that a worker must participate in a job search program to be eligible to receive TRA. Section 231 is further modified to allow the use of more weeks of specified types of leave to make up the 26 qualifying weeks of employment needed to qualify for TRA.

Section 233 is changed to extend the 52-week eligibility period for receiving basic TRA to 104 weeks and to provide that no TRA may be paid to a worker for a week in which the worker received on-the-job training. Section 236 is changed with respect to the Secretary's approval of training and to provide that no training costs may be paid by the Secretary if they have been paid under any other Federal law. Also various types of training programs which may be approved are specified and certain restrictions are placed on on-the-job training under this revised section 236.

Section 237 is changed to permit a worker to be reimbursed for necessary expenses for

participation in a job search program. Section 239 is changed to allow the Secretary to have agreements with one or more States or local agencies to carry out the program. Section 239 is also changed to provide that each adversely affected worker who applies for TRA be advised to file for training and that within 60 days after applying for training, the applicant will be interviewed regarding training opportunities.

Section 285 is changed to extend the TAA program through September 30, 1991. The program is made retroactive to December 18, 1985.

The amended sections will take precedence over the counterpart sections in these final regulations in accordance with their effective dates as prescribed by the amended Act. The Department will proceed to put these final regulations in place, and subsequently amend the regulations to incorporate the amendments made in the Consolidated Omnibus Budget Reconciliation Act of 1985.

The proposal to revise the regulations was published in the **Federal Register** on March 4, 1983 (48 FR 9444) and was numbered Part 635. The **SUPPLEMENTARY INFORMATION** section of the published proposal is hereby incorporated in this preamble by reference. This document contains the final regulations and is renumbered Part 617. Part 635 was one in a series of numbers assigned to regulations for implementing programs under the Job Training Partnership Act. Comments on the proposal published on March 4, 1983, were solicited through July 28, 1983.

Discussion of Comments and Changes

The Department received timely written responses to the proposal from five State agencies and three labor organizations. The commentators were the California Employment Development Department, the Michigan Employment Security Commission, the New York State Department of Labor, the Ohio Bureau of Employment Services, the West Virginia Department of Employment Security, the Amalgamated Clothing and Textile Workers Union, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), and the United Steelworkers of America. The Department gave careful consideration to all comments and suggested changes received before drafting the final regulations.

Following is a summary of the comments received and the Department's response in order of Subpart. References are made to Part 635 as it was published as a proposal. In these final regulations the part number is changed to 617, and section numbers are correspondingly redesignated.

Subpart A—General

1. The proposed regulation at § 635.3(c) defines an "adversely affected worker." The UAW suggests that the definition should include a reference to a "bumped" worker and one who has been transferred less than six months to non-adversely affected employment prior to being laid off. The definition used in the proposed regulation is quoted *verbatim* from section 247(2) of the Act, and includes a worker bumped by a worker who transfers from adversely affected employment. 19 U.S.C. 2319(2). To include in this definition a worker transferred less than six months previously would require a change in the law. Therefore, no change is made in the final regulations.

2. The proposed regulation at § 635.3(h) defines a "benefit period." The UAW suggests that; the definition should be clarified to indicate that the "52-week TRA benefit period" commences with the first week following exhaustion of regular UI benefits. However, in accordance with the 1981 amendments to section 247(15) of the Act, the definition of "benefit period" applies only to a UI benefit period, not a TRA eligibility period. 19 U.S.C. 2319(15). The latter is defined separately under the proposed regulation at § 635.3(m). Therefore, no change is made in the final regulations.

3. Although not related to a specific comment received, the proposed regulation at § 635.3(t) which defines "first separation" has been expanded to include "first qualifying separation." This expansion of the definition was made to reflect a recognition that a worker may not necessarily qualify for TRA on the "first separation" from adversely affected employment.

4. Although not related to a specific comment received, the proposed definition of "State agency" at § 635.3(ee) has been amended to include the following language: "and any other agency or authority with which the Secretary has an agreement to carry out any of the provisions of the Act." The reason for modifying the definition of "State agency" is to reflect the function of State Employment Services under amendments to the Wagner-Peyser Act (Pub. L. 97–300) and the discretion afforded Governors in the selection of service delivery area grant recipients under the Job Training Partnership Act (Pub. L. 97–300).

5. Although not related to a specific comment received, the proposed definition of "unemployment insurance" at § 635.3(kk) has been amended to include "federal supplemental compensation." Also, "federal supplemental compensation" has been defined.

6. Although not related to a specific comment received, a new § 617.4 has been added to cover benefit information to workers, in accordance with the requirements of new section 225 of the Act added by section 2502 of the Omnibus Budget Reconciliation Act of 1981. 19 U.S.C. 2275.

Subpart B—Trade Readjustment Allowances (TRA)

7. The proposed regulation at § 635.10(b) describes "good cause" for late filing of initial TRA claims. The UAW objects on the grounds that there is no statutory time limit for filing such claims. However, this requirement accords with the Act and administrative practice since the beginning of the TRA Program, and this practice was left undisturbed by the Omnibus Budget Reconciliation Act of 1981. Section 234 of the Act provides that the availability and disqualification provisions of a State law shall apply to a worker filing claims for TRA unless inconsistent with the provisions of the Act. 19 U.S.C. 2294. Section 234 also applies to the filing of claims and payments of TRA. Thus, State time limits on the filing of initial claims for unemployment benefits apply to the filing of initial claims tor TRA except where the result would be inconsistent with the Act. Those State time limits can reasonably be applied to workers separated after a certification covering them has been published, but to apply such time limits to workers separated prior to publication of a certification would result in disqualification for TRA in a great many cases. Therefore, the administrative practice of allowing late filing of initial claims for TRA was instituted and was followed by all States. This practice was followed until one State departed from it and disqualified a worker who had filed a late initial claim for TRA. This case resulted in a Department ruling, on June 11, 1976, in *Louis Signoretti* Decision No. 75–TRA–4, that individuals must be provided a reasonable period of time following publication of a certification to become aware of the certification and to file an initial claim for TRA. This ruling established the precedential rule followed to this day, which did no more than formalize the administrative practice followed since the beginning of the program. The current regulations at 29 CFR Part 91 were published on April 11, 1975. The promulgation of new regulations affords the Department the opportunity to set forth in the regulations the long-standing administrative practice and precedent.

This section has also been revised to further clarify the rights of claimants. Therefore, the Department does not concur with the UAW comment that applicants should have an unlimited time to file initial claims for TRA, and therefore does not change the basic thrust of § *635.10(b)*.

8. The proposed regulation at § 635.11(a)(2) provides that to qualify for TRA, a worker's separation must be on or after the impact date of the certification. The UAW comments that workers should be allowed to qualify even though they were separated before the impact date. The 1981 amendments did not have any effect on establishing the impact date of a certification. The impact date has always been and continues to be a date not more than one year before the date the petition was filed. Section 223(b) of the Act, 19 U.S.C. 2273(b). The statute was unchanged in not permitting an individual whose separation occurred before the impact date to be eligible for TRA for any week of unemployment. Therefore, no change is made in the final regulations.

9. The proposed regulation at § 635.11(a)(3)(ii) provides that, for purposes of the 26 weeks of employment qualifying requirement for TRA, any week a worker: (a) Is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training; (b) does not work because of a disability that is compensable under a State or Federal workers' compensation law or plan; or (c) has had employment interrupted to serve as a full-time representative of a labor organization in the firm or subdivision; shall be treated as a week of employment at wages of $30 or more. The Amalgamated Clothing and Textile Workers Union suggests that an additional exemption should be added to this section to include involuntary layoff weeks because this requirement will unfairly harm workers who have already suffered from long unemployment.

The 1981 amendments to section 231 of the Act added a listing of non-work weeks which may be counted as qualifying weeks for TRA purposes, which were incorporated in the proposed rule as noted above. 19 U.S.C. 2291. Weeks of involuntary layoff were not included among the weeks that may be counted and thus were not listed in § 635.11(a)(3)(ii). There is no indication in the legislative history that this circumstance was omitted by inadvertence or because it was overlooked or unforeseen. Exemption-like provisions are narrowly construed: where, as here, Congress made specific mention of exemptions all independent of the employee's economic circumstance, it is a reasonable inference that Congress intended to exclude the proposed exemption. Accordingly, to add such weeks to qualifying weeks would require a further change in the law. Therefore, no change is made in the final regulations.

10. The proposed regulation at § 635.13(c)(2) provides that an amount of TRA payable for any week shall be reduced by the amount of a training allowance under any Federal law other than for the training of workers that the worker receives for such week. The Ohio Bureau of Employment Services requests an interpretation and example of such a training allowance. Section 232(a)(1) of the Act provides that TRA payable to a worker for a week shall be reduced by any training allowance deductible under section 232(c) (formerly 232(d)) of the Act. 19 U.S.C. 2292. Such a training allowance has been interpreted to mean a training allowance other than for the training of workers. Examples of training allowances under Federal laws other than for the training of workers are listed in § 635.13(c)(2). They include Veterans Education Assistance, Basic Educational Opportunity Grants,. and Supplemental Educational Opportunity Grants. Basic Educational Opportunity Grants are now Pell Grants and this change is reflected in the final regulations.

11. The proposed regulation at § 635.14(a) provides that the maximum amount of TRA payable to an individual is the amount determined by multiplying by 52 the weekly amount of TRA payable and subtracting from such product the total sum of UI to which the individual was entitled in the individual's first UI benefit period. While no comment was received regarding this provision, the Department feels there is a need to ensure that its position on the "total sum of UI entitlement" to be subtracted from the product of 52 times the TRA weekly amount is clearly understood.

The Department's position requires all the UI to which the individual was entitled in the individual's first benefit period to be subtracted *regardless* of when the individual first exhausts UI (regular, additional, EB or FSC). Reduction of UI entitlement from the maximum amount of TRA payable should be made *initially* at the point the individual first exhausts entitlement to UI benefits and establishes entitlement to TRA. After the individual's entitlement to TRA is established, the maximum amount of TRA payable should be further reduced by any *subsequent* entitlement to UI in the individual's first UI benefit period. This position is consistent with the legislative intent to limit an individual's maximum TRA entitlement including UI to 52 weeks.

12. The proposed regulation at § 635.14(b)(1) provides that the maximum amount of TRA payable to an individual under § 635.14(a) will not include the amount of dependents' allowances paid as a supplement to the base weekly amount (in a State which calculates weekly UI benefits in this manner). The Ohio Bureau of Employment Services comments that this provision is contrary to § 635.13(a) which provides that where a State calculates a base amount of UI and calculates dependents' allowances on a weekly supplemental basis. TRA weekly benefits shall be calculated on the same basis. This confusion is understandable because of the proposed wording in § 635.14(b) that "The maximum amount of TRA *payable to an individual* under paragraph (a) of this section will not include . . ." (emphasis added), although the last sentence in paragraph (b) clearly intends that such payment will be made "but nothing in this paragraph (b) shall affect an individual's eligibility for such supplemental . . . allowances." This section is clarified in renumbered § 617.14(b) by substituting the word *"determined"* for *"payable to an individual"* (emphasis added).

13. The proposed regulation at § 635.15(b)(1) provides that additional weeks of TRA to assist a worker to complete training approved under the Act are payable during the 26-week eligibility period following the last week of the worker's entitlement to basic TRA. The United Steelworkers of America suggests that the proposed rule should be revised to permit workers in approved training to be eligible for up to an additional 26 weeks of benefits beginning with the week the approved training program commences. The Amalgamated Clothing and Textile Workers Union suggests that the additional 26-week period of benefits for training purposes should not begin immediately following the basic TRA entitlement period if training funds or programs are not available at the time of additional entitlement.

While the Department recognizes that the additional 26-week eligibility period for receiving TRA during training may expire before a worker has an opportunity to apply for training, the

limitation in § 635.15(b)(1) is compelled by legislative judgment set forth in the 1981 amendments to Section 233(a)(3) of the Act, 19 U.S.C. 2293. Any modification to § 635.15(b)(1) would require a change in the law. Therefore, no change is made in the final regulations. However, as noted above, the Deficit Reduction Act of 1984 amended section 233(a)(3) in this respect, effective July 18, 1984, and the regulation will be amended.

14. The proposed regulation at § 635.18(b)(2) provides that a worker who, without good cause, refuses to accept or continue or fails to make satisfactory progress in approved training shall not be entitled to any payment under the Act for the week of such occurrence and any week thereafter until the week the worker enters or resumes and makes satisfactory progress in such training. "Good cause" is defined as such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to make satisfactory progress in or continue training. The Michigan Employment Security Commission comments that this definition introduces the concept of what a reasonable person might do in terms of not making satisfactory progress in training (to include reasons beyond the person's control and capability). The Michigan agency comments further that the State could no longer use its unconditional standard of full time attendance (and 2.0 grade point average) for continuation of training. The definition of "good cause" has not changed from such definition in the regulations published on April 11, 1975. (Refer to 29 CFR 91.3(a)(17).) States must apply the national standard for determining "good cause" established in the existing regulations and continued in these final regulations. Therefore, no change is made in the final regulations.

15. Section 231(b) of the Act, as amended by the Omnibus Budget Reconciliation Act of 1981, provides that if the Secretary determines that in a particular labor market area a high level of unemployment exists, suitable employment opportunities are not available, and there are facilities available for training in new or related job classifications, then the Secretary may require all adversely affected workers in that area to accept training under section 236 or to search actively for work outside the area after the first 8 weeks of their eligibility for TRA. 19 U.S.C. 2291(b). No mention of this statutory provision was made in the proposed regulations. However, since this section is discretionary, and not mandatory, the Department chose not to prescribe regulations because it believes that implementation of the "8-week" test will not be effective in promptly returning most TRA recipients to work. Also, the test will be expensive and cumbersome to administer. Therefore, since these discretionary regulations were not prescribed, the "8-week" test is not applicable to TRA recipients.

Subpart C—Reemployment Services

16. Although not related to a specific comment received, all references in this regulation to the Comprehensive Employment and Training Act (CETA), other than for reason of historical perspective, have been deleted and replaced by the Job Training Partnership Act (JTPA), since CETA has been repealed. *See* Pub. L. 97-300, §§ 183 and 184(a).

17. Although not related to a specific comment received, the proposed regulation at § 635.22(c), which provides that no reimbursement shall be authorized for any costs of training incurred for any period prior to the approval of training, has been amended to provide "except in the case of a redetermination or decision reversing a determination denying approval of training." When fraud or misrepresentation does not exist, an individual initially denied eligibility for TAA benefits who later is determined eligible, either by a redetermination or a decision reversing the determination denying eligibility, should be treated as if the initial determination had been correct in approving training.

18. The proposed regulation at § 635.22(e) provides that selection for, approval of, or referral of an individual to training under Subpart C, or a decision with respect to any specific training or non-selection, non-approval, or non-referral for any reason shall be a determination to which §§ 635.50 (determinations of entitlement) and 635.51 (appeals and hearings) apply. The Ohio Bureau of Employment Services recommends the deletion of this section because the issuance of determinations concerning non-selection, non-referral or non-approval of training would provide the worker with appeal rights. The Ohio agency argues that the Trade Act language has always utilized the term "may" as it relates to the provision of training, establishing such as a benefit and not a right.

While the term "may" establishes the noncontractual nature of the training language in the statute and establishes no right to training, this factor does not remove training from the category of a benefit to be considered for potentially eligible workers. The contractual or noncontractual nature of a program benefit cannot serve as the determinative which governs a worker's right to a notice of determination in connection with an appropriately filed application for the program benefit. While training is not a contractual entitlement, it is, nevertheless, a program benefit under the Trade Act of 1974 and, as such, is subject to the statutory provisions of section 239(d) of the Act which provides that: "A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent." 19 U.S.C. 2311(d). Therefore, no change is made in the final regulations.

19. The proposed regulation at § 635.22(h) provides that no training shall be approved for which the individual is required to pay a fee. The UAW suggests that self-financed training should be approved when Federal funding is not available with the possibility of future Federal reimbursement. The 1981 amendments to section 236(a) of the Act, however, do not permit self-financed training to be approved, and funds must be available before training can be approved. Section 236(a) states in the pertinent part: "The Secretary may approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training paid on his behalf by the Secretary." 19 U.S.C. 2296(a). The Secretary may not do by regulation what Congress has failed to authorize by statute. Therefore, no change is made in the final regulation.

20. The proposed regulation at § 635.23(b) provides that a State agency shall consult with an individual's adversely affected firm for the purpose of developing a retraining program. The UAW suggests that this provision should be clarified to permit firms to provide retraining and restrict such training to their own workforce. Since the language in the proposed regulation does not put a requirement on the firm to open its retraining program to individuals outside its workforce, a change in wording is not necessary. Therefore, no change is made in the final regulation.

21. The proposed regulation at § 635.23(d) refers to standards and procedures which a State agency may

use to approve training. The UAW suggests that a qualification should be added to reflect that a reasonable expectation of employment does not mean a guarantee of employment. The Department accepts this suggestion. The final regulation is modified to reflect this change.

22. The proposed regulation at § 635.23(d)(1) describes standards for approving training. The UAW suggests that the standards are too restrictive. These standards, however, reflect the full flexibility allowed by the provisions of section 236(a)(1) of the Act. 19 U.S.C. 2296(a)(1). Therefore, no change is made in the final regulation.

23. The proposed regulation at § 635.23(d)(3)(iii) excludes self-employment and commission-paid occupations from approved training programs. The UAW contends that there is no public policy rationale for this exclusion and that if an unemployed worker can be gainfully reemployed in any occupation the public purpose is served. The Department agrees and has deleted the exclusionary provision pertaining to self-employment and commission-paid occupations.

24. The proposed regulation at § 635.28(e) provides that no transportation payment shall be made to a worker for any day of unexcused absence from training as certified by the responsible training facility. The Michigan Employment Security Commission points out that the above language implies that, while transportation payments could not be made for unexcused absences, such payments could be made for excused absences. The Michigan agency's point is well made. The eligibility conditions covering the payment of transportation expenses are well defined in renumbered § 617.28 and need not be further clarified under an "unexcused absences" addendum. Consequently, paragraph (e) in § 635.28 covering "unexcused absences" is deleted from the final regulations. Note: Paragraph (d) in § 635.27 remains unchanged to permit payment of subsistence allowances where such expenses are incurred when the individual had an excused absence from training.

Subpart D—Job Search Allowances

25. The proposed regulation at § 635.32(a)(3) provides that, for an individual to be eligible for a job search allowance, the State agency shall determine that the individual has no reasonable expectation of securing suitable employment in the commuting area, and has a reasonable expectation of obtaining suitable employment of long-term duration outside the commuting area and in the area where the job search will be conducted. The Ohio Bureau of Employment Services suggests that a clause be added requiring that an individual receive a "bona fide referral" to suitable employment in order to be eligible for the job search. To adopt this suggestion may preclude a worker from seeking employment on the worker's own initiative outside the commuting area so long as the job search can meet the approval criteria of the regulation. Therefore, no change is made in the final regulation.

Subpart E—Relocation Allowances

26. The proposed regulation at § 635.43(b) provides that a reasonable time for beginning a relocation shall be 182 days after the date of application or after conclusion of approved training. The Michigan Employment Security Commission suggests that because of this provision there should be a definition of when a relocation begins. The beginning of a relocation should be readily identifiable by the individual or a member of the individual's family leaving for the place of relocation or the beginning date of the movement of household goods. Therefore, the Department sees no necessity for further elaboration on this issue in the final regulation.

27. The proposed regulation at § 635.44(b)(2) provides that the State agency of the State of intended relocation make the determination that suitable employment has been obtained or a bona fide offer of suitable employment has been extended to the individual. The California Employment Development Department suggests that the State paying for a relocation allowance verify directly with the employer regarding the obtaining of suitable employment, or a bona fide offer thereof, where the State has effective procedures for such direct verification. The Department agrees with this suggestion and this section is modified accordingly.

28. The proposed regulation at § 635.45(a)(2) provides for payment of 90 percent of the expenses for moving household goods and personal effects not to exceed 11,000 pounds for an individual and family and not to exceed 5,000 pounds for an individual without a family. The Michigan Employment Security Commission suggests that the 11,000 pound limit apply to an individual whether or not the individual has a family. This was the provision under the regulations for the Trade Act of 1974 before the 1981 amendments. The current Federal travel regulations, after undergoing a change on which the proposal was based, provide for movement of 11,000 pounds regardless of whether the individual has a family. This limit has subsequently been raised to 18,000 pounds. Rather than specify a pound limit for moving household goods and personal effects which is subject to change, Subpart E is modified to provide for the pound limit not to exceed the maximum number of pounds net weight authorized under the Federal travel regulations. *See* 41 CFR Part 101–7.

29. The proposed regulation at § 635.45(b) provides that a relocation allowance otherwise payable shall be reduced by any amount the individual is entitled to be paid or reimbursed for such expenses from any other source. The California Employment Development Department questions the application of this provision in the case in which an employer has a provision for paying a relocation allowance but provides that it will not be paid when the allowance is payable under the TAA or other similar programs. The Department's intention in providing for the reduction of the relocation allowance by any other relocation allowance payable for the same move was to prevent duplicate payments for the same relocation expenses. If an individual is not entitled to receive an employer's relocation allowance, then the full TAA relocation allowance is payable. Therefore, no change is made in the final regulations.

30. The proposed regulation at § 635.47 provides the guidelines for payment of moving allowances. The California Employment Development Department requests that additional guidelines be provided on allowable costs covering crating, specialized packing and shipment of pets. Costs involving such things as specialized packing which are normally associated with the moving of household goods are covered, but the Department does not feel it is necessary to itemize each of the accessorial charges which are allowed under this section. There is, however, no provision for the payment of special allowances for moving pets under this section, since it covers only moving household goods and personal effects. Therefore, no change is made in the final regulations.

31. The proposed regulation at § 635.47(a) provides for payment of 90 percent of the costs allowable for (a) a commercial carrier, (b) a trailer or rental truck, *or* (c) a house trailer. The California Employment Development Department comments that this section is unclear as to whether an individual must choose one method of moving, either a commercial carrier, rental truck,

or house trailer, or could use a combination of these. This wording could be interpreted as meaning that an individual could receive reimbursement for a combination of commercial carriers and rental equipment, but that if the individual moved by house trailer or mobile home, then such a move would preclude payment to a commercial carrier or a rental firm. It is the Department's intention that an individual should be reimbursed for one method of moving household goods and personal effects, either by commercial carrier, by truck or trailer rental, or by house trailer. This is clarified in the final regulations.

32. The proposed regulation at § 635.47(a)(3)(v) provides for the reimbursement for costs of disconnecting and connecting utilities for a house trailer which is moved. The Ohio Bureau of Employment Services contends that this expense should not be reimbursed since individuals who have other homes or apartments are not covered for this expense except under the lump sum payment covering miscellaneous expenses. Federal travel regulations which cover movement of house trailers do not allow an additional expense for disconnecting and connecting utilities. The Department agrees with the suggestion that disconnecting and connecting utilities should not be separately covered and the paragraph pertaining to this is deleted from the final regulations.

33. The proposed regulation at § 635.48(c) provides that payment of the lump sum payment may not be made more than 10 days before the anticipated date of shipment of household goods and personal effects. The California Employment Development Department comments that this could inconvenience someone who moved but delayed shipment of household goods. The Department agrees that more flexibility is needed here. The final regulations are modified to allow the lump sum payment to be made no earlier than 10 days before the anticipated date of the beginning of travel to the new location by the individual or a member of the individual's family or the anticipated date of the shipment of household goods and personal effects.

Subpart F—Administration by Applicable State Agencies

34. The proposed regulation at § 635.50(f) provides that full payment of TAA when due shall be made with the greatest promptness that is administratively feasible. The UAW comments that this definition of promptness with respect to issuing determinations is too amorphous and that an outside time limit of 30 days should be added to the definition. As stated above, promptness in § 635.50(f) refers to making payments of TAA and not to issuing determinations. The regulations governing the TAA program have always provided that a State agency shall make full payment of TAA when due with the greatest promptness that is administratively feasible. While a specific time limit, such as 30 days, for making payments or for issuing determinations might be practicable for recurring types of TAA payments, such as weekly TRA and transportation and subsistence payments while in training, it would be impracticable for nonrecurring types of TAA payments, such as job search and relocation allowances, because of the differences in the eligibility requirements and supporting statements for the various types of TAA payments. Therefore, no change is made in the final regulations.

35. The proposed regulation at § 635.52 provides the procedures for ensuring uniform interpretation and application of the Act and regulations. The UAW comments that the Secretary should acknowledge that guidelines and instructions issued by the Secretary (and intended to be implemented by the States under threat of loss of contract) are subject to review in the appropriate Federal court. The primary purpose of this section is to assure that the State agencies are interpreting and applying the Act and regulations uniformly throughout the United States as reflected in their determinations, redeterminations, and appeals decisions ruling on entitlement of individuals to TAA. Section 239(d) of the Act provides that an eligibility determination by the State agency to program benefits is "subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent." 19 U.S.C. 2311(d). The proper forum for review of a State agency's interpretation and application of the Act and regulations is through the State administrative and judicial system. Therefore, no change is made in the final regulations.

36. The Michigan Employment Security Commission requests that the regulations at §§ 635.52(c)(4)(ii) and 635.52(c)(5) be more definitive regarding a State agency's right to reconsideration and the mechanism for providing such reconsideration in cases where the State is required to restore funds to the Federal Treasury because of the payment of benefits under conditions which were contrary to Federal law. The Department agrees that clarification would be useful, and, accordingly, a proviso has been added in the final regulations for reconsideration as outlined in renumbered § 617.52(c)(5).

37. The proposed regulation at § 635.55(a)(2)(i)(A) provides factors which shall be considered in determining whether fault exists for the purpose of waiver of recovery of a TAA overpayment.

Note.—Section 635.55(a)(1) tracks section 243(a)(1), 19 U.S.C. 2315(a)(1), of the Act in providing that a State agency *may* waive a TAA overpayment. It has been determined that the word "may" leaves to each State's decision the election whether or not to waive overpayments. This is clarified by the addition of a phrase at the end of § 635.55(a)(3). Any State which elects to waive TAA overpayments must strictly follow the guidelines in § 635.55 which are adopted under the authority of section 233(a)(1), 19 U.S.C. 2293(a)(1).)

One of the factors concerns whether a statement or representation of a material nature was made by the individual in connection with the application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate. While no comment was received regarding this factor, the Department feels that the phrase "material nature" is unclear and would be difficult to apply. Its impreciseness would provide State agencies a broad latitude in determining whether or not to waive recovery of an overpayment. Therefore, this factor has been revised by deleting the phrase "material nature" and modifying "statement or representation" by the word "material." This revision will provide State agencies flexibility in determining whether the statement or representation played an important or significant role in the payment of TAA, without having to be concerned with the meaning of "nature" or excluding representations that occur from the omission of the statement.

Two other factors concern (a) whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the fact was material, and (b) whether the individual knew or could have been expected to know that the individual was not entitled to the TAA payment. The UAW questions how the Secretary possibly intends to establish when an individual should have known an undisclosed fact was material or when an individual should have known that he or she was not

entitled to a TAA payment. State agencies through the regular methods they follow for prevention and detection of overpayments of UI under State law should be able to establish that an individual failed to disclose a material fact and that the individual should have known that the fact was material, or that an individual should have known that he or she was not entitled to a TAA payment.

A fourth factor concerns whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any action or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong. The Amalgamated Clothing and Textile Workers Union comments that this statement is overly broad and can lead to abuses by State agencies in its application. The UAW questions how an overpayment might result indirectly or partially from any action or omission of the individual. It is true that the factors preceding the one in question, in most instances, would be adequate for determining whether or not fault exists. However, the Department is concerned about those possible situations where fault, in fact, did exist but was not covered by the other factors. The Department's position is that, in any case where fault exists, recovery of the overpayment should not be waived. With few exceptions the State agencies administering the State unemployment insurance laws have traditionally not allowed for waiver of overpayments when fault exists. Not allowing waiver of overpayments when fault exists is a deterrent to fraudulent claims. This position is consistent with the Department's overall effort to improve UI program quality and reduce errors in the payment of UI program benefits. Therefore, no change is made in the final regulations.

38. The proposed regulation at § 635.55(a)(2)(ii)(B) provides factors which shall be considered in determining whether equity and good conscience exists for the purpose of waiver of recovery of a TAA overpayment. One of the factors concerns whether recovery of the overpayment will not cause extraordinary and lasting financial hardship to the individual. The UAW comments that the requirement of "extraordinary and lasting financial hardship" goes far beyond any fair or humane definition of "equity and good conscience." If the income and cash resources of the individual and the individual's family are such that to repay the overpayment would not cause the individual extraordinary and lasting financial hardship, then requiring such repayment is fully consistent with the statutory equity and good conscience provision. Therefore, no change is made in the final regulations.

39. The proposed regulation at § 635.55(a)(2)(ii)(C), regarding whether equity and good conscience exists for the purpose of waiver of recovery of a TAA overpayment, provides that: "In making financial hardship determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available or potentially available to the individual and the individual's family in the time period being considered." The California Employment Development Department comments that the wording is extremely general (no relationship between the number of family members and amounts of income or what financial and cash resources are to be included) and that the phrases "potential income" and "cash resources" are vague (very difficult to estimate). The California agency states that its waiver guidelines contain specific items about family members and their incomes and assets and that its waiver determinations are based on past, rather than potential, income. The California agency suggests that a clause be added to the provision cited above to permit State agencies to use their own guidelines and procedures in determining financial hardship. The Department rejects the California agency comments and retains the existing wording for the guidelines for determining financial hardship to ensure uniformity among all State agencies. State guidelines can not be used for the TAA Program; national rules must be applied uniformly by all States as set out in the final regulations. Therefore, no change is made in the final regulations.

40. The proposed regulation at § 635.55(a)(3) provides that a request for waiver of recovery of a TAA overpayment shall be made on a form approved by the Secretary, which shall be furnished to the worker by the State agency. The California Employment Development Department suggests that no new form be created for this purpose and that existing State agency procedure, if applicable, be used. The Ohio Bureau of Employment Services suggests that the proposed form include information concerning the waiver provisions in the regulations so that States can use the form as an attachment to overpayment notices. The Department agrees to delete the proposed form and permit State agencies to prescribe their own forms for handling waiver determinations. Thus, the final regulation at § 617.55(a)(3) no longer requires a form approved by the Secretary for requesting a waiver determination. However, it is essential that a uniform, national rule be applied in making waiver determinations; so in this regard the regulations are unchanged in requiring that information be provided to workers about the waiver provisions.

41. The proposed regulation at § 635.55(a)(4) forecloses recovery of TAA overpayments from State UI benefits. Although the 1981 amendments to section 243 of the Act provide the Secretary the option to require State agencies to recover TAA overpayments from such benefits, the Secretary chose not to do so. The California Employment Development Department suggests that § 635.55(a)(4) be clarified to at least include a statement naming State UI benefits as a source of TAA overpayment recovery. Accordingly, the Department agrees and has incorporated a statement in the final regulations to the effect that State agencies *may* recover a TAA overpayment from State UI benefits payable to a worker.

42. The proposed regulation at § 635.62(b)(3) provides that individuals who have had self-financed training approved prior to October 1, 1981, shall not be reimbursed for training and related expenses incurred while in such training, unless such training is approved under the amended law and Part 635. The Michigan Employment Security Commission suggests that this section is unclear and asks "Under what conditions shall an agency approve such training?" This section has a "two-fold" meaning and is clarified in renumbered § 617.62(b) to accurately reflect both meanings. First, this section recognizes the fact that the 1981 amendments to the Act impose no legal obligation on the Secretary to finance tuition and other training expenses resulting from training approvals issued prior to October 1, 1981. Second, this section means that the prior approval of training under the provisions of the Act, does not constitute an automatic approval under the 1981 amendments for the purpose of paying tuition and other training related expenses since the approval criteria are different. Workers whose training was approved prior to October 1, 1981, can have their requests for training considered under the criteria in section 236 of the amended Act, and, if approved, training costs incurred after such approval will be paid. 19 U.S.C. 2296.

43. The proposed regulation at § 635.64(c) provides that no training under the Act shall be approved unless a determination regarding the approval of such training was made, and such training commenced, on or before September 30, 1983, and that no payment shall be authorized for any training costs incurred after September 30, 1983. The California Employment Development Department, the Michigan Employment Security Commission, and the West Virginia Department of Employment Security express concern with the above language which could have the effect of prematurely terminating training contracts for workers in approved training. To insure clarity and adherence to the statutory requirement of section 236(a)(1) of the Act and the reauthorization of the program under Pub. L. 98–120, renumbered § 617.64(c) is modified to reflect the proper treatment of workers who enter approved training prior to the termination of the program.

Section 236(a)(1) of the amended Act provides that, upon approval, the worker shall be entitled to have payment of the costs of such training paid on his behalf by the Secretary. 19 U.S.C. 2296(a)(1). This means that a worker whose training is approved and who enters training on or before the termination date specified in the Act should have appropriate tuition related training expenses set aside as resources—on-order to cover the costs of the approved training. However, there is no statutory or other authority to obligate funds or pay for costs of tuition or other training expenses where the obligation to pay such costs arises after the termination date specified in the Act. Similarly, no trade readjustment allowance (basic or additional) or transportation or subsistence expenses may be obligated or paid for any period beginning after the termination date specified in the Act, irrespective of the worker's continuation in training approved on or before such termination date.

44. The Amalgamated Clothing and Textile Workers Union makes a general comment that the regulations should clearly specify that they take precedence over any relevant State regulations which may be contrary to or in conflict with these regulations. This concern was adequately covered in §§ 635.5(d), 635.52 and 635.54, which will remain unchanged in the final regulations except for a minor clarification in renumbered § 617.52. Therefore, no change is made in the final regulations.

45. The Michigan Employment Security Commission requested that "when adopted, the regulations not be made retroactive" on the premise that to do so "would cause numerous administrative problems and negatively impact on the rights of TRA recipients." The provisions of Title XXV of the Omnibus Budget Reconciliation Act of 1981 were, for the most part, implemented on October 1, 1981, as required by the amendments. The final regulations merely support that implementation and take effect as provided in the statute. Retroactivity should present no problem because the States should have been operating in accordance with the implementing instructions. The only operational change in the final regulations is in regard to waiver of recovery of overpayments, and there is no flexibility in this area.

46. The proposed regulations require that all applications for TAA Program benefits shall be made in accordance with instructions and on forms approved by the Secretary, which shall be furnished to the individual by the State agency. (See §§ 635.10(c), 635.22(d), 635.27(c), 635.28(d), 635.31(a) and 635.41(a).) In all instances, the words *approved by the Secretary* have been deleted. Although no comment was received on this point, with these changes the Secretary's approval of State agency forms designed for these purposes is not required in the final regulations.

47. In addition to the comments and changes discussed above, a few minor proofing and technical errors were made in the proposed document as published in the **Federal Register** on March 4, 1983. These errors have been corrected.

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, DC 20213; telephone: (202) 376–6636 (this is not a toll-free number).

Classification—Executive Order 12291

The final rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. While several of the provisions may entail some costs, for example, the work test provisions, they will be more than offset by the budgetary savings that result from the lower weekly and maximum benefits and tightened eligibility requirements. In addition, any added costs, to the extent that they exist, do not represent new burdens imposed by the final regulations, but rather are direct statutory obligations. Accordingly, no regulatory impact analysis is required.

Trade Sensitive Activity

The Department believes that the final regulations do *not* involve trade sensitive activities. This determination is predicated upon the fact that the TAA Program is a domestic program designed to provide assistance to workers adversely affected by import competition and, as such, does not fall within the scope of the Office of Management and Budget's definition of a trade sensitive activity.

Paperwork Reduction Act

The Department has complied with the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. Ch. 35. Approval of the recordkeeping requirement contained at § 617.57 is under OMB control number 1205–0016, which is for the reporting form ETA 563. OMB control number 1205–0222 applies to §§ 617.52(c) and 617.54 under a previous approval.

Regulatory Flexibility Act

The Department believes that this final rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b), as provided in the Regulatory Flexibility Act. This rule will affect those agencies in small States that administer the TAA Program. However, current TAA Program recipients are concentrated in larger industrial States, where jobs have been "hardest hit" by foreign import competition. States may find some increased administrative costs as a result of the provisions to implement work tests in accordance with State provisions applicable to extended benefit claimants. However, most of the operating mechanisms needed for the TAA Program are in place through the UI system, including benefit payments, appeals, work search and work test procedures and relocation and training assistance. This will assure that any additional administrative costs are minimal. Moreover, these costs will

decline over time as adversely affected workers find reemployment in substantially equivalent jobs. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* at No. 17.245, "Trade Adjustment Assistance—Workers."

List of Subjects in 29 CFR Part 617

Job search assistance, Labor, Reemployment services, Relocation assistance, Trade adjustment assistance, Trade readjustment allowances, Unemployment compensation, Vocational education.

For the reasons set out in the preamble, Part 91 of Title 29, Code of Federal Regulations, is redesignated as Part 617 of Title 20, Code of Federal Regulations, and is revised as set forth below.

Signed at Washington, D.C., on December 12, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

PART 617—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

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Appendix A—Standard for Claim Determinations—Separation Information
Appendix B—Standard for Fraud and Overpayment Detection

Authority: 19 U.S.C. 2320; Secretary's Order No. 3-81, 46 FR 31117.

Subpart A—General

§ 617.1 Scope.

The regulations in this Part 617 pertain to:

(a) Adjustment assistance, such as counseling, testing, training, placement, and other supportive services for workers adversely affected under the terms of Chapter 2 of Title II of the Trade Act of 1974, as amended (hereafter referred to as the Act);

(b) Trade readjustment allowances (hereafter referred to as TRA) and other allowances such as allowances while in training, job search and relocation allowances; and

(c) Administrative requirements applicable to State agencies to which such individuals may apply.

§ 617.2 Purpose.

The Act created a program of trade adjustment assistance (hereafter referred to as TAA) to assist individuals, who became unemployed as a result of increased imports, return to suitable employment. The TAA program provides for reemployment services and allowances for eligible individuals. The regulations in this Part 617 are issued to implement the Act.

§ 617.3 Definitions.

For the purposes of the Act and this Part 617:

(a) "Act" means Chapter 2 of Title II of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 1978, 2019-2030 (19 U.S.C. 2271-2322), as amended.

(b) "Adversely affected employment" means employment in a firm or appropriate subdivision of a firm if workers of such firm or appropriate subdivision are certified under the Act as eligible to apply for TAA.

(c) "Adversely affected worker" means an individual who, because of lack of work in adversely affected employment:

(1) Has been totally or partially separated from such employment; or

(2) Has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(d) "Appropriate week" means the week in which the individual's first separation occurred.

(e) "Average weekly hours" means a figure obtained by dividing:

(1) Total hours worked (excluding overtime) by a partially separated individual in adversely affected employment in the 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) preceding the individual's first qualifying separation, by

(2) The number of weeks in such 52 weeks (excluding weeks in such period during which the individual was sick or on vacation) in which the individual actually worked in such employment.

(f) "Average weekly wage" means one-thirteenth of the total wages paid to an individual in the individual's high quarter. The high quarter for an individual is the quarter in which the total wages paid to the individual were highest among the first four of the last five completed calendar quarters preceding the individual's appropriate week.

(g) "Average weekly wage in adversely affected employment" means a figure obtained by dividing:

(1) Total wages earned by a partially separated individual in adversely affected employment in the 52 weeks (excluding the weeks in that period the individual was sick or on vacation)

preceding the individual's first qualifying separation, by

(2) The number of weeks in such 52 weeks (excluding the weeks in that period the individual was sick or on vacation) the individual actually worked in such employment.

(h) "Benefit period" means, with respect to an individual:

(1) The benefit year and any ensuing period, as determined under the applicable State law, during which the individual is eligible for regular compensation, additional compensation, extended compensation, or federal supplemental compensation as these terms are defined by paragraph (kk) of this section; or

(2) The equivalent to such a benefit year or ensuing period provided for under the Federal unemployment insurance law.

(i) "Bona fide application for training" means an individual's signed and dated application for training filed with the State agency administering the TAA training program, on a form necessarily containing the individual's name, petition number, local office number, and specific occupational training. This form shall be signed and dated by a State agency representative upon receipt.

(j) "Certification" means a certification of eligibility to apply for TAA issued under the Act with respect to a group of workers.

(k) "Commuting area" means the area in which an individual would be expected to travel to and from work on a daily basis as determined under the applicable State law.

(l) "Date of separation" means:

(1) With respect to a total separation—

(i) For an individual in employment status, the last day worked; and

(ii) For an individual on employer-authorized leave, the last day the individual would have worked had the individual been working; and

(2) With respect to a partial separation, the last day of the week in which the partial separation occurred.

(m) "Eligibility period" means, for purposes of paying TRA:

(1) *Basic weeks.* The 52-week period beginning with the first week following the week with respect to which the individual first exhausts all rights to regular compensation (as defined in paragraph (kk)(1) of this section); and

(2) *Additional weeks.* The 26-week period immediately following the last week of entitlement to basic TRA, to assist an individual, to complete training approved under Subpart C of this Part 617.

(n) "Employer" means any individual or type of organization, including the Federal government, a State government, a political subdivision, or an instrumentality of one or more governmental entities, with one or more individuals performing service in employment for it within the United States.

(o) "Employment" means any service performed for an employer by an officer of a corporation or an individual for wages.

(p) "Exhaustion of UI" means exhaustion of all rights to UI in a benefit period by reason of:

(1) Having received all UI to which an individual was entitled under the applicable State law or Federal unemployment compensation law with respect to such benefit period; or

(2) The expiration of such benefit period.

(q) "Family" means the following members of an individual's household whose principal place of abode is with the individual in a home the individual maintains or would maintain but for unemployment:

(1) A spouse;

(2) An unmarried child, including a stepchild, adopted child, or foster child, under age 21 or of any age if incapable of self-support because of mental or physical incapacity; and

(3) Any other person whom the individual would be entitled to claim as a dependent for income tax purposes under the Internal Revenue Code of 1954.

(r) "First benefit period" means the benefit period established after the individual's first qualifying separation or in which such separation occurs.

(s) "First exhaustion of UI" means the first time in an individual's first benefit period that the individual exhausts all rights to UI; first exhaustion shall be deemed to be complete at the end of the week the exhaustion occurs.

(t) "First separation" means an individual's first total or partial separation from adversely affected employment on or most closely following the impact date of the certification under which the individual is covered, and occurs before or within the individual's first benefit period. For purposes of TRA entitlement, "first qualifying separation" means an individual's first total or partial separation from adversely affected employment on the basis of which the individual qualifies for TRA.

(u) "Head of family" means an individual who maintains a home for a family. An individual maintains a home if over half the cost of maintenance is furnished by the individual or would be furnished but for unemployment.

(v) "Impact date" means the date stated in a certification issued under the Act on which total or partial separations began or threatened to begin in a firm or a subdivision of a firm.

(w) "Layoff" means a suspension of or separation from employment by a firm for lack of work, initiated by the employer, and expected to be for a definite or indefinite period of not less than seven consecutive days.

(x) "Liable State" means the State against which an interstate claim is filed.

(y) "Partial separation" means that during a week ending on or after the impact date specified in the certification under which an adversely affected worker is covered, the individual had:

(1) Hours of work reduced to 80 percent or less of the individual's average weekly hours in adversely affected employment; and

(2) Wages reduced to 80 percent or less of the individual's average weekly wage in such adversely affected employment.

(z) "Regional Administrator" means the appropriate Regional Administrator of the Employment and Training Administration, United States Department of Labor (hereafter Department).

(aa) "Remuneration" means remuneration as defined in the applicable State law.

(bb) "Secretary" means the Secretary of Labor of the United States.

(cc) "Separate maintenance" means maintaining another (second) residence, in addition to the individual's regular place of residence, while attending a training facility outside the individual's commuting area.

(dd) "State" means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and the term "United States" when used in a geographical sense includes such Commonwealth.

(ee) "State agency" means the State Employment Security Agency of a State which administers the State law, and any other agency or authority with which the Secretary has an agreement to carry out any of the provisions of the Act.

(ff) "State law" means the unemployment compensation law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

(gg) "Suitable work" means, with respect to an individual:

(1) Suitable work as defined in the applicable State law for claimants for

regular compensation (as defined in paragraph (kk)(1) of this section); or

(2) Suitable work as defined in the applicable State law provisions consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970; whichever is applicable, but does not in any case include self-employment or employment as an independent contractor.

(hh) "Total separation" means a layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(ii) "Trade adjustment assistance" ("TAA") means the services and allowances provided for achieving reemployment of adversely affected workers, including TRA, training and other reemployment services, and job search allowances and relocation allowances.

(jj) "Trade readjustment allowance" ("TRA") means a weekly allowance payable to an adversely affected worker with respect to such worker's unemployment under Subpart B of this Part 617.

(kk) "Unemployment insurance" ("UI") means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85, title 5 of the United States Code, and the Railroad Unemployment Insurance Act. "UI" includes "regular compensation," "additional compensation," "extended compensation," and "federal supplemental compensation," defined as follows:

(1) "Regular compensation" means unemployment compensation payable to an individual under any State law, and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code, but does not include extended compensation, additional compensation, or federal supplemental compensation;

(2) "Additional compensation" means unemployment compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code; and

(3) "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an Extended Benefit Period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 and regulations governing the payment of extended unemployment compensation, and, when so payable, includes unemployment compensation payable pursuant to chapter 85, title 5 of the United States Code, but does not include regular compensation, additional compensation, or federal supplemental compensation. Extended compensation is also referred to in this Part 617 as Extended Benefits or EB.

(4) "Federal supplemental compensation" means the supplemental unemployment compensation payable to an individual under the Federal Supplemental Compensation Act of 1982. Federal supplemental compensation is also referred to in this Part 617 as FSC.

(ll) "Wages" means all compensation for employment for an employer, including commissions, bonuses, and the cash value of all compensation in a medium other than cash.

(mm) "Week" means a week as defined in the applicable State law.

(nn) "Week of unemployment" means a week of total, part total, or partial unemployment as determined under the applicable State law or Federal unemployment compensation law.

§ 617.4 Benefit information to workers.

(a) *Providing information to workers.* State agencies shall provide full information to workers about the benefit allowances, training, and other employment services available under Subparts B through E of this Part 617 and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services.

(b) *Providing assistance to workers.* State agencies shall provide whatever assistance is necessary to enable groups of workers, including unorganized workers, to prepare petitions or applications for program benefits.

(c) *Providing information to State vocational education agencies.* State agencies shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 of the Act and of projections, if available, of the needs for training under section 236 of the Act as a result of such certification.

Subpart B—Trade Readjustment Allowances (TRA)

§ 617.10 Applications for TRA.

(a) *Before and after certification.* An individual covered under a certification or a petition for certification may apply to a State agency for TRA. A determination shall be made at any time to the extent necessary to establish or protect an individual's entitlement to TRA or other TAA, but no payment of TRA or other TAA may be made by a State agency until a certification is made and the State agency determines that the individual is covered thereunder.

(b) *Timing of applications.* An initial application for TRA, and applications for TRA for weeks of unemployment beginning before the initial application for TRA is filed, may be filed within a reasonable period of time after publication of the determination certifying the appropriate group of workers under section 223 of the Act. However, an application for TRA for a week of unemployment beginning after the initial application is filed shall be filed within the time limit applicable to claims for regular compensation under the applicable State law. For purposes of this paragraph (b), a reasonable period of time means such period of time as the individual had good cause for not filing earlier, which shall include, but not be limited to, the individual's lack of knowledge of the certification or misinformation supplied the individual by the State agency.

(c) *Applicable procedures.* Applications shall be filed in accordance with this Subpart B and on forms which shall be furnished to individuals by the State agency. The procedures for reporting and filing applications for TRA shall be consistent with this Part 617 and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services", *Employment Security Manual*, Part V, sections 5000 *et seq.* which is available at all State Employment Security agencies.

§ 617.11 Qualifying requirements for TRA.

(a) *Basic qualifying requirements for entitlement.* To qualify for TRA for any week of unemployment, an individual must meet each of the following requirements of paragraphs (a)(1) through (a)(6) of this section:

(1) *Certification.* The individual must be an adversely affected worker covered under a certification.

(2) *Separation.* The individual's first qualifying separation before application for TRA must occur:

(i) On or after the impact date;

(ii) Before the expiration of the two-year period beginning on the date of the certification; and

(iii) Before the termination date, if any, of the certification.

(3) *Wages and employment.* (i) In the 52-week period ending with the week of the individual's first qualifying separation, the individual must have had at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm. Evidence that an individual meets this requirement shall be obtained as provided in § 617.12. Employment and wages covered under more than one certification can not be combined to qualify for TRA.

(ii)(A) For purposes of this paragraph (a)(3), any week in which such individual:

(*1*) Is on employer-authorized leave from such adversely affected employment for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;

(*2*) Does not work in such adversely affected employment because of a disability compensable under a workers' compensation law or plan of a State or the United States; or

(*3*) Had adversely affected employment interrupted to serve as a full-time representative of a labor organization in such firm or subdivision; shall be treated as a week of employment at waqes of $30 or more;

(B) *Provided.* That not more than the following number of weeks may be treated as such weeks of employment—

(*1*) 3 weeks if no weeks described in paragraph (a)(3)(ii)(A)(*2*) of this section occurred during the 52-week period concerned; or

(*2*) 7 weeks if all are weeks described in paragraph (a)(3)(ii)(A)(*2*) of this section; or

(*3*) 7 weeks in the case of weeks described in Paragraphs (a)(3)(ii)(A) (*2*) and (*1*) or (*3*) of this section, or both, except that not more than 3 of such weeks may be other than weeks described in paragraph (a)(3)(ii)(A)(*2*) of this section.

(iii) Wages and employment creditable under paragraph (a)(3) of this section shall not include employment or wages earned or paid for employment, which is contrary to or prohibited by any Federal law.

(4) *Entitlement to UI.* The individual must have been entitled to (or would be entitled to if the individual applied therefor) UI for a week within the benefit period:

(i) In which the individual's first qualifying separation occurred; or

(ii) Which began (or would have begun) by reason of the filing of a claim for UI by the individual after such first qualifying separation.

(5) *Exhaustion of UI.* The individual must:

(i) Have exhausted all rights to any UI to which the individual was entitled (or would be entitled if the individual applied therefor); and

(ii) Not have an unexpired waiting period applicable to the individual for any such UI.

(6) *EB work test.*

(i) The individual must:

(A) Accept any offer of suitable work, as defined in § 617.3(gg), and actually apply for any suitable work the individual is referred to by the State agency; and

(B) Actively engage in seeking work and furnish the State agency tangible evidence of such efforts each week; and

(C) Register for work and be referred by the State agency to suitable work in accordance with the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(ii) The EB work test shall apply to an individual only for weeks beginning after the date the individual files an initial TAA application.

(b) *First week of eligibility.* The first week of eligibility for TRA shall be the later of:

(1) The first week beginning more than 60 days after the date of the filing of the petition which resulted in the certification under which the individual is covered; or

(2) The first week beginning after the individual's first exhaustion of UI (as provided in paragraph (a)(5) of this section) following the individual's first qualifying separation (as provided in paragraph (a)(2) of this section).

§ 617.12 Evidence of qualification.

(a) *State agency action.* When an individual applies for TRA, the State agency having jurisdiction under § 617.50(a) shall obtain information necessary to establish:

(1) Whether the individual meets the qualifying requirements in § 617.11;

(2) The individual's average weekly wage; and

(3) For an individual claiming to be partially separated, the average weekly hours and average weekly wage in adversely affected employment.

(b) *Insufficient data.* If information specified in paragraph (a) of this section is not available from State agency records or from any employer, the State agency shall require the individual to submit a signed statement setting forth such information as may be required for the State agency to make the determinations required by paragraph (a) of this section.

(c) *Verification.* A statement made under paragraph (b) of this section shall be certified by the individual to be true to the best of the individual's knowledge and belief and shall be supported by evidence such as Forms W–2, paycheck stubs, union records, income tax returns, or statements of fellow workers, and shall be verified by the employer.

(d) *Determinations.* The State agency shall make the necessary determinations on the basis of information obtained pursuant to this section, except that if, after reviewing information obtained under paragraph (b) of this section against other available data, including agency records, it concludes that such information is not reasonably accurate, it shall make appropriate adjustments and shall make the determination on the basis of the adjusted data.

§ 617.13 Weekly amounts of TRA.

(a) *Regular allowance.* The amount of TRA payable for a week of total unemployment (including a week of training approved under Subpart C of this Part 617 or under the provisions of the applicable State law) shall be an amount equal to the most recent weekly benefit amount of UI (including dependents' allowances) payable to the individual for a week of total unemployment preceding the individual's first exhaustion of UI following the individual's first qualifying separation: *Provided,* that in a State in which weeks of UI are paid in varying amounts related to wages with separate employers, the weekly amount of TRA shall be calculated as it would be to pay extended compensation: *Provided, further,* that where a State calculates a base amount of UI and calculates dependents' allowances on a weekly supplemental basis. TRA weekly benefit amounts shall be calculated in the same manner and under the same terms and conditions as apply to claimants for UI, except that the base amount shall not change.

(b) *Increased allowance.* An individual in training approved under Subpart C of this Part 617 who is thereby entitled for any week to TRA and a training allowance under any other Federal law for the training of workers shall be paid in the amount computed under paragraph (a) of this section or, if greater, the amount to which the individual would be entitled under such other Federal law if the individual applied for such allowance, as provided in section 232(b) of the Act. A payment under this paragraph (b) shall be in lieu of any training allowance

to which the individual is entitled under such other Federal law.

(c) *Reduction of amount.* An amount of TRA payable under paragraph (a) or (b) of this section for any week shall be reduced (but not below zero) by:

(1) Income that is deductible from UI under the disqualifying income provisions of the applicable State law or Federal unemployment compensation law;

(2) The amount of a training allowance (other than a training allowance referred to in paragraph (b) of this section) under any Federal law that the individual receives for such week, as provided in section 232(c) of the Act. This paragraph (c) shall apply to Veterans Education Assistance, Pell Grants, Supplemental Educational Opportunity Grants, and other training allowances under any Federal law other than for the training of workers; and

(3) Any amount that would be deductible from UI for days of absence from training under the provisions of the applicable State law which apply to individuals in approved training.

§ 617.14 Maximum amount of TRA.

(a) *General rule.* Except as provided under paragraph (b) of this section, the maximum amount of TRA payable to an individual under a certification shall be the amount determined by:

(1) Multiplying by 52 the weekly amount of TRA payable to such individual for a week of total unemployment, as determined under § 617.13(a); and

(2) Subtracting from the product derived under paragraph (a)(1) of this section, the total sum of UI to which the individual was entitled (or would have been entitled if the individual had applied therefor) in the individual's first benefit period described in § 617.11(a)(4).

(b) *Exceptions.* The maximum amount of TRA determined under paragraph (a) of this section will not include:

(1) The amount of dependents' allowances paid as a supplement to the base weekly amount determined under § 617.13(a);

(2) The amount of the difference between the individual's weekly increased allowances determined under § 617.13(b) and the individual's weekly amount determined under § 617.13(a); and

(3) The amounts paid for additional weeks determined under § 617.15(b); but nothing in this paragraph (b) shall affect an individual's eligibility for such supplemental, increased or additional allowances.

(c) *Reduction for Federal training allowance.* (1) If a training allowance referred to in § 617.13(c)(2) is paid to an individual for any week of unemployment with respect to which the individual would be entitled (determined without regard to any disqualification under § 617.18(b)(2)) to TRA, if the individual applied for TRA for such week, each week shall be deducted from the total number of weeks of TRA otherwise payable to the individual.

(2) If the training allowance referred to in paragraph (c)(1) of this section is less than the amount of TRA otherwise payable to the individual for such week, the individual shall, when the individual applies for TRA for such week, be paid TRA in an amount not to exceed the amount equal to the difference between the individual's regular weekly TRA amount, as determined under § 617.13(a), and the amount of the training allowance paid to the individual for such week, as provided in section 232(c) of the Act.

§ 617.15 Duration of TRA.

(a) *Basic weeks.* An individual shall not be paid basic TRA for any week after the 52-week eligibility period beginning with the first week following the first week in the period covered by the certification with respect to which the individual has first exhausted (as determined under § 617.11(a)(5)) all rights to regular compensation.

(b) *Additional weeks.* (1) TRA payments may be paid for up to 26 additional weeks in the 26-week eligibility period following the last week of entitlement to basic TRA otherwise payable under this Part 617 to an individual, to assist the individual to complete training approved under Subpart C of this Part 617. However, TRA shall not be paid for a week under the provisions of this paragraph (b) unless the individual attends training during such week.

(2) To be eligible for TRA for additional weeks, an individual must make a bona fide application for such training:

(i) Within 210 days after the date of the first certification under which the individual is covered; or

(ii) If later, within 210 days after the date of the individual's first qualifying separation.

(3) No payment of TRA shall be made for any additional week unless the individual is actually engaged in training during the week and has not been determined under § 617.18(b)(2) to be failing to make satisfactory progress in the training.

(c) *Limit.* In no case may an individual receive TRA for any week which begins after the 78-week period following the week the individual has first exhausted (as determined under § 617.11(a)(5)) all rights to regular compensation.

§ 617.16 Applicable State law.

(a) *What law governs.* The applicable State law for purposes of this Subpart B is the State law under which the individual:

(1) Is currently entitled to UI (or would be entitled if the individual applied therefor); or

(2) Has most recently exhausted all rights to any UI to which the individual was entitled (or would be entitled if the individual applied therefor).

(b) *Change of law.* (1) A State law determined under paragraph (a) of this section shall remain applicable to an individual unless the individual becomes entitled to UI (or would be entitled if the individual applied therefor) under another State law.

(2) If a State law ceases to apply to an individual, the applicable State law thereafter shall be the law of the State under which the individual became entitled to UI (or would be entitled if the individual applied therefor).

(c) *UCFE–UCX claimants.* If an individual is entitled to UI under chapter 85, title 5 of the United States Code, the applicable State law for purposes of paragraphs (a) and (b) of this section is the law of the State to which the individual's Federal service and wages were assigned or transferred under Part 609 or Part 614 of this chapter.

(d) *RRUI claimants.* If an individual is entitled to UI under the Railroad Unemployment Insurance Act, the applicable State law for purposes of paragraphs (a) and (b) of this section is the law of the State in which the individual's first qualifying separation occurs.

§ 617.17 Availability and active search for work.

An individual shall not be paid TRA for any week of unemployment during which the individual is not able to work or is unavailable for work under the applicable State law, or if the individual fails or refuses to make an active search for work or to apply for or accept work or to accept a referral to work under the applicable State law, including the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970. This section shall not apply to weeks during which the individual is actually undergoing training approved under the provisions of the applicable State law or under Subpart C of this Part

617, unless the individual is determined to be ineligible for such week under the applicable State law or § 617.18(b)(2).

§ 617.18 Disqualifications.

(a) *State law applies.* Except as stated in paragraph (b) of this section and § 617.55(b), an individual shall not be paid TRA for any week of unemployment the individual is or would be disqualified to receive UI under the disqualification provisions of the applicable State law, including the provisions of the applicable State law which apply to EB claimants and which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(b) *Disqualification of trainees.* (1) A State law shall not be applied to disqualify an individual from receiving either UI or TRA because the individual:

(i) Is undergoing training approved under Subpart C of this Part 617; or

(ii) Refuses work to which the individual has been referred by the State agency if such work would require the individual to discontinue training or, if added to hours of training, would occupy the individual more than 8 hours a day or 40 hours a week, except that this paragraph (b)(1)(ii) does not apply to an individual who has been given notice of a determination of ineligibility under paragraph (b)(2) of this section unless and until the individual enters or resumes and makes satisfactory progress in such training; or

(iii) Quits work if the individual was employed in work which was not suitable employment, as described in § 617.22(a)(1), and it was reasonable and necessary for the individual to quit work to begin or continue training, except that this paragraph (b)(1)(iii) does not apply to an individual who has been given notice of a determination of ineligibility under paragraph (b)(2) of this section unless and until the individual enters or resumes and makes satisfactory progress in such training.

(2) An individual who, without good cause, refuses to accept or continue or fails to make satisfactory progress in training approved under Subpart C of this Part 617 shall not be eligible for basic or additional TRA, or any other payment under this Part 617, for the week of such occurrence and any week thereafter until the week in which the individual enters or resumes and makes satisfactory progress in such training. For purposes of this paragraph (b), good cause means such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to make satisfactory progress in or continue training.

Subpart C—Reemployment Services

§ 617.20 Responsibilities for the delivery of reemployment services.

(a) *State agency referral.* The State agency shall be responsible for referring adversely affected workers to the appropriate office for reemployment services when such individual:

(1) Expresses interest in any reemployment services while receiving UI; or

(2) Exhausts all rights to UI and becomes entitled to TRA.

(b) *State agency responsibilities.* State agency responsibilities under this Subpart C include, but are not limited to:

(1) Registering adversely affected workers for work;

(2) Informing adversely affected workers of the reemployment services and allowances available under the Act, the application procedures, and the filing date requirements for such reemployment services and allowances;

(3) Determining whether suitable employment, as described in § 617.22(a)(1), is available;

(4) Developing, reviewing, and updating, when necessary, reemployment plans for adversely affected workers;

(5) Providing counseling, testing, placement, and supportive services;

(6) Providing or procuring self-directed job search training;

(7) Providing out-of-area job search and relocation assistance;

(8) Making referrals to training;

(9) Locating, approving and procuring training;

(10) Monitoring the provisions of the approved training program;

(11) Determining which occupations and training institutions offer, in a cost effective manner, a reasonable expectation of employment following such training; and

(12) Documenting the standards and procedures used to select occupations and training institutions in which training is approved.

§ 617.21 Reemployment services and allowances.

Reemployment services and allowances under this Subpart C shall include, as appropriate, the following:

(a) *Employment registration.* To ensure, so far as practical, that individuals are placed in jobs which utilize their highest skills and that applicants qualified for job openings are appropriately referred, applications for registration shall be taken on adversely affected workers who apply for reemployment services.

(b) *Employment counseling.* When local job opportunities are not readily available, counseling shall be used to assist individuals to gain a better understanding of themselves in relation to the labor market so that they can more realistically choose or change an occupation or make a suitable job adjustment.

(c) *Vocational testing.* Testing shall be used to determine which individual skills or potentials can be developed by appropriate training.

(d) *Job development.* A State agency shall develop jobs for individuals by soliciting job interviews from public or private employers and shall work with potential employers to customize or restructure particular jobs to meet individual needs.

(e) *Supportive services.* Supportive services shall be provided so individuals can obtain or retain employment or participate in employment and training programs leading to eventual placement in permanent employment. Such services may include work orientation, basic education, communication skills, and any other services necessary to prepare an individual for full employment in accordance with the individual's capabilities and employment opportunities.

(f) *On-the-job training (OJT).* OJT is training, in the public or private sector, and may be provided to an individual who meets the conditions for approval of training, as provided in § 617.22(a), and who has been hired by the employer, while the individual is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

(g) *Classroom training.* This training activity is any training of the type normally conducted in an institutional setting, including vocational education, and may be provided to individuals who meet the conditions for approval of training, as provided in § 617.22(a), to impart technical skills and information required to perform a specific job or group of jobs. Training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education or English-as-a-second-language, shall be considered as supportive services under paragraph (e) of this section.

(h) *Self-directed job search.* Self-directed job search programs shall be initiated to assist individuals in

developing skills and techniques for finding a job. Such programs vary in design and operation and call for a carefully structured approach to individual needs. There are basic elements or activities common to all approaches. These include:

(1) *Job search workshop.* A short (1–3 days) seminar designed to provide participants with knowledge on how to find jobs, including labor market information, applicant resume writing, interviewing techniques, and finding job openings.

(2) *Job finding club.* Encompasses all elements of the Job Search Workshop plus a period (1–2 weeks) of structured, supervised application where participants actually seek employment.

(i) *Job search allowances.* The individual, if eligible, shall be provided job search allowances under Subpart D of this Part 617 to defray the cost of seeking employment outside of the commuting area.

(j) *Relocation allowances.* The individual, if eligible, shall be provided relocation allowances under Subpart E of this Part 617 to defray the cost of moving to a new job outside of the commuting area.

§ 617.22 Approval of training.

(a) *Conditions for approval.* Subject to the availability of funds allocated by the Department to the State to pay for the full costs of training, training may be approved for an individual adversely affected worker only if the State agency determines that:

(1) No suitable employment including technical and professional employment is available. For purposes of this section, the term "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, and wages for such work at not less than 80 percent of the individual's average weekly wage;

(2) The individual would benefit from appropriate training;

(3) There is a reasonable expectation (not necessarily a prior guarantee) of employment following completion of training;

(4) Approved training is available to the individual from governmental agencies or private sources, which may include area vocational education schools (as defined in section 521(3) of the Carl D. Perkins Vocational Education Act) and employers; and

(5) The individual is qualified to undertake and complete such training.

(b) *Time limits for commencing training.* An individual must commence approved training within 60 days after the approval date, except that for good cause shown, as described in § 617.18(b), such period may be extended up to a maximum of 120 days after the date of such approval.

(c) *Approval of training under State law.* Training approved by a State agency under State law is not approved training under this Part 617. If the State agency subsequently determines that the individual and course of training meet the requirements of this Part 617 and training is approved, the costs of such training incurred after such approval shall be paid under this Part 617. No reimbursement shall be authorized for any costs incurred for any period prior to the approval of training, under this Part 617, except in the case of a redetermination or decision reversing a determination denying approval of training under this Part 617.

(d) *Applications.* Applications for, selection for, approval of, or referral to training shall be filed in accordance with this Subpart C and on forms which shall be furnished to individuals by the State agency.

(e) *Determinations.* Selection for, approval of, or referral of an individual to training under this Subpart C, or a decision with respect to any specific training or non-selection, non-approval, or non-referral for any reason shall be a determination to which §§ 617.50 and 617.51 apply.

(f) *Length of training and hours of attendance.* The State agency shall determine the appropriateness of the length of training and the hours of attendance as follows:

(1) The training shall be of suitable duration to achieve the desired skill level in the shortest possible time;

(2) No approved training program shall exceed 104 weeks; and

(3) The hours and days in a week of attendance shall be in accordance with procedures established by the State agency and with established hours and days commensurate with the course as determined by the training facility.

(g) *Training of reemployed workers.* Adversely affected workers who obtain new employment which is not suitable employment, as described in § 617.22(a)(1), and have been approved for training may elect to:

(1) Terminate their jobs, or

(2) Continue in full- or part-time employment, to undertake such training, and shall not be subject to ineligibility or disqualification for UI or TRA as a result of such termination or reduction in employment.

(h) *Fees prohibited.* In no case shall an individual be approved for training under this Subpart C for which the individual is required to pay a fee or tuition.

§ 617.23 Selection of training methods and programs.

(a) *State agency responsibilities.* If suitable employment as described in § 617.22(a)(1), is not otherwise available to an individual or group of individuals, it is the responsibility of the State agency to explore, identify, develop and secure training opportunities and to establish linkages with other public and private agencies, Private Industry Councils (PICs), employers, and Job Training Partnership Act (JTPA) service delivery area (SDA) grant recipients, as appropriate, which return adversely affected workers to employment as soon as possible.

(b) *Firm-specific retraining program.* To the extent practicable before referring an adversely affected worker to approved training, the State agency shall consult with the individual's adversely affected firm and certified or recognized union, or other authorized representative, to develop a retraining program that meets the firm's staffing needs and preserves or restores the employment relationship between the individual and the firm. The fact that there is no need by other employers in the area for individuals in a specific occupation for which training is undertaken shall not preclude the development of an individual retraining program for such occupation with the adversely affected firm.

(c) *Methods of training.* Adversely affected workers may be provided either one or a combination of the following methods of training:

(1) Insofar as possible, priority will be given to on-the-job training, which includes related education necessary to acquire skills needed for a position within a particular occupation, in the firm or elsewhere pursuant to §§ 617.24, 617.25, and 617.26, including training for which the firm pays the costs. This ensures that on-the-job training provides the skills necessary for the individual to obtain employment in an occupation rather than a particular job at a specific site; and

(2) Institutional training, with priority given to providing the training in public area vocational education schools if it is determined that such schools are at least as effective and efficient as other institutional alternatives, pursuant to §§ 617.24, 617.25, and 617.26.

(d) *Standards and procedures.* The State agency shall document the standards and procedures used to select occupations and training institutions in which training is approved. Such occupations and training shall offer a reasonable expectation (not necessarily

a prior guarantee) of employment following such training.

(1) *Standards.* The State agency shall approve training in occupations for which an identifiable demand exists either in the local labor market or in other labor markets for which relocation planning has been implemented. If practicable, placement rates and employer reviews of curriculum shall be used as guides in the selection of training institutions.

(2) *Procedures.* In determining the types of training to be provided, the State agency shall consult with local employers, appropriate labor organizations, Job Service Improvement Program Committees, JTPA SDA grant recipients, PICs, local educational organizations, local apprenticeship programs, local advisory councils established under the Carl D. Perkins Vocational Education Act, and post-secondary institutions.

(3) *Exclusions.* In determining suitable training the State agency shall exclude certain occupations, where:

(i) Lack of employment opportunities exist as substantiated by job orders and other pertinent labor market data; or

(ii) The occupation provides no reasonable expectation of permanent employment.

§ 617.24 Preferred training.

When a State agency refers an adversely affected worker for training, the State agency shall attempt to obtain such training at no cost through:

(a) On-the-job training offered by an employer;

(b) Area vocational education schools, as defined in section 521(3) of the Carl D. Perkins Vocational Education Act;

(c) The JTPA SDA grant recipient; or

(d) Any other applicable law, if preferred training under paragraph (a), (b) or (c) of this section cannot be provided within a reasonable period of time.

§ 617.25 Purchased training.

If the State agency determines that placement of an adversely affected worker in preferred training under § 617.24 cannot be accomplished, the State agency shall attempt to make arrangements or enter into agreements to purchase training or provide for reimbursement of the cost of training through:

(a) On-the-job training offered by an employer;

(b) Area vocational education schools, as defined in section 521(3) of the Carl D. Perkins Vocational Education Act;

(c) The JTPA SDA grant recipient; or

(d) Any other applicable law, if purchased training under paragraph (a), (b) or (c) of this section cannot be provided within a reasonable period of time.

§ 617.26 Approval of other training, including interstate.

(a) *Liable State.* A State may approve and purchase for an adversely affected worker any other training, including on-the-job training or institutional vocational training, if:

(1) Circumstances preclude referral to training under § 617.24 or § 617.25; and

(2) If institutional vocational training, the training has been approved by the State vocational education agency as meeting the standards of adequacy required by the applicable law; and

(3) The approval conditions in § 617.22 are met.

(b) *Agent State.* The State agency performing as an agent State shall be responsible for selection and approval of training under §§ 617.22, 617.24, and 617.25. The agent State agency will pay any training related cost, including subsistence and transportation. The liable State agency is responsible for determining eligibility for TRA, and job search and relocation allowances. The agent State shall assist the individual in applying for such allowances.

§ 617.27 Subsistence payments.

(a) *Eligibility.* A trainee under this Subpart C shall be afforded supplemental assistance necessary to pay costs of separate maintenance when the training facility is located outside the commuting area, but may not receive such supplemental assistance for any period for which the trainee receives such a payment under the JTPA, or any other law, or for any day referred to under § 617.28(c)(3) pursuant to which a transportation allowance is payable to the individual, or to the extent the individual is entitled to be paid or reimbursed for such expenses from any other source.

(b) *Amount.* Subsistence payments shall not exceed the lesser of:

(1) The individual's actual per diem expenses for subsistence; or

(2) 50 percent of the prevailing per diem rate authorized under the Federal travel regulations (*see* 41 CFR Part 101–7) for the locale of the training.

(c) *Applications.* Applications for subsistence payments shall be filed in accordance with this Subpart C and on forms which shall be furnished to trainees by the State agency. Such payments shall be made on completion of a week of training, except that at the beginning of a training project a State agency may advance a payment for a week if it determines that such advance is necessary to enable a trainee to accept training. An adjustment shall be made if the amount of an advance is less or more than the amount to which the trainee is entitled under paragraph (b) of this section. A determination as to an application made under this section shall be subject to §§ 617.50 and 617.51.

(d) *Unexcused absences.* No subsistence payment shall be made to an individual for any day of unexcused absence as certified by the responsible training facility.

§ 617.28 Transportation payments.

(a) *Eligibility.* A trainee under this Subpart C shall be afforded supplemental assistance necessary to pay transportation expenses if the training is outside the commuting area, but may not receive such assistance if transportation is arranged for the trainee as part of a group and paid for by the State agency or to the extent the trainee receives a payment of transportation expenses under another Federal law, or to the extent the individual is entitled to be paid or reimbursed for such expenses from any other source.

(b) *Amount.* A transportation allowance shall not exceed the lesser of:

(1) The actual cost for travel by the least expensive means of transportation reasonably available between the trainee's home and the training facility; or

(2) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations. *See* 41 CFR Part 101–7.

(c) *Travel included.* Travel for which a transportation allowance shall be paid includes travel:

(1) At the beginning and end of the training program;

(2) When the trainee fails for good cause, as described in § 617.18(b)(2), to complete the training program; and

(3) For daily commuting, in lieu of subsistence, but not exceeding the amount otherwise payable as subsistence for each day of commuting.

(d) *Applications.* Applications for transportation payments shall be filed in accordance with this Subpart C and on forms which shall be furnished to trainees by the State agency. Payments may be made in advance. An adjustment shall be made if the amount of an advance is less or more than the amount to which the trainee is entitled under paragraph (b) of this section. A determination as to an application made under this section shall be subject to §§ 617.50 and 617.51.

§ 617.29 Application of EB work test.

(a) *Registration for employment.* Adversely affected workers who have exhausted all rights to UI and who otherwise qualify for TRA under § 617.11, shall, except as provided in paragraph (b) of this section:

(1) Register for work and be referred to work by the State agency in the same manner as required for EB claimants under the applicable State law provisions which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) Be subject to the work test requirements for EB claimants under the applicable State law provisions which are consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

(b) *Exceptions.* Paragraph (a) of this section shall not apply to any week an individual is undergoing training approved under this Subpart C.

Subpart D—Job Search Allowances

§ 617.30 General.

A job search allowance shall be granted an adversely affected worker to assist the individual in securing a job within the United States as provided in this Subpart D.

§ 617.31 Applications.

(a) *Forms.* Applications for job search allowances shall be filed in accordance with this Subpart D and on forms which shall be furnished to individuals by the State agency.

(b) *Submittal.* An application may be submitted to a State agency at any time by an individual who has been totally or partially separated whether or not a certification covering the individual has been made. However, an application must be submitted to a State agency before the job search begins for the job search allowance to be granted, and the job search may not be approved until after the individual is covered under a certification.

(c) *Time limits.* Notwithstanding paragraph (b) of this section, a job search allowance application may be approved only if submitted before:

(1) The 365th day after the date of the certification under which the individual is covered, or the 365th day after the date of the individual's last total separation, whichever is later; or

(2) The 182d day after the concluding date of training approved under Subpart C of this Part 617, or approved under the regulations superseded by this Part 617.

§ 617.32 Eligibility.

(a) *Conditions.* Job search allowance eligibility requires:

(1) A timely filed application;

(2) Total separation from adversely affected employment at the time the job search commences;

(3) Registration with the State agency which shall furnish the individual such reemployment services as are appropriate under Subpart C of this Part 617.

(4) A determination by the State agency that the individual has no reasonable expectation of securing suitable employment in the computing area, and has a reasonable expectation of obtaining suitable employment of long-term duration outside the commuting area and in the area where the job search will be conducted. For purposes of this section, the term "suitable employment" means suitable work as defined in § 617.3(gg) (1) or (2), whichever is applicable to the individual; and

(5) Completion of the job search within a reasonable period not exceeding 30 days after the day on which the job search began.

(b) *Completion of job search.* A job search is deemed completed when the individual either secures employment or has contacted each employer to whom referred by the State agency in connection with a job search.

(c) *Verification of employer contacts.* The State agency shall verify contacts with employers certified by the individual.

§ 617.33 Findings required.

Before final payment of a job search allowance may be approved, the following findings shall be made:

(a) The State agency having jurisdiction under § 617.50(a) must find that the individual meets the eligibility requirements for a job search allowance specified in § 617.32(a).

(b) The State agency of the State where the individual resides must find that:

(1) The application for a job search allowance was submitted within the time limits specified in § 617.31(c);

(2) The individual meets the eligibility requirements for a job search allowance specified in § 617.32(a)(4); and

(3) The individual completed the job search within the time limits stated in § 617.32(a)(5).

§ 617.34 Amount.

(a) *Computation.* The amount of a job search allowance shall be 90 percent of the total costs of each of the following allowable transportation and subsistence items:

(1) *Travel.* The cost allowable for travel shall not exceed the lesser of:

(i) The actual cost of round trip travel by the most economical public transportation the individual reasonably can be expected to take from the individual's residence to the area of job search; or

(ii) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations (*see* 41 CFR Part 101–7) for such roundtrip travel by the usual route from the individual's residence to the area of job search.

(2) *Lodging and meals.* The cost allowable for lodging and meals shall not exceed the lesser of:

(i) The actual cost to the individual of lodging and meals while engaged in the job search; or

(ii) 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (*see* 41 CFR Part 101–7) for the locality where the job search is conducted.

(b) *Limit.* The total job search allowances paid to an individual under a certification may not exceed $600, regardless of the number of job searches undertaken by the individual. The amounts otherwise payable under paragraph (a) of this section shall be reduced by any amounts the individual is entitled to be paid or reimbursed for such expenses from any other source.

§ 617.35 Time and method of payment.

(a) *Determinations.* A State agency shall promptly make and record determinations necessary to assure entitlement of an individual to a job search allowance at any time, before or after a certification covering the individual is made. No job search allowance may be paid or advanced to an individual until the State agency determines that the individual is covered under a certification. A State agency shall make payment as promptly as possible upon determining that the individual is covered under a certification and is otherwise eligible.

(b) *Payment.* Unless paragraph (a) of this section applies, a job search allowance shall be paid promptly after an individual completes a job search and complies with paragraph (d) of this section.

(c) *Advances.* A State agency may advance an individual (except an individual not yet covered under a certification) 60 percent of the estimated amount of the job search allowance payable on completion of the job search, but not exceeding $360, within 5 days prior to commencement of a job search. Such advance shall be deducted from

any payment under paragraph (b) of this section.

(d) *Worker evidence.* On completion of a job search, the individual shall certify on forms furnished by the State agency as to employer contacts made and amounts expended daily for lodging and meals. Receipts shall be required for all lodging and purchased transportation expenses incurred by the individual pursuant to the job search. An adjustment shall be made if the amount of an advance is less or more than the amount to which the individual is entitled under § 617.34.

Subpart E—Relocation Allowances

§ 617.40 General.

A relocation allowance shall be granted an adversely affected worker to assist the individual and the individual's family, if any, to relocate within the United States as stated in this Subpart E. A relocation allowance may be granted an individual only once under a certification. A relocation allowance shall not be granted to more than one member of a family with respect to the same relocation. If applications for a relocation allowance are made by more than one member of a family as to the same relocation, the allowance shall be paid to the head of the family if otherwise eligible.

§ 617.41 Applications.

(a) *Forms.* Applications for a relocation allowance shall be filed in accordance with this Subpart E and on forms which shall be furnished by the State agency.

(b) *Submittal.* An application may be submitted to the State agency at any time by an individual who has been totally or partially separated regardless of whether a certification covering the individual has been made. However, an application must be submitted to a State agency before the relocation begins for the relocation allowance to be granted, and the relocation may not be approved until after the individual is covered under a certification.

(c) *Time limits.* Notwithstanding paragraph (b) of this section, an application for a relocation allowance may not be approved unless submitted before:

(1) The 425th day after the date of the certification under which the individual is covered, or the 425th day after the date of the individual's last total separation, whichever is later; or

(2) The 182d day after the concluding date of training approved under Subpart C of this Part 617, or approved under the regulations superseded by this Part 617.

§ 617.42 Eligibility.

(a) *Conditions.* Eligibility for a relocation allowance requires:

(1) A timely filed application;

(2) Total separation from adversely affected employment at the time relocation commences;

(3) No prior receipt of a relocation allowance under the same certification;

(4) Relocation within the United States and outside the individual's present commuting area;

(5) Registration with the State agency which shall furnish the individual such reemployment services as are appropriate under Subpart C of this Part 617;

(6) A determination by the State agency that the individual has no reasonable expectation of securing suitable employment in the commuting area, and has obtained suitable employment affording a reasonable expectation of employment of long-term duration, or a bona fide offer of such suitable employment, outside the commuting area and in the area of intended relocation. For purposes of this section, the term "suitable employment" means suitable work as defined in § 617.3(gg) (1) or (2), whichever is applicable to the individual; and

(7) Relocation beginning within a reasonable period, as determined under § 617.43(b), and completion of such relocation within a reasonable period of time as determined in accordance with Federal travel regulations and § 617.43(a).

(b) *Job search.* Applications for a relocation allowance and a job search allowance may not be approved concurrently, but the prior payment of a job search allowance shall not otherwise preclude the payment of a relocation allowance.

§ 617.43 Time of relocation.

(a) *Applicable considerations.* In determining whether an individual's relocation is completed in a reasonable period of time, a State agency, among other factors, shall consider whether:

(1) Suitable housing is available in the area of relocation;

(2) The individual can dispose of the individual's residence;

(3) The individual or a family member is ill; and

(4) A member of the individual's family is attending school and when the member can best be transferred to a school in the area of relocation.

(b) *Time limits.* The reasonable period for actually beginning a relocation move shall expire 182 days after the date of application for a relocation allowance, or 182 days after the conclusion of training approved under Subpart C of this Part 617, or approved under the regulations in former 29 CFR Part 91, in effect prior to its redesignation as this 20 CFR Part 617 and its concurrent revision.

§ 617.44 Findings required.

The following findings shall be made before final payment of a relocation allowance may be approved:

(a) *Intrastate relocations.* If the area of relocation is in the State where the individual resides, the State agency of that State shall make all determinations under this Subpart E.

(b) *Interstate relocations.* If the area of relocation is not in the State where the individual resides:

(1) The State agency of the State where the individual resides shall make the determinations under this Subpart E; and

(2) The State agency of the State where the individual resides shall verify directly with the employer, or shall request the State agency of the State of intended relocation to verify, that the individual has obtained suitable employment affording a reasonable expectation of employment of long-term duration, or a bona fide offer of such suitable employment, in the area of intended relocation, in accordance with § 617.42(a)(5)(i).

§ 617.45 Amount.

(a) *Items allowable.* The amount payable as a relocation allowance shall include the following items:

(1) 90 percent of the travel expenses for the individual and family, if any, from the individual's place of residence to the area of relocation, as determined under § 617.46;

(2) 90 percent of the expenses of moving household goods and personal effects of the individual and family, if any, not to exceed the maximum number of pounds net weight authorized under the Federal travel regulations [*see* 41 CFR Part 101-7], between such locations, as determined under § 617.47; and

(3) A lump sum payment, equal to 3 times the individual's average weekly wage, not to exceed $600.

(b) *Reduction.* The amount otherwise payable under paragraphs (a)(1) and (a)(2) of this section shall be reduced by any amount the individual is entitled to be paid or reimbursed for such expenses from any other source.

§ 617.46 Travel allowance.

(a) *Computation.* The amount of travel allowance (including lodging and meals) payable under § 617.45(a)(1) shall be 90 percent of the total costs of each of the

following allowable transportation and subsistence items:

(1) *Transportation.* The cost allowable for transportation shall not exceed the lesser of:

(i) The actual cost of transportation for the individual and family, if any, by the most economical public transportation the individual and family reasonably can be expected to take from the individual's old residence to the individual's new residence in the area of relocation; or

(ii) The cost per mile at the prevailing mileage rate authorized under the Federal travel regulations (*see* 41 CFR Part 101-7) for the usually traveled route from the individual's old residence to the individual's new residence in the area of relocation. No additional mileage shall be payable for family members traveling on the same trip in the same vehicle.

(2) *Lodging and meals.* The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the lesser of:

(i) The actual cost to the individual for lodging and meals while in travel status; or

(ii) 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (*see* 41 CFR Part 101-7) for the locality to which the relocation is made.

(b) *Separate travel.* If, for good cause, a member or members of an individual's family must travel separately to the individual's new residence, 90 percent of the total costs of such separate travel, computed in accordance with paragraph (a) of this section, shall be included in calculating the total amount the individual is entitled to be paid under this Subpart E. For purposes of this paragraph (b), good cause means such reasons as would justify the family member's inability to relocate with the other members of the individual's family, including but not limited to reasons related to the family member's health, schooling or economic circumstances.

(c) *Limitation.* In no case may the individual be paid a travel allowance for the individual or a member of the individual's family more than once in connection with a single relocation.

§ 617.47 Moving allowance.

(a) *Computation.* The amount of a moving allowance payable under § 617.45(a)(2) shall be 90 percent of the total of the allowable costs under either (1), (2), or (3) of this paragraph, and 90 percent of the total allowable costs under (4) of this paragraph:

(1) *Commercial carrier.* Allowable costs for moving household goods and personal effects of an individual and family, if any, shall not exceed the maximum number of pounds net weight authorized under the Federal travel regulations (*see* 41 CFR Part 101-7) by commercial carrier from the individual's old residence to the individual's new residence in the area of relocation, including reasonable and necessary accessorial charges, by the most economical commercial carrier the individual reasonably can be expected to use. Before undertaking such move, the individual must submit to the State agency an estimate from a commercial carrier as to the cost thereof. Accessorial charges shall include the cost of insuring such goods and effects for their actual value or $10,000, whichever is least, against loss or damage in transit, if a bid from a licensed insurer is obtained by the individual and approved by the State agency before departure. If a State agency finds it is more economical to pay a carrier an extra charge to assume the responsibility of a common carrier for such goods and effects, 90 percent of such extra charge, but not exceeding $50, shall be paid in lieu of the cost of insurance.

(2) *Trailer or rental truck*—(i) *Trailer.* If household goods and personal effects are moved by trailer, the allowable costs shall be:

(A) If the trailer is hauled by private vehicle, the cost per mile for the use of the private vehicle at the prevailing mileage rate authorized under the Federal travel regulations (*see* 41 CFR Part 101-7) for the usually traveled route from the individual's old residence to the individual's new residence in the area of relocation; and

(B) If the trailer is rented, and of the type customarily used for moving household goods and personal effects, the rental fee for each day reasonably required to complete the move; or

(C) The actual charge if hauling is by commercial carrier.

(ii) *Rental truck.* If household goods and personal effects are moved by rental truck of the type customarily used for moving household goods and personal effects, the allowable costs shall be:

(A) The rental fee for each day reasonably required to complete the move; and

(B) The necessary fuel for such rental truck paid by the individual.

(3) *House trailer.* If a house trailer or mobile home was used as the individual's place of residence in the old area and will be so used in the new area, the allowable costs of moving such house trailer or mobile home shall be:

(i) The commercial carrier's charges for moving the house trailer or mobile home;

(ii) Charges for unblocking and reblocking;

(iii) Ferry charges, bridge, road, and tunnel tolls, taxes, fees fixed by a State or local authority for permits to transport the unit in or through its jurisdiction, and retention of necessary flagmen; and

(iv) The cost of insuring the house trailer or mobile home, and the personal effects of the individual and family, against loss or damage in transit, in accordance with the provisions in paragraph (a)(1) of this section.

(4) *Temporary storage.* If temporary storage of household goods and personal effects is necessary, the cost of such temporary storage for a period not to exceed 60 days.

(b) *Travel.* Payments under this section shall be in addition to payments for travel expenses for the individual and family, if any, under § 617.45(a)(1), except that the allowable cost for a private vehicle used to haul a trailer may not be paid under this section if any cost with respect to such private vehicle is payable under any other provisions of this Subpart E.

§ 617.48 Time and method of payment.

(a) *Determinations.* A State agency shall promptly make and record determinations necessary to assure an individual's entitlement to a relocation allowance at any time, before or after a certification covering the individual is made. No relocation allowance may be paid or advanced to an individual until the State agency determines that the individual is covered under a certification. A State agency shall make payment as promptly as possible upon determining that the individual is covered under a certification and is otherwise eligible.

(b) *Travel and moving allowances.* Allowances computed under §§ 617.46 and 617.47 shall be paid as follows:

(1) *Travel*—(i) *Transportation and subsistence.* The amounts estimated under § 617.46 at 90 percent of the lowest allowable costs shall be paid in advance at the time an individual departs from the individual's residence to begin relocation or within 10 days prior thereto. An amount payable for a family member approved for separate travel shall be paid to the individual at the time of such family member's departure or within 10 days prior thereto.

(ii) *Worker evidence.* On completion of a relocation, the individual shall certify on forms furnished by the State agency as to the amount expended daily for lodging and meals. Receipts shall be required for all lodging and purchased transportation expenses incurred by the individual and family, if any, pursuant to the relocation. An adjustment shall be made if the amount of an advance is less or more than the amount to which the individual is entitled under § 617.46.

(2) *Moving.* The amount estimated under § 617.47 at 90 percent of the lowest allowable costs shall be paid:

(i) *Commercial carrier.* (A) If household goods and personal effects are moved by commercial carrier, 90 percent of the amount of the estimate submitted by the individual under § 617.47(a)(1) and approved by the State agency for covering the cost of such move, and 90 percent of the other charges approved by the State agency under § 617.47(a)(1) shall be advanced by check or checks payable to the carrier and insurer, and delivered to the individual at the time of the scheduled shipment or within 10 days prior thereto. On completion of the move, the individual shall promptly submit to the State agency a copy of the bill of lading prepared by the carrier, including a receipt evidencing payment of moving costs. The individual shall with such submittal reimburse the State agency the amount, if any, by which the advance made under this paragraph (b)(2)(i) exceeds 90 percent of the actual moving costs approved by the State agency. The individual shall be paid the difference if the amount advanced was less than 90 percent of the actual moving costs approved by the State agency.

(B) If more economical, a State agency may make direct arrangements for moving and insuring an individual's household goods and personal effects with a carrier and insurer selected by the individual and may make payment of 90 percent of moving and insurance costs directly to the carrier and insurer. No such arrangement shall release a carrier from liability otherwise provided by law or contract for loss or damage to the individual's goods and effects. The United States shall not be or become liable to either party for personal injury or property loss damage under any circumstances.

(ii) *Trailer or rental truck*—(A) *Private vehicle with trailer.* If the move is by private vehicle and trailer, the allowable cost for the use of the private vehicle shall be made at the time payment is made under paragraph (b)(1) of this section.

(B) *Rental trailer or rental truck.* If the move is by rental trailer or rental truck:

(*1*) The individual shall submit an estimate of the rental cost from the rental agency; and

(*2*) 90 percent of such estimated rental cost may be advanced by check payable to the order of the individual and the rental agency at the time payment is made under paragraph (b)(1) of this section; and

(*3*) On completion of the move the individual shall submit promptly to the State agency a receipted bill itemizing and evidencing payment of the rental charges for the trailer or truck and fuel costs, and shall reimburse the State agency for the amount, if any, by which the advance made for the trailer or truck exceeds 90 percent of the rental charges approved by the State agency. If the amount of the advance was less than 90 percent of the rental charges, the individual shall be paid the difference.

(iii) *House trailer.* If a house trailer or mobile home is moved by commercial carrier, the individual shall submit to the State agency an estimate of the cost of the move by the commercial carrier. A check for 90 percent of the amount of the estimate, if approved, payable to the individual and the carrier, may be delivered to the individual at the time of the scheduled move or within 10 days prior thereto.

(c) *Lump sum allowance.* The lump sum allowance provided in § 617.45(a)(3) shall be paid when arrangements are completed for relocation of the individual and family, if any, but not more than 10 days before the earlier of the individual's anticipated departure from the individual's residence to begin relocation or the anticipated date of shipment of the individual's household goods and personal effects.

(d) *Relocation completed.* A relocation is completed when an individual and family, if any, and their household goods and personal effects arrive at the individual's residence in the area of relocation. If no household goods and personal effects are moved, a relocation is completed when the individual and family, if any, arrive in the area of relocation and establish a residence in the new area. The later arrival of a family member approved for separate travel shall not alter the date a relocation was completed.

Subpart F—Administration by Applicable State Agencies

§ 617.50 Determinations of entitlement; notices to individuals.

(a) *Determinations of initial applications for TRA or other TAA.* The State Agency whose State law is the applicable State law under § 617.16, or the State agency as provided in § 617.26(d), shall upon the filing of an initial application for TRA or other TAA promptly determine the individual's entitlement to such TRA or other TAA under this Part 617, and may accept for such purpose information and findings supplied by another State agency under this Part 617.

(b) *Determinations of subsequent applications for TRA or other TAA.* The State agency shall, upon the filing of an application for payment of TRA, or subsistence and transportation under §§ 617.27 and 617.28, with respect to a week, promptly determine whether the individual is eligible for a payment of TRA, or subsistence and transportation, with respect to such week, and, if eligible, the amount of TRA, or subsistence and transportation, for which the individual is eligible. In addition, the State agency promptly shall, upon the filing of a subsequent application for job search allowances (where the total of previous job search allowances paid the individual was less than $600), determine whether the individual is eligible for job search allowances, and, if eligible, the amount of job search allowances for which the individual is eligible.

(c) *Redeterminations.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to a claim for UI under the applicable State law shall apply to determinations pertaining to all forms of TAA under this Part 617.

(d) *Use of State law.* In making determinations or redeterminations under this section, or in reviewing such determinations or redeterminations under § 617.51, a State agency, a hearing officer, or a State court shall apply the regulations in this Part 617 and the substantive provisions of the Act. As to matters committed by the Act and this Part 617 to the applicable State law, a State agency, a hearing officer, or a State court shall apply the applicable State law and regulations thereunder, including procedural requirements of such State law or regulations, except so far as such State law or regulations are inconsistent with the Act or this Part 617 or the purpose of the Act or this Part 617.

(e) *Notices to individual.* The State agency shall notify the individual in writing of any determination or redetermination as to entitlement to TAA. Each determination or redetermination shall inform the individual of the reason for the determination or redetermination and of the right to reconsideration or appeal in the same manner as determinations of

entitlement to UI are subject to redetermination or appeal under the applicable State law.

(f) *Promptness.* Full payment of TAA when due shall be made with the greatest promptness that is administratively feasible.

(g) *Procedure.* Except where otherwise required by the Act or this Part 617, the procedures for making and furnishing determinations and written notices of determinations to individuals, shall be consistent with the Secretary's "Standard for Claim Determinations—Separation Information," *Employment Security Manual,* Part V, sections 6010–6015 (Appendix A of this part).

§ 617.51 Appeals and hearings.

(a) *Applicable State law.* A determination or redetermination under this Part 617 shall be subject to review in the same manner and to the same extent as determinations and redeterminations under the applicable State law, and only in that manner and to that extent. Proceedings for review of a determination or redetermination may be consolidated or joined with proceedings for review of a determination or redetermination under the State law where convenient or necessary. Procedures as to the right of appeal and opportunity for fair hearing shall be consistent with sections 303(a)(1) and (3) of the Social Security Act (42 U.S.C. 503(a)(1) and (3)).

(b) *Appeals promptness.* Appeals under paragraph (a) of this section shall be decided with a degree of promptness meeting the Secretary's "Standard on Appeals Promptness—Unemployment Compensation" (Part 650 of this chapter). Any provisions of the applicable State law for advancement or priority of UI cases on judicial calendars, or otherwise intended to provide for prompt payment of UI when due, shall apply to proceedings involving entitlement to TAA under this Part 617.

§ 617.52 Uniform interpretation and application.

(a) *First rule of construction.* The Act and the implementing regulations in this Part 617 shall be construed liberally so as to carry out the purpose of the Act.

(b) *Second rule of construction.* The Act and the implementing regulations in this Part 617 shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act and this Part 617 throughout the United States.

(c) *Effectuating purpose and rules of construction.* (1) To effectuate the purpose of the Act and this Part 617 and to assure uniform interpretation and application of the Act and this Part 617 throughout the United States, a State agency shall forward, not later than 10 days after issuance, to the Department a copy of any judicial or administrative decision ruling on an individual's entitlement to TAA under this Part 617. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to TAA under this Part 617.

(2) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this Part 617, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this Part 617, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies TAA to an individual, the steps outlined in paragraph (c)(2) of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards TAA to an individual, the benefits are "due" within the meaning of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), and therefore must be paid promptly to the individual. However, the State agency, shall take the steps outlined in paragraph (c)(2) of this section, and payments to the individual may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the individual; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of TAA and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding TAA or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the individual.

(4) (i) If any determination, redetermination, or decision, referred to in paragraph (c)(2) or paragraph (c)(3) of this section, is treated as a precedent for any future application for TAA, the Secretary will decide whether the Agreement with the State entered into under the Act and this Part 617 shall be terminated and § 617.59(f) applied.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this Part 617, including any determination, redetermination, or decision referred to in paragraph (c)(2) or paragraph (c)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and § 617.59(f) applied and whether other action shall be taken to recover such sums for the United States.

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (c)(2) or paragraph (c)(3) of this section, and shall be given an opportunity to present views and arguments if desired. Such request shall be made to the Secretary and may include views and arguments on the matters to be decided by the Secretary under paragraph (c)(4) of this section.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

(Approved by the Office of Management and Budget under control number 1205–0222)

§ 617.53 Subpoenas.

A State agency may issue subpoenas for attendance of witnesses and production of records on the same terms and conditions as under the State law. Compliance may be enforced on the same terms and conditions as under the State law, or, if a State court declines to enforce a subpoena issued under this

section, the State agency may petition for an order requiring compliance with such subpoena to the United States District Court within the jurisdiction of which the relevant proceeding under this Part 617 is conducted.

§ 617.54 State agency rulemaking.

A State agency may establish supplemental procedures not inconsistent with the Act or this Part 617 or procedures prescribed by the Department to further effective administration of this Part 617. The exact text of such supplemental procedure or procedures, certified as accurate by a responsible official, employee, or counsel of the State agency, shall be submitted to the Department, on a form supplied by the Department. No supplemental procedure shall be effective unless and until approved by the Department. Approval may be granted on a temporary basis, not to exceed 90 days, in cases of administrative necessity. On reasonable notice to a State agency, approval of a supplemental procedure may be withdrawn at any time. If public notice and opportunity for hearing would be required under a State law for adoption of a similar or analogous procedure involving UI, such public notice and opportunity for hearing shall be afforded by the State agency as to the supplemental procedure.

(Approved by the Office of Management and Budget under control number 1205–0222)

§ 617.55 Overpayments; penalties for fraud.

(a) *Determination and repayment.* (1) If a State agency or a court of competent jurisdiction determines that any individual has received any payment under the Act and this Part 617 to which the individual was not entitled, including a payment referred to in paragraph (b) or paragraph (c) of this section, such individual shall be liable to repay such amount to the State agency, and the State agency shall recover any such overpayment in accordance with the provisions of this Part 617; except that the State agency may waive the recovery of any such overpayment if the State agency determines, in accordance with the guidelines prescribed in paragraph (a)(2) of this section, that:

(i) The payment was made without fault on the part of such individual; and

(ii) Requiring such repayment would be contrary to equity and good conscience.

(2)(i) (A) In determining whether fault exists for purposes of paragraph (a)(1)(i) of this section, the following factors shall be considered:

(*1*) Whether a material statement or representation was made by the individual in connection with the application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

(*2*) Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for TAA that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.

(*3*) Whether the individual knew or could have been expected to know, that the individual was not entitled to the TAA payment.

(*4*) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(*5*) Whether there has been a determination of fraud under paragraph (b) of this section or section 243 of the Act.

(B) An affirmative finding on any one of the factors in paragraphs (a)(2)(i)(A) (*1*)–(*5*) of this section precludes waiver of overpayment recovery.

(ii) (A) In determining whether equity and good conscience exists for purposes of paragraph (a)(1)(ii) of this section, the following factors shall be considered:

(*1*) Whether the overpayment was the result of a decision on appeal, whether the State agency had given notice to the individual that the case has been appealed and that the individual may be required to repay the overpayment in the event of a reversal on appeal, and whether recovery of the overpayment will not cause extraordinary and lasting financial hardship to the individual.

(*2*) Whether recovery of the overpayment will not cause extraordinary financial hardship to the individual, and there has been no affirmative finding under paragraph (a)(2)(ii)(A) of this section with respect to such individual and such overpayment.

(B) An affirmative finding on either of the foregoing factors in paragraphs (a)(2)(ii)(A) (*1*)–(*2*) of this section precludes waiver of overpayment recovery.

(C) (*1*) For the purpose of this paragraph (a)(2)(ii), an extraordinary financial hardship shall exist if recovery of the overpayment would result directly in the individual's loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial period of time; and an extraordinary and lasting financial hardship shall be extraordinary as described above and may be expected to endure for the foreseeable future.

(*2*) In applying this test in the case of attempted recovery by repayment, a substantial period of time shall be 30 days, and the foreseeable future shall be at least three months. In applying this test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future shall be the longest potential period of benefit entitlement as seen at the time of the request for a waiver determination. In making these determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available or potentially available to the individual and the individual's family in the time period being considered.

(*3*) Determinations granting or denying waivers of overpayments shall be made only on request for a waiver determination. Such request shall be made on a form which shall be furnished to the individual by the State agency. Notices of determination of overpayments shall include an accurate description of the waiver provisions of paragraph (a) of this section, if the State agency has elected to allow waivers of TAA overpayments.

(*4*) (*i*) Unless an overpayment is otherwise recovered, or is waived under paragraph (a) of this section, the State agency shall recover the overpayment by deductions from any sums payable to such individual under:

(A) The Act and this Part 617;

(B) Any Federal unemployment compensation law administered by the State agency; or

(C) Any other Federal law administered by the State agency which provides for the payment of unemployment assistance or an allowance with respect to unemployment.

(ii) In addition, a State agency may recover the overpayment from unemployment insurance payable to such individual under the State law.

(iii) No single deduction under this paragraph (a)(4) shall exceed 50 percent of the amount otherwise payable to the individual, and when a deduction is made it shall be 50 percent of the amount actually payable.

(b) *Fraud.* If a State agency or a court of competent jurisdiction finds that an individual:

(1) Knowingly has made, or caused another to make, a false statement or representation of a material fact; or

(2) Knowingly has failed, or caused another to fail, to disclose a material fact; and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under the Act and this Part 617 to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under the Act and this Part 617.

(c) *Training, job search and relocation allowances.* (1) If an individual fails, with good cause, to complete training, a job search, or a relocation, any payment or portion of a payment made under the Act and this Part 617 to such individual, that is not properly and necessarily expended in attempting to complete such training, job search, or relocation, shall constitute an overpayment.

(2) If an individual fails, without good cause, to complete training, a job search, or a relocation, any payment made under the Act and this Part 617 to or on behalf of such individual shall constitute an overpayment.

(3) Such overpayments shall be recovered or waived as provided in paragraph (a) of this section.

(d) *Final determination.* Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under paragraph (a) of this section by the State agency has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

(e) *Deposit.* Any amount recovered by a State agency under this section shall be deposited into the fund from which payment was made.

(f) *Procedural requirements.* (1) The provisions of paragraphs (c), (e), and (g) of § 617.50 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 617.51 shall apply to determinations and redeterminations made pursuant to this section.

(g) *Fraud detection and prevention.* State procedures for the detection and prevention of fraudulent overpayments of TAA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to State unemployment compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection," *Employment Security Manual*, Part V, sections 7510–7515 (Appendix B of this part).

(h) *Debts due the United States or Others.* (1) Notwithstanding any provision of this Part 617, TAA payable to an individual under the Act and this Part 617 shall be applied by the State agency for the recovery by offset of any debt due the United States from the individual.

(2) TAA shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person, except that TRA payable to an individual shall be payable to someone other than the individual if required by State law and Federal law to satisfy the individual's obligations for child support or alimony.

§ 617.56 Inviolate rights to TAA.

Except as specifically provided in this Part 617, the rights of individuals to TAA shall be protected in the same manner and to the same extent as the rights of persons to UI are protected under the applicable State law. Such measures shall include protection of applicants for TAA from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to TAA, except as provided in § 617.55. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to TAA.

§ 617.57 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires and will make all such records available for inspection, examination and audit by such Federal officials as the Secretary may designate or as may be required by law. Such recordkeeping will be adequate to support the reporting of TAA activity on reporting form ETA 563 approved under OMB control number 1205–0016.

(b) *Disclosure of information.* Information in records maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to UI and the entitlement of individuals thereto may be disclosed under the applicable State law. Such information shall not, however, be disclosed to an employer or any other person except to the extent necessary to obtain information from the employer or other person for the purposes of this Part 617. This provision on the confidentiality of information maintained in the administration of the Act shall not apply, however, to the Department or for the purposes of § 617.55 or paragraph (a) of this section, or in the case of information, reports and studies required pursuant to § 617.61, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the Department promulgated thereunder (*see* 29 CFR Parts 70 and 70a).

§ 617.58 Unemployment insurance.

Unemployment insurance payable to an adversely affected worker shall not be denied or reduced for any week by reason of any right to a payment of TAA under the Act and this Part 617.

§ 617.59 Agreements with State agencies.

(a) *Authority.* Before performing any function or exercising any jurisdiction under the Act and this Part 617, a State or a State agency shall execute an Agreement with the Secretary meeting the requirements of the Act.

(b) *Execution.* An Agreement under paragraph (a) of this section shall be signed on behalf of a State by an authorized official of the State and the signature shall be dated. The authority of the official shall be certified by the Attorney General of the State or counsel for the State agency, unless the Agreement is signed by the Governor of the State. An Agreement will be executed on behalf of the United States by the Secretary.

(c) *Public access to Agreements.* The State agency will make available to any individual or organization an accurate copy of the Agreement with the Agency for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

(d) *Amended Agreement.* A State or State agency shall execute an amended Agreement with the Secretary prior to administering any amendments to the TAA provisions of the Trade Act of 1974.

(e) *Agent of United States.* In making determinations, redeterminations, and in connection with proceedings for review thereof, a State or State agency which has executed an Agreement as provided in this section shall be an agent of the United States and shall carry out fully the purposes of the Act and this Part 617.

(f) *Breach.* If the Secretary finds that a State or State agency has not fulfilled its

commitments under its Agreement under this section, section 3302(c)(3) of the Internal Revenue Code of 1954 shall apply. A State or State agency shall receive reasonable notice and opportunity for hearing before a finding is made under section 3302(c)(3) whether there has been a failure to fulfill the commitments under the Agreement.

(g) *Secretary's review of State agency compliance.* The appropriate Regional Administrator shall be initially responsible for the periodic monitoring and reviewing of State and State agency compliance with the Agreement entered into under this section.

§ 617.60 Administration absent State Agreement.

In any State in which no Agreement under § 617.59 is in force, the Secretary shall administer the Act and this Part 617 and pay TAA hereunder through appropriate arrangements made by the Department, and for this purpose the Secretary or the Department shall be substituted for the State agency wherever appropriate in this Part 617. Such arrangements shall include the requirement that TAA be administered in accordance with the Act and this Part 617, and the provisions of the appropriate State law except to the extent that such State law is inconsistent with any provision of the Act or this Part 617 or section 303 of the Social Security Act (42 U.S.C. 503) or section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), and shall also include provision for a fair hearing for any individual whose application for TAA is denied. A final determination under this section as to entitlement to TAA shall be subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

§ 617.61 Information, reports, and studies.

A State agency shall furnish to the Secretary such information and reports and conduct such studies as the Secretary determines are necessary or appropriate for carrying out the purposes of the Act and this Part 617.

§ 617.62 Transitional procedures.

The procedures for administering the Trade Act of 1974 before and after the amendments made by Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) are as follows:

(a) *TRA.* The provisions contained in Subpart B of this Part 617 shall apply with respect to the qualifying requirements for TRA for adversely affected workers who are separated on or after October 1, 1981, and were not entitled to TRA for any week of unemployment beginning before October 1, 1981. In addition, such provisions shall apply to TRA payable for weeks of unemploymant beginning after September 30, 1981, to adversely affected workers separated before October 1, 1981. Any adversely affected worker entitled to TRA for any week of unemployment beginning before October 1, 1981, shall be entitled to TRA as follows:

(1) *Weeks before October 1, 1981.* For weeks of unemployment beginning before October 1, 1981, TRA eligibility shall be determined under the provisions of the law and regulations in effect before the amendments made by Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

(2) *Weeks after September 30, 1981.* (i) *Basic weeks (UI exhaustion).* For any week of unemployment beginning after September 30, 1981, TRA eligibility for an individual who has exhausted all rights to UI prior to such week shall be determined under Subpart B of this Part 617, except that the maximum amount of basic TRA payable to the individual for any such week of unemployment shall be an amount equal to the product of the amount of TRA payable to the individual for a week of total unemployment (as determined under § 617.13(a)) multiplied by a factor determined by subtracting from fifty-two the sum of:

(A) The number of weeks preceding the first week which begins after September 30, 1981, including all weeks in the individual's first benefit period, and which are within the period covered by the same certification as such week of unemployment, for which the individual was entitled to a payment of TRA or UI (or would have been entitled to a payment of TRA or UI if the individual had applied therefor); plus

(B) The number of weeks preceding such first week that are deductible under section 232(d) of the Trade Act of 1974 in effect before the amendments made by the Omnibus Budget Reconciliation Act of 1981.

(C) The amount of TRA payable to an individual under this paragraph (a)(2)(i) shall be subject to adjustment on a week-to-week basis as may be required by § 617.13(b).

(ii) *Basic weeks UI entitlement.* For any week of unemployment beginning after September 30, 1981, TRA eligibility for an individual who still has entitlement to UI shall be discontinued until the individual exhausts all rights to UI as provided in § 6.17.11(a)(5). After exhaustion of all rights to UI, payment of TRA shall be determined under Subpart B of this Part 617, except that the maximum amount of basic TRA payable to the individual for ensuing weeks of unemployment shall be an amount equal to the remainder of:

(A) The maximum amount of basic TRA as computed under paragraph (a)(2)(i) of this section; *minus*

(B) The total sum of UI to which the individual was entitled (or would have been entitled if the individual had applied therefor) for weeks beginning after September 30, 1981.

(iii) *Additional weeks.* With respect to any week of unemployment beginning after September 30, 1981, for an individual who is in training approved under section 236 of the Trade Act of 1974, and who was receiving TRA for basic or additional weeks beginning before October 1, 1981, the weekly amount of TRA for any additional weeks beginning after September 30, 1981, shall be determined under Subpart B of this Part 617.

(3) *Transitional eligibility period.* (i) *Basic weeks.* Any individual who was eligible for a basic TRA payment for any week beginning before October 1, 1981, shall not be eligible for a basic TRA payment for any week beginning after September 30, 1981, and which begins more than 52 weeks after the individual has exhausted all rights to regular compensation in the first benefit period (as provided in § 617.15(a)).

(ii) *Additional weeks.* Any individual who was eligible for a TRA payment for an additional week beginning before October 1, 1981, shall not be eligible for a TRA payment for any additional week beginning after September 30, 1981, unless such additional week begins wtthin:

(A) 26 weeks after the last week of the individual's entitlement to basic TRA, or

(B) 78 weeks after the individual exhausted regular compensation in the first benefit period, whichever occurs first (as provided in § 617.15).

(b) *Training, other reemployment services, and allowances.* (1) Applications for training filed before October 1, 1981, concerning the approval of such training after September 30, 1981, shall be determined under Subpart C of this Part 617.

(2) Applications for transportation and subsistence payments while in training, and job search and relocation allowances filed after September 30, 1981, shall be determined under the applicable Subpart C, D, or E of this Part 617.

(3) Individuals who have had self-financed training approved prior to October 1, 1981, shall not be reimbursed for training and related expenses

incurred while in such training. However, such individuals may have their eligibility for approved training considered under the criteria outlined in the amended section 236 of the Act and in § 617.22, and, if approved, shall be entitled to have post-approval training costs paid.

(c) *Fraud and recovery of overpayments.* The fraud and overpayment recovery provisions of this Subpart F shall take effect on August 13, 1981, and shall apply to all overpayments outstanding on that date or determined on or after that date.

(d) *Required amendments to State law.* The provisions of section 2514(a)(2)(D) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) (relating to amendment of State laws) shall apply to State laws for the purposes of certifications under section 3304(c) of the Internal Revenue Code of 1984 on October 31 of any taxable year after 1981; except that, in any State in which the legislature of that State—

(1) Does not meet in a session which begins after August 13, 1981, and before September 1, 1982, and

(2) If in session on August 13, 1981, and does not remain in session for at least 25 calendar days thereafter, the date of "1981" in this paragraph (d) shall be deemed to be "1982."

§ 617.63 Savings clause.

The amendments to the Act made by Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) shall not abate or otherwise affect entitlement to TAA under the Trade Act of 1974 or any appeal which was pending on October 1, 1981, or on the date of enactment of any such amendment, as applicable, or prevent any appeal from any determination thereunder which did not become final prior to such applicable date if appeal or petition is filed within the time allowed for appeal or petition.

§ 617.64 Termination of TAA Program Benefits.

The following rules are applicable to the termination of TAA benefits under the Act:

(a) No application for TRA, or transportation or subsistence payment while in training approved under Subpart C of this Part 617, shall be approved, and no payment of TRA, or transportation or subsistence, shall be made, for any week which begins after the termination date specified in the Act.

(b) No payment of job search or relocation allowances shall be made after the termination date specified in the Act, unless an application for such allowances was approved, and such job search or relocation was completed, on or before such termination date.

(c) No training under Subpart C of this Part 617 shall be approved unless a determination regarding the approval of such training was made, and such training commenced, on or before the termination date specified in the Act. Consistent with the requirements of section 236(a)(1) of the Act, the availability of funds stipulation in § 617.22(a), and the termination provisions of this paragraph (c), resources may be committed on or before the termination date specified in the Act to cover tuition related expenses which are obligated on or before such termination date.

Appendix A—Standard for Claim Determinations—Separation Information

6010 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for:

"Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation. . . .

Section 3306(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 *Secretary's Interpretation of Federal Law Requirements.* The Secretary interprets the above sections to require that a State law include provisions which will insure that:

A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably insure the payment of benefits to individuals to whom benefits are due.

6012 *Criteria for Review of State Law Conformity with Federal Requirements:*

In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and places of filing claims, the reasons for determinations, and their rights of appeal, as will insure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably insure the payment of benefits to individuals to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 *Claim Determinations Requirements Designed To Meet Department of Labor Criteria:*

A. *Investigation of claims.* The State agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.

This requirement embraces five separate elements:

1. It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility may not be passed on to the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation is necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources and to afford the claimant an opportunity to furnish any further facts he may have.

2. Evidentiary facts must be obtained as distinguished from ultimate facts or conclusions. That a worker was discharged for misconduct is an ultimate fact or conclusion; that he destroyed a machine upon which he was working is a primary or evidentiary fact, and the sort of fact that the requirement refers to.

3. The information obtained must be sufficient reasonably to insure the payment of benefits when due. In general, the investigation made by the agency must be complete enough to provide information upon which the agency may act with reasonable assurance that its decision is consistent with the unemployment compensation law. On the other hand, the investigation should not be so exhaustive and time-consuming as unduly to delay the payment of benefits and to result in excessive costs.

4. Information must be obtained promptly so that the payment of benefits is not unduly delayed.

5. If the State agency requires any particular evidence from the worker, it must give him a reasonable opportunity to obtain such evidence.

B. *Recording of facts.* The agency must keep a written record of the facts considered in reaching its determinations.

C. *Determination notices:*

1. The agency must give each claimant a written notice of:

a. Any monetary determination with respect to his benefit year;

b. Any determination with respect to purging a disqualification if, under the State law, a condition or qualification must be satisfied with respect to each week of disqualification; but in lieu of giving written notice of each determination for each week in which it is determined that the claimant has met the requirements for purging, the agency may inform the claimant that he has purged the disqualification for a week by notation on his applicant identification card or otherwise in writing.

c. Any other determination which adversely affects his rights to benefits, except that written notice of determination need not be given with respect to:

(1) A week in a benefit year for which the claimant's weekly benefit amount is reduced in whole or in part by earnings if, the first time in the benefit year that there is such a reduction, he is required to be furnished a booklet or leaflet containing the information set forth below in paragraph 2f(1). However, a written notice of determination is required if: (a) there is a dispute concerning the reduction with respect to any week (e.g., as to the amount computed as the appropriate reduction, etc.); or (b) there is a change in the State law (or in the application thereof) affecting the reduction; or

(2) Any week in a benefit year subsequent to the first week in such benefit year in which benefits were denied, or reduced in whole or in part for reasons other than earnings, if denial or reduction for such subsequent week is based on the same reason and the same facts as for the first week, and if written notice of determination is required to be given to the claimant with respect to such first week, and with such notice of determination, he is required to be given a booklet or pamphlet containing the information set forth below in paragraph 2f(2) and 2h. However, a written notice of determination is required if: (a) there is a dispute concerning the denial or reduction of benefits with respect to such week; or (b) there is a change in the State law (or in the application thereof) affecting the denial or reduction; or (c) there is a change in the amount of the reduction except as to the balance covered by the last reduction in a series of reductions.

Note.—This procedure may be applied to determinations made with respect to any subsequent weeks for the same reason and on the basis of the same facts: (a) that claimant is unable to work, unavailable for work, or is disqualified under the labor dispute provision; and (b) reducing claimant's weekly benefit amount because of income other than earnings or offset by reason of overpayment.

2. The agency must include in written notices of determinations furnished to claimants sufficient information to enable them to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal.

The written notice of monetary determination must contain the information specified in the following items (except h) unless an item is specifically not applicable. A written notice of any other determination must contain the information specified in as many of the following items as are necessary to enable the claimant to understand the determination and to inform him of his appeal rights. Information specifically applicable to the individual claimant must be contained in the written notice of determination. Information of general application such as (but not limited to) the explanation of benefits for partial unemployment, information as to deductions, seasonality factors, and information as to the manner and place of taking an appeal, extension of the appeal period, and where to obtain information and assistance may be contained in a booklet or leaflet which is given the claimant with his monetary determination.

a. *Base period wages.* The statement concerning base-period wages must be in sufficient detail to show the basis of computation of eligibility and weekly and maximum benefit amounts. (If maximum benefits are allowed, it may not be necessary to show details of earnings.)

b. *Employer name.* The name of the employer who reported the wage is necessary so that the worker may check the wage transcript and know whether it is correct. If the worker is given only the employer number, he may not be able to check the accuracy of the wage transcript.

c. *Explanation of benefit formula—weekly and maximum benefit amounts.* Sufficient information must be given the worker so that he will understand how his weekly benefit amount, including allowances for dependents, and his maximum benefit amount were figured. If benefits are computed by means of a table contained in the law, the table must be furnished with the notice of determination whether benefits are granted or denied.

The written notice of determination must show clearly the weekly benefit amount and the maximum potential benefits to which the claimant is entitled.

The notice to a claimant found ineligible by reason of insufficient earnings in the base period must inform him clearly of the reason for ineligibility. An explanation of the benefit formula contained in a booklet or pamphlet should be given to each claimant at or prior to the time he receives written notice of a monetary determination.

d. *Benefit year.* An explanation of what is meant by the benefit year and identification of the claimant's benefit year must be included in the notice of determination.

e. *Information as to benefits for partial unemployment.* There must be included either in the written notice of determination or in a booklet or pamphlet accompanying the notice an explanation of the claimant's rights to partial benefits for any week with respect to which he is working less than his normal customary full-time workweek because of lack of work and for which he earns less than his weekly benefit amount or weekly benefit amount plus earnings, whichever is provided by the State law. If the explanation is contained in the notice of determination, reference to the item in the notice in which his weekly benefit amount is entered should be made.

f. *Deductions from weekly benefits:*

(1) *Earnings.* Although written notice of determinations deducting earnings from a claimant's weekly benefit amount is generally not required (see paragraph 1 c (1) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction in sufficient detail to enable the claimant to verify the accuracy of the deduction, and his right to protest, request redetermination, and appeal. Where a written notice of determination is given to the claimant because there has been a change in the State law or in the application of the law, an explanation of the change shall be included.

When claimant is not required to receive a written notice of determination, he must be given a booklet or pamphlet the first time in his benefit year that there is a deduction for earnings which shall include the following information:

(a) The method of computing deductions for earnings in sufficient detail to enable the claimant to verify the accuracy of the deduction;

(b) That he will not automatically be given a written notice of determination for a week with respect to which there is a deduction for earnings (unless there is a dispute concerning the reduction with respect to a week or there has been a change in the State law or in the application of the law affecting the deduction) but that he may obtain such a written notice upon request; and

(c) A clear statement of his right to protest, request a redetermination, and appeal from any determination deducting earnings from his weekly benefit amount even though he does not automatically receive a written notice of determination; and if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

(2) *Other deductions:*

(a) A written notice of determination is required with respect to the first week in claimant's benefit year in which there is a reduction from his benefits for a reason other than earnings. This notice must describe the deduction made from claimant's weekly benefit amount, the reason for the deduction, the method of computing it in sufficient detail to enable him to verify the accuracy of such deduction, and his right to protest, request redetermination, or appeal.

(b) A written notice of determination is not required for subsequent weeks that a deduction is made for the same reason and on the basis of the same facts, if the notice of determination pursuant to (2) (a), or a booklet or pamphlet given him with such notice explains (i) the several kinds of deductions which may be made under the State law (e.g., retirement pensions, vacation pay, and overpayments); (ii) the method of computing

each kind of deduction in sufficient detail that claimant will be able to verify the accuracy of deductions made from his weekly benefit payments; (iii) any limitation on the amount of any deduction or the time in which any deduction may be made; (iv) that he will not automatically be given a written notice of determination for subsequent weeks with respect to which there is a deduction for the same reason and on the basis of the same facts, but that he may obtain a written notice of determination upon request; (v) his right to protest, request redetermination, or appeal with respect to subsequent weeks for which there is a reduction from his benefits for the same reason, and on the basis of the same facts even though he does not automatically receive a written notice of determination; and (vi) that if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

g. *Seasonality factors.* If the individual's determination is affected by seasonality factors under the State law, an adequate explanation must be made. General explanations of seasonality factors which may affect determinations for subsequent weeks may be included in a booklet or pamphlet given claimant with his notice of monetary determinations.

h. *Disqualification or ineligibility.* If a disqualification is imposed, or if the claimant is declared ineligible for one or more weeks, he must be given not only a statement of the period of disqualification or ineligibility and the amount of wage-credit reductions, if any, but also an explanation of the reason for the ineligibility or disqualification. This explanation must be sufficiently detailed so that he will understand why he is ineligible or why he has been disqualified, and what he must do in order to requalify for benefits or purge the disqualification. The statement must be individualized to indicate the facts upon which the determination was based, e.g., state, "It is found that you left your work with Blank Company because you were tired of working; the separation was voluntary, and the reason does not constitute good cause," rather than merely the phrase "voluntary quit." Checking a box as to the reason for the disqualification is not a sufficiently detailed explanation. However, this statement of the reason for the disqualification need not be a restatement of all facts considered in arriving at the determination.

i. *Appeal rights.* The claimant must be given information with respect to his appeal rights.

(1) The following information shall be included in the notice of determination:

(a) A statement that he may appeal or, if the State law requires or permits a protest or redetermination before an appeal, that he may protest or request a redetermination.

(b) The period within which an appeal, protest, or request for redetermination must be filed. The number of days provided by statute must be shown as well as either the beginning date or ending date of the period. (It is recommended that the ending date of the appeal period be shown, as this is the more understandable of the alternatives.)

(2) The following information must be included either in the notice of determination or in separate informational material referred to in the notice:

(a) The manner in which the appeal, protest, or request for redetermination must be filed, e.g., by signed letter, written statement, or on a prescribed form, and the place or places to which the appeal, protest, or request for redetermination may be mailed or hand-delivered.

(b) An explanation of any circumstances (such as nonworkdays, good cause, etc.) which will extend the period for the appeal, protest, or request for redetermination beyond the date stated or identified in the notice of determination.

(c) That any further information claimant may need or desire can be obtained together with assistance in filing his appeal, protest, or request for redetermination from the local office.

If the information is given in separate material, the notice of determination would adequately refer to such material if it said, for example, "For other information about your (appeal), (protest), (redetermination) rights, see pages ____ to ____ of the ____ (name of pamphlet or booklet) heretofore furnished to you."

6014 *Separation Information Requirements Designed To Meet Department of Labor Criteria:*

A. *Information to agency.* Where workers are separated, employers are required to furnish the agency promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant's right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant's hours of work and his wages during the claim periods involved, and other facts which might affect a claimant's eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. *Information to worker:*

1. *Information required to be given.* Employers are required to give their employees information and instructions concerning the employees' potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to (a) the name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers' need for this information if and when they file claims for benefits.

2. *Methods for giving information.* The information and instructions required above may be given in any of the following ways:

a. *Posters prominently displayed in the employer's establishment.* The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. *Leaflets.* Leaflets distributed either periodically or at the time of separation or reduction of hours. The State agency should supply employers with a sufficient number of leaflets.

c. *Individual notices.* Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency's publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 *Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information.* If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effects of the alternative provisions. If the Administrator of the Bureau concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, § 601.5.

Appendix B—Standard for Fraud and Overpayment Detection

7510 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 1603(a)(4) of the Internal Revenue Code and section 3030(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation . . ."

Section 1607(h) of the Internal Revenue Code defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

7511 *The Secretary's Interpretation of Federal Law Requirements.* The Secretary of Labor interprets the above sections to require that a State law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation.

7513 *Criteria for Review of State Conformity With Federal Requirements.* In determining State conformity with the above requirements of the Internal Revenue Code and the Social Security Act, as interpreted by the Secretary of Labor, the following criteria will be applied:

A. *Are investigations required to be made after the payment of benefits, (or, in the case of interstate claims, are investigations made by the agent State after the processing of claims) as to claimants' entitlement to benefits paid to them in a sufficient proportion of cases to test the effectiveness of the agency's procedures for the prevention of payments which are not due? To carry out investigations, has the agency assigned to some individual or unit, as a basic function, the responsibility of making or functionally directing such investigations?*

Explanation: It is not feasible to prescribe the extent to which the above activities are required; however, they should always be carried on to such an extent that they will show whether or not error or willful misrepresentation is increasing or decreasing, and will reveal problem areas. The extent and nature of the above activities should be varied according to the seriousness of the problem in the State. The responsible individual or unit should:

1. Check paid claims for overpayment and investigate for willful misrepresentation or, alternatively, advise and assist the operating units in the performance of such functions, or both;

2. Perform consultative services with respect to methods and procedures for the prevention and detection of fraud; and

3. Perform other services which are closely related to the above.

Although a State agency is expected to make a full-time assignment of responsibility to a unit or individual to carry on the functions described above, a small State agency might make these functions a part-time responsibility of one individual. In connection with the detection of overpayments, such a unit or individual might, for example:

(a) Investigate information on suspected benefit fraud received from any agency personnel, and from sources outside the agency, including anonymous complaints;

(b) Investigate information secured from comparisons of benefit payments with employment records to detect cases of concurrent working (whether in covered or noncovered work) and claiming of benefits (including benefit payments in which the agency acted as agent for another State).

The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

Comparisons of benefit payments with employment records are comonly made either by post-audit or by industry surveys. The so-called "post-audit" is a matching of central office wage-record files against benefit payments for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for payroll information to be checked against concurrent benefit lists. A plan of investigation based on a sample post-audit will be considered as partial fulfillment of the investigation program; it would need to be supplemented by other methods capable of detecting overpayments to persons who have moved into noncovered occupations or are claiming interstate benefits.

B. *Are adequate records maintained by which the results of investigations may be evaluated?*

Explanation. To meet this criterion, the State agency will be expected to maintain records of all its activities in the detection of overpayments, showing whether attributable to error or willful misrepresentation, measuring the results obtained through various methods, and noting the remedial action taken in each case. The adequacy and effectiveness of various methods of checking for willful misrepresentation can be evaluated only if records are kept of the results obtained. Internal reports on fraudulent and erroneous overpayments are needed by State agencies for self-evaluation. Detailed records should be maintained in order that the State agency may determine, for example, which of several methods of checking currently used are the most productive. Such records also will provide the basis for drawing a clear distinction between fraud and error.

C. *Does the agency take adequate action with respect to publicity concerning willful misrepresentation and its legal consequences to deter fraud by claimants?*

Explanation. To meet this criterion, the State agency must issue adequate material of claimant eligibility requirements and must take necessary action to obtain publicity on the legal consequences of willful misrepresentation or willful nondisclosure of facts.

Public announcements on convictions and resulting penalties for fraud are generally considered necessary as a deterrent to other persons, and to inform the public that the agency is carrying on an effective program to prevent fraud. This alone is not considered adequate publicity. It is important that information be circulated which will explain clearly and understandably the claimant's rights, and the obligations which he must fulfill to be eligible for benefits. Leaflets for distribution and posters placed in local offices are appropriate media for such information.

*7515 *Evaluation of Alternative State Provisions with Respect to Erroneous and Illegal Payments.* If the methods of administration provided for by the State law do not conform to the suggested methods of meeting the requirements set forth in section 7511, but a State law does provide for alternative methods of administration designed to accomplish the same results, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effect of the alternative methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State's alternative methods of administration meet the criteria.

[FR Doc. 86-28396 Filed 12-19-86; 8:45 am]
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20 CFR Part 617

Trade Adjustment Assistance for Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains a final rule amending the regulations implementing the program of trade adjustment assistance for workers (TAA Program) provided under Chapter 2 of Title II of the Trade Act of 1974 (Pub. L. 93-618). This final rule implements the amendments to the Trade Act of 1974 in sections 2671 and 2672 of the Deficit Reduction Act of 1984 (Pub. L. 98-369).

Sections 2671 and 2672 of Pub. L. 98-369 amended the Trade Act of 1974 (1) to enable workers to receive up to 26 additional weeks of trade readjustment allowances (TRA) by beginning the additional 26-week period with the first week the worker is in training, if such training is approved after the last week of basic TRA entitlement, and (2) to increase the maximum amount payable for job search allowances and the maximum lump sum amount payable for relocation allowances from $600 to $800.

The proposal was published in the **Federal Register** on April 15, 1985, 50 FR

14720, and was numbered Part 635. The final rule is renumbered Part 617.

Note.—Chapter 2 of Title II of the Trade Act of 1974 was further amended by Title XIII, Subtitle A, Part 1 of Pub. L. 99-272, The Consolidated Omnibus Budget Reconciliation Act of 1985, April 7, 1986. The Title XIII amendments do not affect the provisions in this final rule. However, the Department is currently drafting changes to Part 617 implement the 1986 amendments to the statute. At this time, the changes in this document are being made to Part 617 as published elsewhere in today's issue, and become effective on the day following the date on which Part 617 becomes effective.

EFFECTIVE DATE: January 21, 1987.

FOR FURTHER INFORMATION CONTACT: Marvin M. Fooks, Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington DC 20213; telephone (202) 376-2646 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Trade Act of 1974 made major changes in the TAA Program for workers displaced from employment because of increased imports of articles like or directly competitive with articles produced by the workers. 19 U.S.C. 2271 et seq. On the filing of a petition by a group of workers or their representative, the Department of Labor (Department) conducts a factfinding investigation of adverse impact of imports and if it finds that the workers of a firm or a subdivision of a firm have been adversely affected by import competition, a certification is issued declaring that the adversely affected workers are eligible to apply for Trade Adjustment Assistance (TTA). In the Deficit Reduction Act of 1984 further changes were made in the TAA Program. Pub. L. 98-369, §§ 2671 and 2672. These final regulations implement those changes.

The amended TAA provisions are designed to help certified workers who apply for occupational training and additional weeks of TRA on a timely basis to avoid losing weeks of TRA because of delays in the approval of training for reasons beyond workers' control. The amendments are also designed to pay higher job search allowances and relocation allowances.

Discussion of Comments and Changes

The Department received timely written responses from six State employment security agencies. Puerto Rico and Colorado endorsed the proposed regulations. West Virginia and Nevada raised issues and questions that are applicable to proposed regulations issued on March 4, 1983, 48 FR 9444, to implement amendments to the Trade Act of 1974 in Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) and, therefore, are outside the scope of these regulations. These issues and questions will be addressed in separate correspondence.

Michigan and New York submitted comments and suggested changes which were given full consideration before preparing final regulations.

1. The proposed regulation at § 635.15(b) concerns the payment of 26 additional weeks of TRA in the 26-week period that follows the last week of entitlement to basic TRA otherwise payable to the individual; or begins with the first week of such training, if the training is approved after the last week of entitlement to basic TRA. The New York Department of Labor suggests that the phrase ". . . if the training commences after the last week . . ." be substituted for " . . . if the training is approved after the last week . . ." since it would better serve the intent of the statutory amendment by assuring that workers' weeks of eligibility for additional TRA are not diminished while waiting for approved training to begin. New York points out that training approval must precede the start date of such training by several weeks to allow for negotiation and processing of financial agreements with training facilities. The rule as published would, consequently, restrict the worker's eligibility for additional weeks of TRA in those cases where training is approved before the last week of entitlement to basic TRA but training is scheduled to start after that week.

The Department does not concur with the suggestion since the language of the regulation concerning the approval of training after the last week of basic TRA entitlement corresponds with the specific language of section 233(a)(3)(B) of the Trade Act as amended by section 2671 of Pub. L. 98-369 and is not subject to change by regulation. 19 U.S.C. 2293(a)(3)(B).

2. The proposed regulation at § 635.65(a) concerns the applicability of the new provision contained in § 635.15(b) for additional weeks of TRA when training begins after the last week of basic TRA entitlement. This new provision applies to workers who applied for training on or after December 18, 1983, and whose training applications were approved on or after July 18, 1984. The Michigan Employment Security Commission (MESC) points out that the amendment is intended to prevent workers from losing additional weeks of TRA because of delays in placing them in training. If this is the intent, then the provision should apply " . . . if the training is approved to begin after July 18, 1984."

As the proposed rule is now written, MESC claims that workers who begin training on the same date could have different eligibility for additional weeks of TRA depending on their approval date. MESC also claims that the inequity would be eliminated if the regulation is revised to read ". . . approved to begin after July 18, 1984."

The Department does not concur with the suggestion because use of the term "approved" corresponds to section 223(a)(3)(B) of the Trade Act as amended by section 2671 of Pub. L. 98-369 and is not subject to change by regulation. 19 U.S.C. 2293(a)(3)(B).

3. MESC also claims the December 18, 1983 date used in the proposed rule is not in the law and produces, unnecessarily, another inequity for workers who apply for training before December 18, 1983 and were not approved until on or after July 18, 1984. These workers would be ineligible for additional weeks of TRA under the new legislation because of delays in approving their training. MESC claims the intent of the law would be better served by removing the December 18, 1983 date from the proposed rule since the July 18, 1984 date will sufficiently limit applicability of the new provision.

The Department agrees that the December 18, 1983, date is not required by statute and, therefore, is deleted.

4. The proposed regulations at § 635.65(b) increases the maximum amount payable to eligible workers whose application for job search allowances are approved after July 18, 1984. The MESC recommends that the rule be changed to be made effective for applications ". . . that are filed on or after July 18, 1984." It claims the change would conform to the transition for changes in the proposed TAA rule published in the **Federal Register** on March 4, 1983 (48 FR 9444) [proposed regulation implementing the amendments to the Trade Act of 1974 made by Title XXV of the Omnibus Budget Reconciliation Act of 1981] which are effective based on job search application filing date. To use the approval date, the MESC claims, presents operational problems because it is not clear what constitutes approval of a job search application. It stated that a job search is not actually approved until it is paid, after the job search is ended and all verifications and receipts are received.

The Department does not concur in the recommended change. The term "approved" was used because it encompasses a larger universe of

eligible workers than the term "filed." Moreover, the proposed regulation at § 635.31(c) establishes time limits for filing for job search allowances but not for approval. Anticipated operational problems on what constitutes approval can be alleviated by following standard contracting procedures which require written approval prior to incurring expenditures of program funds. However, one clarifying change is made in § 635.65(b)(2) relating to eligibility for the increase in aggregate job search allowances if the full $600 had not been approved prior to July 18, 1984.

5. The proposed regulation at § 635.65(c) increases the lump sum amount payable to eligible workers whose applications for relocation are approved on or after July 18, 1984. MESC recommended the same change as presented for item 4 above, *i.e.*, ". . . filed on or after July 18, 1984."

The Department does not concur in the recommended change for the same reasons as given in response to Item 4 above.

Classification—Executive Order 12291

The final rule is not classified as a "major rule" under Executive Order 12291, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets. Any added costs to the extent that they exist do not represent new burdens imposed by the final rule, but rather are direct statutory obligations. Accordingly, no regulatory impact analysis is required.

Trade Sensitive Activity

The Department believes that the final regulations do not involve trade sensitive activities. This determination is predicated upon the fact that the TAA Program is a domestic program designed to provide assistance to workers adversely affected by import competition and, as such, does not fall within the scope of the Office of Management and Budget's definition of a trade sensitive activity.

Regulatory Flexibility Act

The Department believes that this final rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b), as provided in the Regulatory Flexibility Act. While this rule may affect those agencies in small States that administer the TAA Program, most current TAA Program recipients are generally concentrated in larger industrial States, where jobs have been "hardest hit" by foreign import competition.

States may find some increased administrative costs for reviewing worker applications for training and TRA payments on file when the statutory changes are implemented. However, most of the operating mechanisms needed for the proposed TAA program are in place through the State employment security agencies, including benefit payments, appeals, work search and work test procedures and relocation allowances payment and approval of training assistance. This will assure that any additional administrative cost are minimal. The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as No. 17.245, "Trade Adjustment Assistance—Workers."

List of Subjects in 20 CFR Part 617

Job search assistance, Labor, Reemployment services, Relocation assistance, Trade adjustment assistance, Trade readjustment allowances, Unemployment compensation, Vocational education.

Words of Issuance

For the reasons set out in the preamble, Part 617 of Title 20 of the Code of Federal Regulations, is amended as set forth below.

Signed at Washington, DC, on December 12, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

PART 617—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT OF 1974

1. The authority for Part 617 continues to read as follows:

Authority: 19 U.S.C. 2320; Secretary's Order No. 3–81, 46 FR 3117.

2. Paragraphs (b) and (c) of § 617.15 are revised to read as follows:

§ 617.15 Duration of TRA.

* * * * *

(b) *Additional weeks.* (1) To assist an individual to complete training approved under Subpart C of this Part 617, payments may be made as TRA for up to 26 additional weeks in the 26-week period that—

(i) Follows the last week of entitlement to basic TRA otherwise payable under this Part 617 to the individual; or

(ii) Begins with the first week of such training, if the training is approved after the last week described in paragraph (b)(1)(i) of this section.

(2) To be eligible for TRA for additional weeks, as individual must make a bona fide application for such training—

(i) Within 210 days after the date of the first certification under which the individual is covered; or

(ii) If later, within 210 days after the date of the individual's first qualifying total or partial separation.

(3) Payment of TRA for additional weeks may be made only for those weeks in the 26-week period during which the individual is actually engaged in training and has not been determined under § 617.18(b)(2) of this Part to be failing to make satisfactory progress in the training.

(c) *Limit.* In no case may an individual receive TRA for more than 78 weeks on the basis of a single certification of eligibility to apply for adjustment assistance.

3. Paragraph (b) of § 617.34 is revised to read as follows:

§ 617.34 Amount.

* * * * *

(b) *Limit.* The total job search allowances paid to an individual under a certification may not exceed $800, regardless of the number of job searches undertaken by the individual. The amounts otherwise payable under paragraph (a) of this section shall be reduced by any amounts the individual is entitled to be paid or reimbused for such expenses from any other source.

4. In § 617.45, the introductory text of (a) is republished, and paragraph (a)(3) is revised to read as follows:

§ 617.45 Amount.

(a) *Items allowable.* The amount payable as a relocation allowance shall include the following items:

* * * * *

(3) A lump sum payment, equal to 3 times the individual's average weekly wage, not to exceed $800.

* * * * *

5. Section 617.65 in added as follows:

§ 617.65 Transition procedures for amendments in sections 2671 and 2672 of Pub. L. 98-369 (Deficit Reduction Act of 1984).

The procedures for administering the Trade Act of 1974 as amended by the Deficit Reduction Act of 1984 are as follows:

(a) *TRA.* (1) The provisions in Subpart B of this Part 617 shall apply to workers who would lose additional weeks of TRA payments because of delays in approving applications for training. Workers who filed timely, bona fide applications for training shall be eligible to receive additional weeks of TRA payments beginning the first week of training when their applications for training are approved on or after July 18, 1984, and the first week of such training begins later than the first week which follows the last week of entitlement to basic TRA.

(2) Workers whose applications for training were approved prior to July 18, 1984, are covered under the provisions of the Trade Act of 1974 as in effect prior to July 18, 1984, and are not entitled to additional weeks of TRA by reason of the amendment in section 2671 of the Deficit Reduction Act of 1984 or § 617.15(b) of this Part.

(b) *Job Search Allowances.* (1) The provisions in Subpart D of this Part 617 shall apply to timely applications for job search allowances that are approved on or after July 18, 1984.

(2) Workers whose applications for job search allowances that were filed timely but were approved before July 18, 1984, in the aggregate authorized amount of $600, are covered under the provisions of the Trade Act of 1974 in effect prior to July 18, 1984, and are not entitled to receive the increase in the allowance level provided in section 2672(a) of the Deficit Reduction Act of 1984 and § 617.34(b) of this Part.

(c) *Relocation allowances.* (1) The provisions in Subpart E of this Part 617 shall apply to timely applications for relocation allowances that are approved on or after July 18, 1984.

(2) Workers whose applications for relocations allowances were filed timely but were approved before July 18, 1984, are covered under the provisions of the Trade Act of 1974 in effect prior to July 18, 1984, and are not entitled to receive the increase in the lump sum allowance level provided in section 2672(b) of the Deficit Reduction Act of 1984 and § 617.45(a)(3) of this Part.

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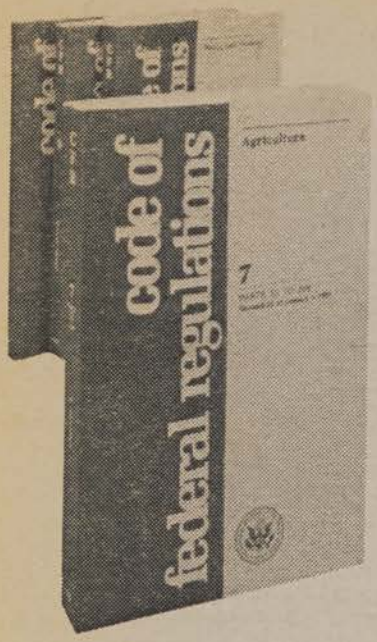
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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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