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Friday
January 30, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Portland, OR, Los Angeles, CA, San Diego, CA, and Houston, TX, see announcement on the inside cover of this issue.

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How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

PORTLAND, OR

WHEN: February 17; at 9 am.
WHERE: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.
RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Portland **503-221-2222**
Seattle **206-442-0570**
Tacoma **206-383-5230**

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.
WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.
RESERVATIONS: Call the Los Angeles Federal Information Center, 213-894-3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.
WHERE: Room 2S31, Federal Building, 880 Front Street, San Diego, CA.
RESERVATIONS: Call the San Diego Federal Information Center, 619-293-6030

HOUSTON, TX

WHEN: March 10; at 9 am.
WHERE: Room 4415, Federal Building, 515 Rusk Avenue, Houston, TX.
RESERVATIONS: Call the Houston Federal Information Center on the following local numbers:

Houston **713-229-2552**
Austin **512-472-5495**
San Antonio **512-224-4471**
New Orleans **504-589-6696**

Contents

Federal Register

Vol. 52, No. 20

Friday, January 30, 1987

Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

Presidential Documents

Title 3—

The President

Proclamation 5603 of January 28, 1987

National Challenger Center Day, 1987

By the President of the United States of America

A Proclamation

Will America continue to lead the world in space exploration as we move into the 21st century?

The Challenger crew, lost one year ago on the 25th Space Shuttle mission, dedicated themselves to America's leadership in space exploration. That leadership depends not only on our courage and determination, but also on the knowledge, capability, and inspiration of our students who will be the researchers and the astronauts of the 21st century.

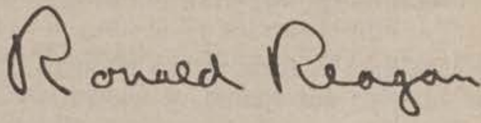
A goal of the Space Shuttle Challenger mission was to bring the study of space science directly and dramatically into the Nation's classrooms.

In recognition of the critical need to provide America's students with access to outstanding space science education and to motivate study and excellence in science, the families of the Challenger crew established a Challenger Center for Space Science Education. This Center will honor the memory of the Challenger crew with an ongoing monument to their achievements, to their courage, and to their dedication to future generations of space explorers.

In commemoration of the brave members of the Challenger crew, the Congress, by Senate Joint Resolution 24, has designated January 28, 1987, as "National Challenger Center Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 28, 1987, as National Challenger Center Day, and I call on the people of the United States to observe this day by remembering the Challenger astronauts who died while serving their country and by reflecting upon the important role the Challenger Center will play in honoring their accomplishments and in furthering their goal of strengthening space and science education.

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



[FR Doc. 87-2058
Filed 1-29-87; 11:58 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5604 of January 28, 1987

American Heart Month, 1987

By the President of the United States of America

A Proclamation

Cardiovascular diseases, including heart disease, stroke, and other vascular disorders, will claim the lives of nearly one million Americans this year. Cardiovascular disease is this Nation's number one health problem—causing more deaths than cancer, accidents, pneumonia, and influenza combined—and one-fifth of all people killed by cardiovascular disease are younger than 65.

More than 63 million of our citizens, more than one-fourth of our population, suffer from some form of cardiovascular disease. High blood pressure alone threatens the lives of more than 57 million Americans age 6 and older. Heart disease strikes regardless of age, race, or sex, and its toll in human suffering is incalculable.

The American Heart Association estimates the economic cost of cardiovascular diseases in 1987 will be more than $85 billion in lost productivity and medical expenses.

But we are making progress against the Nation's number one killer. The American Heart Association, a not-for-profit volunteer health agency, and the Federal government, through the National Heart, Lung and Blood Institute, have been working together since 1948 to find better ways to prevent cardiovascular diseases and stroke and to inform the public and educate the medical community about the most effective techniques to treat the disease.

Medical advances such as new surgical techniques to repair heart defects, improved pharmacological therapies, emergency systems to prevent death, and knowledge to prevent heart disease from occurring have significantly reduced premature death and disability due to cardiovascular disease and stroke. From 1972 to 1984, the death rate has dropped 32.5 percent.

Cardiologists and other health professionals are seeking to reduce the risk of heart disease, stroke, and atherosclerosis (hardening of the arteries) by encouraging Americans to control high blood pressure, stop smoking, and reduce the amount of cholesterol, saturated fats, and sodium in their diets. The American Heart Association, working with two million volunteers, has contributed to this effort through its support of research and its commitment to educating Americans about the need to adopt a sound regimen of proper diet and exercise.

The Federal government, for its part, supports a wide array of cardiovascular research projects and encourages our people to reduce the risks of heart disease by maintaining good health habits.

Recognizing that Americans everywhere have a role to play in this continuing battle against a major killer, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of February 1987 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combatting cardiovascular diseases.

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

Ronald Reagan

[FR Doc. 87-2059
Filed 1-29-87; 11:59 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12581 of January 28, 1987

President's Special Review Board

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to extend the time within which the President's Special Review Board may submit its findings and recommendations to the President, it is hereby ordered that Section 2(b) of Executive Order No. 12575, of December 1, 1986, is amended to provide as follows:

"(b) The Board shall submit its findings and recommendations to the President by February 19, 1987."

Ronald Reagan

THE WHITE HOUSE,
January 28, 1987.

[FR Doc. 87-2060
Filed 1-29-87; 12:00 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 645]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 645 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period January 30, 1987, through February 5, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such period, due to the marketing situation confronting the orange industry.

DATE: Regulation 645 (§ 907.945) is effective for the period January 30, 1987, through February 5, 1987.

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

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

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

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

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1986–87 adopted by the Navel Orange Administrative Committee. The committee met publicly on January 27, 1987, in Lindsay, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 6 to 5, a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for navel oranges has weakened.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read:

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

2. Section 907.945 Navel Orange Regulation 645 is added to read as follows:

§ 907.945 Navel Orange Regulation 645.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 30, 1987, through February 5, 1987, are established as follows:

(a) District 1: 1,500,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

Dated: January 28, 1987.

Thomas R. Clark,

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

[FR Doc. 87-2006 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 907 and 908

Navel and Valencia Oranges Grown in Arizona and Designated Part of California; Reapportionment of the Navel Orange Administrative Committee and Deletion of Obsolete Language Under the Administrative Rules and Regulations of the Valencia Orange Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will reapportion the membership on the Navel Orange Administrative Committee to assure equitable representation among the different marketing organizations in the industry. This rule also deletes an obsolete paragraph of a section of the administrative rules and regulations under the Valencia orange marketing order concerning committee representation.

EFFECTIVE DATE: January 30, 1987.

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

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

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

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

The Navel Orange Administrative Committee (NOAC) reports that there were 4,065 growers during the 1985–86 season and 123 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1 (1985)) as those having average annual gross revenues for the last three fiscal years of less than $100,000. Handlers are considered small entities if revenues are less than $3.5 million. The California-Arizona navel orange industry is characterized by small growers and handlers. The 1985–86 industry total value of production (at the on-tree level) was $190 million, which would average $47,000 per grower.

This action will reapportion the Navel Orange Administrative Committee (NOAC) by increasing the number of members on the committee representing other cooperatives from two to three and decreasing the number of members representing independents from three to two. Such allocation of representation reflects the proportional amount of navel oranges handled by the respective types of marketing organizations.

This action is administrative in nature and will not impose any additional burden on small entities since no actions are required by them to comply with changes in the apportionment of the NOAC. The total number of committee members will remain the same.

This rule is issued under Marketing Order 907, as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). It is hereby found that this action will tend to effectuate the declared policy of the Act.

On July 15, 1986, the NOAC, which locally administers the marketing order, recommended to the Department that membership on the committee be reallocated to more accurately reflect the quantity of oranges handled by the various marketing organizations eligible for membership on the committee. The committee recommended that the number of members in the "other cooperative" category of membership be increased by one grower member and that the members in the independent or unaffiliated category of membership be decreased by one grower member. Presently, there are two "other cooperative" member positions (one grower and one handler and their respective alternates) and three independent positions (two growers and one handler and their respective alternates).

The authority for the committee's recommendation is contained in § 907.29(n) of the marketing order which states that the committee is authorized, with the approval of the Secretary, "to reapportion the number of grower members or handler members on the Navel Orange Administrative Committee who are nominated pursuant to § 907.22 (c) and (d). Any such reapportionment shall be based, insofar as practicable, upon the proportionate amount of navel oranges handled by the respective types of marketing organizations: *Provided,* That each of the grower groups described in § 907.22 (c) and (d) shall be entitled to nominate at least one grower member and one handler member together with their respective alternates." The proportionate amount of navel oranges handled by the respective marketing organizations and the NOAC's procedures for verifying such amounts were audited by a private accounting firm under contract with the Department of Agriculture's Office of the Inspector General (OIG) and the audit results were reviewed by the OIG. The accounting firm and the OIG have determined that the NOAC's procedures for calculating shipments handled by the respective marketing organizations are adequate and the review disclosed no errors which would cause them to believe that the summary of shipments as reported by all shippers for the 1985–86 navel orange season was not presented fairly.

Therefore, § 907.102 will be revised to reflect the reapportionment of committee members in the "other cooperative" and independent categories of membership to more accurately reflect industry representation. Miscellaneous non-substantial technical changes were also made to § 907.102, including deleting language, to conform the revised section to the provisions of the present § 907.104(a). More specifically, the definition of a cooperative marketing organization contained in § 907.104(a) necessitated the deletion of the phrase "which markets oranges and" in the first sentence of § 907.102(a)(2). In addition, paragraph (b) of § 907.104, which provides for selection of committee members, alternates, and additional alternates will be removed because it is obsolete. The remaining portion of the section will be redesignated as appropriate.

When a similar amendment regarding reapportionment of the Valencia Orange Administrative Committee was made in March 1986, paragraph (b) of § 908.104 became obsolete and was inadvertently not omitted. Thus, § 908.104(b) of the administrative rules and regulations under the Valencia orange marketing order will also be deleted as a conforming change because it is obsolete.

A proposal was published in the August 25, 1986, issue of the **Federal Register** (51 FR 30219) and provided interested persons the opportunity for public comment. Comments were received from: Richard J. Pescosolido, Foothill Farms; Perry L. Walker, Vice President for Corporate Affairs, Riverbend Farms, Inc.; and James A. Moody, Sequoia Orange Company, Inc. The comments addressed a number of issues.

Mr. Walker and Mr. Pescosolido questioned the basis of the reapportionment and requested that an audit of the handling percentages by the respective marketing organizations be conducted prior to reapportionment. An audit conducted under the auspices of the OIG has been completed as indicated previously. The audit figures show that the percentage handled by the "other cooperative marketing organizations" exceeds that of the independents. Therefore, the "other cooperative" category is entitled, under current order requirements, to a greater number of grower members than the independent category.

Mr. Moody expressed concern about the method used to calculate shipments for each group represented on the committee. Specifically, he questioned the inclusion of what he termed "unregulated" navel oranges in computations used to calculate the precentage market share of the respective types of marketing organizations on the committee. Fresh domestic shipments include all fresh domestic oranges handled in the United

States and Canada, regardless of whether or not such shipments are regulated under prorate during any given period of the shipping season. Navel oranges used in export and byproduct outlets are not included in the computations. The audit that was verified by the OIG examined total fresh shipments in determining the market share of the various marketing organizations regulated under the navel orange marketing order.

The commenters claimed that three grower cooperatives: Sunny Cove Citrus Association; Irvine Valencia; and Corona College Heights, which currently operate in the California-Arizona navel orange industry should be placed in the independent category for representational purposes on the committee. They assert that, because of the method utilized by these cooperatives in arranging for the packing and selling of their members' fruit, the definition of a cooperative marketing organization should be revised to include these cooperatives under the independent category. Section 907.104 of the order defines cooperative marketing organizations as those Capper-Volstead cooperatives which either market their members' oranges or which perform handling functions, as defined in § 907.11, for their members' oranges. Each of these cooperatives performs both marketing and handling functions for their members. For example, during the 1985–86 season, the three organizations in question applied for and received prorate bases and allotments to handle navel oranges under the terms of the marketing order. In addition, each organization paid assessments on oranges which it handled in fresh domestic markets. Thus, each meets the definition of "handler" specified in the marketing order. Each organization is considered to be a Capper-Volstead cooperative. Therefore, under current rules and regulations, all three organizations are correctly placed in the "other cooperative" category for representational purposes on the NOAC.

The specified commenters also proposed that reapportionment should be postponed until current formal rulemaking procedures are completed. The commenters claimed that the Act requires formal rulemaking procedures in order to accomplish committee reapportionment and that such reapportionment accomplished by informal rulemaking is not authorized by the Act. As previously indicated, § 907.29(n) of the navel orange order specifically provides for reapportionment of NOAC membership between the other cooperative and independent categories based upon the proportionate amount of navel oranges handled by the respective types of marketing organizations. Accordingly, informal rulemaking procedures are authorized and are conducted with the approval of the Secretary when such changes in proportionate amounts occur, as in the current situation. Postponing such reapportionment until formal rulemaking procedures can be completed would not be responsive to recent changes in industry structure.

Mr. Moody suggests that the Secretary of Agriculture's discretionary authority should be used to reject certain nominees on the basis of their marketing organization affiliation, if all nominees in the other cooperative category are made from the same marketing organization. Such an action should, according to Mr. Moody, be done to "preserve necessary diversity". However, membership on the committee is allocated among specified marketing organizations to provide representation to the different marketing groups in the industry. Also, pursuant to § 907.22(e) of the order, the votes of organizations in the "other cooperative" category are weighted according to the volume of oranges handled. Therefore, a single organization could nominate the entire slate of candidates to represent the "other cooperative" category if such organization accounted for the majority of the weighted votes cast in nominations for these positions.

Mr. Moody also questioned reapportionment by informal rulemaking, given that in January 1986, the Director of the Fruit and Vegetable Division denied the NOAC's request for reapportionment. The earlier denial for informal rulemaking to accomplish reapportionment was made because the NOAC's request occurred in January, at a time when reapportionment would serve no useful purpose. The two-year committee term would expire in eight months, the season was half over, and the representative period for purposes of committee representation occurred two years ago for the then current committee. Consequently, the Department made the decision to postpone a decison on reapportionment until the beginning of the 1986–88 term of office and until the fresh domestic shipments for the 1985–86 crop year, which is the representation period for determining membership, were verified.

The commenters claimed that since the structure of the NOAC was the subject of a formal rulemaking proceeding which concluded in 1985, the committee's membership should not now be addressed through this informal rulemaking. However, § 907.29(n) of the order specifically authorizes reapportionment based upon the proportionate amount of navel oranges handled by the respective types of marketing organizations. It is the Department's view that the NOAC should be reapportioned as specified herein to reflect current industry composition.

The commenters expressed the opinion that reducing the number of independent members would result in a reduction or under-representation of diverse viewpoints on the NOAC. While this action reduces the number of independent members by one, the remaining two members will have ample opportunity to express the diversity of opinions of their constituency. Also, any individual may attend committee meetings, talk or correspond with committee members or staff, or otherwise communicate their concerns. It is customary at NOAC meetings for all members to freely express their views and opinions.

All comments submitted with respect to this final rule have been considered in full. While the comments raise some issues which deserve additional industry consideration, those issues should be resolved in the formal rulemaking proceeding that is already in progress. This rulemaking should not be held in abeyance pending the completion of the formal rulemaking.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The current term of office for committee members expired on September 30, 1986, and appointment of members to the subsequent term needs to be completed as soon as possible; (2) § 907.29(n) of the order authorizes the committee, with the approval of the Secretary, to reapportion the number of grower or handler members on the committee; and (3) in this instance, the proportionate amount of navel oranges handled by the respective types of marketing organizations has shifted enough to require such a change in committee representation.

List of Subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges, Navels, and Valencias.

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

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

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.102 is amended by revising paragraphs (a)(2), (a)(3) introductory text, and (a)(3)(viii) to read as follows:

§ 907.102 Nomination procedure.

(a) * * *

(2) All cooperative marketing organizations which are not qualified to nominate members and alternate members pursuant to § 907.22(b), or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, two additional alternate grower members, one handler member, one alternate handler member, and one additional alternate handler member of the committee. The vote of each such organization shall be weighted, as provided in § 907.22(e), by the quantity of oranges which it handled during the marketing year in which the nominations are made.

(3) All growers referred to in § 907.22(d) shall nominate one grower member, one alternate grower member, one additional alternate grower member, one handler member, one alternate handler member, and one additional alternate handler member, in accordance with the following procedures:

(i) * * *

(viii) The names of the persons receiving the highest total number of votes for a particular grower or handler position shall be submitted to the Secretary as the nominees for such positions.

* * * * *

3. Section 907.104 is revised to read as follows:

§ 907.104 Selection criteria.

For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers (i.e. growers) that:

(a) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292); and

(b) Markets oranges regulated under this part, or performs handling functions as defined in § 907.10 for producers thereof.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

4. Section 908.104 is revised to read as follows:

§ 908.104 Selection criteria.

For purposes of this part, the term "cooperative marketing organization" shall mean an association of producers (i.e. growers) that:

(a) Is qualified as a Capper-Volstead cooperative under the provisions of the Act of the Congress of February 18, 1922, known as the "Capper-Volstead Act," (7 U.S.C. 291, 292); and

(b) Markets oranges regulated under this part, or performs handling functions as defined in § 908.10 for the producers thereof.

Dated: January 23, 1987.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–1864 Filed 1–29–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 546]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 546 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 275,000 cartons during the period February 1–7, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 546 (§ 910.846) is effective for the period February 1–7, 1987.

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

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

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

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

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on January 27, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 12 to 1, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that demand is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, and Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.846 is added to read as follows:

§ 910.846 Lemon Regulation 546.

The quantity of lemons grown in California and Arizona which may be handled during the period February 1 through February 7, 1987, is established at 275,000 cartons.

Dated: January 28, 1987.

Thomas R. Clark,

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

[FR Doc. 87-2007 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This regulation reduces the settlement authority delegated to the regional commissioners from $25,000 to $5,000 and eliminates the discrepancy between INS and DOJ regulations.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

For Specific Information: Paul W. Virtue, Associate General Counsel, Office of General Counsel, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–2656.

SUPPLEMENTARY INFORMATION: Department of Justice regulations, 28 CFR 14.6(a), provide that an award, compromise, or settlement of a claim by an agency under the provisions of section 2672 of Title 28, United States Code, in excess of $25,000 shall be effected only with the prior written approval of the Attorney General or his designee. This section was previously interpreted as vesting the INS with authority to settle tort claims of $25,000 or less. 8 CFR 103.1(l) was published to delegate that authority to the regional commissioners. However, 28 CFR 0.172 specifically limits the settlement authority of the Commissioner. By regulation published September 8, 1986 (51 FR 31939) that specific authority was increased from $2,500 to $5,000. This regulation eliminates the discrepancy between INS and Department of Justice regulations.

This regulation pertains to agency management and is therefore, not subject to publication for notice and comment under 5 U.S.C. 553. It will not have a significant economic impact on a substantial number of small entities within the meaning of 5 U.S.C. 605. It is not a rule within the definition of section 1(a) of Executive Order No. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies).

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS, AVAILABILITY OF SERVICE RECORDS

The authority citation for Part 103 continues to read as follows:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103; 31 U.S.C. 9701; OMB Circular A–25.

§ 103.1 [Amended]

2. In § 103.1 paragraph (l)(1) is amended by removing the figure "$25,000" and inserting in lieu thereof the figure "$5,000."

Dated: January 21, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87-1796 Filed 1-29-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 86-051]

Interstate Movement of Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning the requirement that an owner-shipper statement or other document containing specified information accompany certain cattle during interstate movement.

Specifically, this document amends the regulations by deleting the requirement that cattle be accompanied by such an owner-shipper statement or other document when moved interstate if the following conditions are met: If the cattle are moved interstate to a slaughtering establishment operating under Federal or State inspection or to a stockyard specifically approved under 9 CFR 78.44; if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises have not had on the premises any cattle or bison from any other premises within four months prior to the date of movement. The information on the owner-shipper statement or other document, in combination with the individual identification on the animal, is intended to allow an animal found to be infected with a disease to be traced back through marketing channels, and thereby help identify the source of the disease and other animals affected with or exposed to the disease. It has been determined that these changes will not lessen the ability to accomplish these purposes.

Further, for those movements of cattle for which an owner-shipper statement or other document is still required, this document amends the regulations to require additional information on the owner-shipper statement or other document. It has been determined that the additional information will be helpful in determining the source and extent of spread of a disease in the event of a disease outbreak.

EFFECTIVE DATE: March 2, 1987.

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

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 71 (referred to below as the regulations) contain general provisions concerning the interstate transportation of animals and animal products. The regulations are designed to help prevent the interstate spread of communicable diseases of livestock and poultry.

Under § 71.18 of the regulations, as a condition of interstate movement, certain cattle two years of age or older must meet specified requirements concerning individual identification, and must be accompanied by a statement signed by the owner or shipper of the cattle, or other document [1] stating: (a) The point from which the animals are moved interstate; (b) the destination document; and (d) the name and address of the owner or shipper. Under specified circumstances, it is required that the owner-shipper statement or other document also state the identifying numbers of backtags, eartags, or other approved identification applied.

The information on the owner-shipper statement or other document, in combination with the individual identification on the animal, is intended to allow an animal found to be infected with a disease to be traced back through marketing channels and thereby help identify the source of the disease and other animals affected with or exposed to the disease.

A document published in the **Federal Register** on December 31, 1985 (50 FR 53330–53332), proposed to amend the regulations to delete the requirement that cattle be accompanied by an owner-shipper statement or other document when moved interstate if the following conditions are met: If the cattle are moved interstate to a slaughtering establishment operating under Federal or State inspection or to a stockyard specifically approved under 9 CFR 78.25(b) (now 9 CFR 78.44); if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises have not had on the premises any cattle or bison from any other premises within four months prior to the date of movement.

Comments were solicited in response to the proposal for a 60-day period ending March 3, 1986. On March 17, 1986, a document was published in the **Federal Register** (51 FR 9059–9060) extending the comment period to April 16, 1986. Six comments were received in response to the proposal. They were from individuals, State governments, veterinary medical associations, and other interested persons. Three of the comments supported the proposal, two suggested changes, and one addressed a collateral issue raised by the proposal.

All of the comments were carefully considered. Except for those comments indicating unqualified approval of the proposal, all of the comments are discussed below. Based on the rationale set forth in the proposal and in this document, the provisions of the proposal are adopted as a Final Rule, except as discussed below.

One of the comments which suggested changes in the proposal stated that: "Although we agree [with the proposal] that the present owner-shipper statement may not be necessary to move . . . animals to market, we firmly believe that some documentation is necessary in all interstate movements." The comment also stated that "[e]xempting cattle moving interstate from any documentation requirement weakens measures to identify the destination and origin of cattle. The proposed four-month limit would be difficult or impossible to enforce by the compliance officer checking highway movements. . . . The absence of reliable identification makes it almost impossible to assure that designated animals are confined to the alleged route and destination. There is no way to hold a consignor or consignee responsible for the disposition of unidentified cattle."

It appears that this commenter's primary concern is that the proposed regulations would reduce APHIS's control over interstate movement of cattle by eliminating the requirement that an owner-shipper statement accompany cattle interstate under certain specified circumstances. As stated in the document of December 31, 1985, the original regulatory requirement that an owner-shipper statement accompany cattle interstate was intended "to allow an animal found to be infected with a disease to be traced back through marketing channels and thereby help identify the source of the disease and other animals affected with or exposed to the disease". (see 50 FR 53330) Also as stated in the document of December 31, 1985, APHIS believes that under the proposal "[r]ecords kept in the ordinary course of business at . . . slaughtering establishments and stockyards would be adequate to identify the farm or other premises from which the cattle were moved. Further, if cattle with a communicable disease have been moved directly from a farm or other premises where they have been kept for not less than four months prior to the date of movement and which have not had on the premises cattle or bison from any other premises within four months prior to the date of movement, such premises are likely to be the primary foci of infection for cattle moved from the premises that are later found to be diseased. Under these circumstances . . . it is likely that an animal found to be infected with a communicable disease would have contracted the disease and have exposed other animals to the disease at the farm or other premises where it has been for the previous four month period. Accordingly, traceback to such premises would likely be adequate to identify the source of the disease and other animals affected with or exposed to the disease." (see 50 FR 53331)

APHIS reaffirms this rationale. APHIS realizes, as suggested by the comment, that some persons may attempt to circumvent the regulations. However, APHIS believes that normal surveillance of interstate cattle movements, combined with eartag and backtag identification information available through the National Center for Animal Health Information Services would give APHIS adequate information to maintain its control over interstate movement of cattle. For these reasons, no changes are made in the proposed regulations based on this comment. If, after the proposed regulations become effective, it becomes apparent that an owner-shipper statement or other document is necessary to accompany all interstate cattle movements, a proposal could be published to establish such a requirement.

The other comment which suggested changes in the proposed regulations stated that requirements for owner-shipper statements should be totally deleted from the regulations. The comment also stated that if documentation requirements are intended to apply only to dealers, the regulations should indicate that fact, though the commenter's opinion was that such a requirement would not be "workable" and would not contribute to disease control efforts.

No changes are made in the proposed regulations based on this comment. The proposed regulations were not intended to require that only cattle owned by dealers be accompanied interstate by an owner-shipper statement. The proposed regulations were intended to help ensure, as explained above, that adequate information is available to allow all animals found to be diseased to be traced back through commercial channels, without requiring unnecessary documentation. In accordance with this intention, under the proposed regulations the same documentation requirements apply whether the shipment comes from a dealer's premises or other premises.

The remaining comment raised the question of whether a dealer's concentration yard is a "farm, ranch or

[1] Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed the required information.

feedlot" and suggested that the regulations should be amended to clarify the meaning of these terms.

No change is made in the proposed regulations based on this comment. The proposed regulations clearly apply to cattle moved from any type of premises. It is therefore not necessary for purposes of the proposed regulations to specifically define "farm", "ranch", "feedlot", "dealer" or "dealer's concentration yard".

Three of the provisions in the proposal are not adopted as a final rule. Among other things, the proposal would have amended footnote number 1 in §§ 71.18, 71.18(a)(1)(i), and 71.18(a)(1)(ii) to correct references to sections in 9 CFR Part 78 and to delete the terminology that is not presently used in the regulations in 9 CFR Subchapter C. After the proposal was published on December 30, 1985, a final rulemaking document in a separate rulemaking proceeding was published in the **Federal Register**, which, among other things, revised footnote 1 in §§ 71.18, 71.18(a)(1)(i), and 71.18(a)(1)(ii) to correct the references to sections in 9 CFR Part 78 and delete terminology that is not presently used in the regulations in 9 CFR Subchapter C. (See 51 FR 32574–32600). Therefore, the need for adopting the three provisions in question in the proposal has been obviated.

Further, this final rule changes certain terminology which was used in actions 9 and 12 in the proposal to conform this terminology to that which is presently used in footnote 1 in §71.18 (15 FR 32599, §71.18(a)(1)(i) (15 FR 32600), and §71.18(a)(1)(ii) (51 FR 32600).

Miscellaneous

This document includes other nonsubstantive changes for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

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

It is not anticipated that this section will have any signficiant effect on the number of cattle moved interstate within the United States or on the cost of moving such animals interstate.

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

Executive Order 12372

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

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579–0051.

List of Subjects in 9 CFR Part 71

Animal Disease, Livestock and Livestock Products, Poultry and Poultry Products, Quarantine, Transportation.

Accordingly, the regulations in 9 CFR Part 71 are amended as follows:

PART 71—GENERAL PROVISIONS

1. The authority citation for Part 71 is revised to read as set forth below and the authority citations following all the sections in Part 71 are removed:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 71.18 [Amended]

2. In paragraph (a)(1)(i) of §71.18 "except as provided in paragraph (a)(5) of this section," is added after "and if".

3. In paragraph (a)(1)(i) of § 71.18 "(e)" is changed to "(g)" and "(d) the name and address of the owner or shipper, and" is changed to "(d) the name and address of the owner at the time of movement; (e) the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; (f) the name and address of the shipper; and".

4. In paragraph (a)(1)(ii) of § 71.18 "subdivision (i), and when moved interstate," is changed to "paragraph (a)(1)(i) of this section and, except as provided in paragraph (a)(5) of this section, when moved interstate,".

5. In paragraph (a)(1)(ii) of § 71.18 "(d) the name and address of the owner or shipper:" is changed to "(d) the name and address of the owner at the time of movement; (e) the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; and (f) the name and address of the shipper:".

6. In paragraph (a)(1)(ii) of § 71.18 "federally inspected or specifically approved slaughtering establishment" is changed to "recognized slaughtering establishment as defined in § 78.1 of this Chapter" each time it appears.

7. In paragraph (a)(1)(iii) of § 71.18 "(e) the name and address of the owner or shipper:" is changed to "(e) the name and address of the owner at the time of movement; (f) the name and address of the previous owner if ownership changed within four months prior to the movement of the cattle; and (g) the name and address of the shipper:".

8. In paragraph (a)(1)(iii) of § 71.18, "and are accompanied" is changed to "and, except as provided in paragraph (a)(5) of this section, are accompanied".

9. In §71.18, a new paragraph (a)(5) is added to read as follows:

§ 71.18 Individual identification of certain cattle 2 years of age or over for interstate movement.

(a) * * *

(5) Cattle that would otherwise be required to be accompanied by an owner-shipper statement or other document [2] as a condition of movement in interstate commerce under paragraph (a)(1) of this section, shall not be required to be accompanied by such an owner-shipper statement or other document [2] if the following conditions are met: if the cattle are moved to a recognized slaughtering establishment as defined in § 78.1 of this chapter or to a stockyard specifically approved under § 78.44 of this chapter; if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises has not had on the premises any cattle or bison from any other premises within four months prior to the date of movement.

[2] Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed the required information.

Done at Washington, DC, this 27th day of January 1987.

J.K. Atwell,

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

[FR Doc. 87-1863 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-34

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9 CFR Part 92

[Docket No. 86-107]

Importation of Horses; Mares From Countries Affected With CEM

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to permit the importation into the United States from countries affected with contagious equine metritis (CEM) of mares over 731 days of age that have not undergone a clitoral sinusectomy, when specific requirements to prevent their introducing CEM into the United States are met. This action is warranted to provide an additional means of importing such mares into the United States, when such importation can be carried out without undue risk to horses in the United States. We are also clarifying the regulations concerning the anatomical location of specimens taken from mares being tested for CEM, the supervision of certain surgery, topical treatment and specimen collection requirements for certain stallions and mares imported from CEM countries, and the number and frequency of certain specimens required from mares and stallions imported from CEM countries.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. R. D. Whiting, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: On September 4, 1986, we published a document in the **Federal Register** (51 FR 31637-31644), in which we proposed to amend the regulations in 9 CFR Part 92 (referred to below as the regulations), which contain provisions concerning the importation into the United States of specified animals and animal products, and which are designed to prevent the introduction into the United States of various diseases, including contagious equine metritis (CEM). CEM is a venereal disease of horses that affects fertility and breeding.

Specifically, we proposed provisions for the importation of mares over 731 days of age that have not undergone a clitoral sinusectomy. Such an amendment is warranted because it provides an additional means of importing such mares into the United States without undue risk of transmitting CEM to horses in the United States.

We solicited comments concerning the proposal for a 30-day period ending October 6, 1986, and received six comments. These comments were from the University of Kentucky College of Agriculture, the Kentucky Thoroughbred Association, the American Horse Council, two foreign thoroughbred associations, and the Tripartite Group, representing France, the Republic of Ireland, and Great Britain.

One commenter favored adoption of the proposed rule without change. The other comments primarily addressed two provisions in our proposal: (1) The number of years for which breeding records should be required for the mares intended for importation; and (2) the determination of which mares should be ineligible for importation because they have been bred by a stallion that sometime in its life has been affected with CEM.

We have carefully considered all of the comments submitted in response to the proposal, and discuss below the issues raised by the comments. Based on the rationale set forth in the proposal and in this document, we have adopted the provisions of the proposal as a final rule with the changes discussed below.

Breeding Records

As one of the safeguards against transmission of CEM to horses in the United States by a mare that is from a CEM country and that has not undergone a clitoral sinusectomy, we proposed that records of the mare's breeding history for each of the years the mare was bred during the 5 years preceding its importation into the United States be available for inspection by a salaried representative of the National Veterinary Services of the country of origin. This requirement was proposed to provide officials of the National Veterinary Services of the country of origin with documentation that would allow them to determine if either the mare or any stallion by which the mare was bred was affected with CEM at the time of the breeding.

Three commenters suggested that reducing such recordkeeping requirements from 5 years to 3 years would provide adequate records to help ensure that a mare is not affected with CEM at the time of importation. We agree that a 3-year provision, in combination with the other requirements we are adopting, will provide adequate records to determine if a mare is at risk of being affected with CEM at the time of importation. For each mare intended for importation under the final rule, we are requiring that a certificate be signed by an authorized veterinarian in the country of origin, indicating that the mare has never resided in a CEM-affected country, unless the country has had in effect for no less than 5 years preceding the mare's importation into the United States a code of practice containing requirements and procedures designed to contain and eradicate CEM, and unless the country is one in which CEM is a disease notifiable or reportable to the National Veterinary Services of the country of origin for the breed of which the mare is a registered member.

Further, the certificate must show, among other things, the following: that the CEM organism has never been recovered from the mare and that the mare has never been affected with CEM; that during the 12 months preceding its importation into the United States, the mare has not been on a premises on which CEM has during the 12-month period been diagnosed in any horse; and, that all specimen cultures required by the proposal have been found negative for CEM.

We believe that such certification requirements, in combination with the availability of the mare's breeding records for the 3 years prior to importation, would ensure that the mare is not affected with CEM at the time of importation. Consequently, we are requiring that records of the mare's breeding history for each of the years the mare was bred during the 3 years preceding its importation into the United States be available for inspection by a salaried representative of the National Veterinary Services of the country of origin.

Approved Laboratories

As part of the 3 years of breeding records discussed above, we proposed that the records must show, among other things, that the mare has at no time been affected with CEM when bred, based on bacteriological results from cultures that were taken by a veterinarian each time the mare was bred and that were analyzed by a laboratory approved to culture for CEM for the National Veterinary Services of the country of origin. One commenter, indicated, however, that in some countries the laboratories that carry out routine bacteriological testing under a code of practice are not government-approved, although they are subject to quality control by the authorities responsible for the code of practice. Consequently, in reference to the laboratories, the commenter suggested that the words "approved to culture for CEM" be replaced by the words "recognized for the culture of CEM."

We are making no changes based on this comment. To a significant extent, the protection against transmission of CEM to horses in the United States by a mare imported into the United States under this final rule is based on certification in the country of origin that the mare has never been affected with CEM. It is therefore important that the culture results of specimens taken from the mare at breeding time be reliable. Because a code of practice is a voluntary system of procedures, we cannot fully rely on culture results unless they are conducted in a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin.

Source of Certification

We proposed that the certificate regarding the mare's CEM history that is required from the country of origin, and that was discussed above, also be issued for each country in which the mare resided during the 5 years preceding the mare's importation into the United States. The certificate as proposed would have included the dates that the mare was in the country that issues each certificate. One commenter suggested that it was unnecessary to require such a certificate from countries other than the country of origin, because we are requiring that the mare's entire CEM history be certified by an authorized veterinarian in the country of origin. Because we agree that the certification required from the country of origin will include the mare's history from other countries in which the mare has resided in the 5 years preceding importation, we are requiring such certification only from the country of origin. Included in the certification, however, we are requiring the names of the countries in which the mare has resided during the 5-year period, and the dates of such residences. This information will enable us to adequately track the history of the mare, and so determine the sufficiently of measures being taken to control and eradicate CEM in each of the countries, and eliminate the risk of introducing CEM from countries that do not have control and eradication programs.

Breeding With Stallions Affected With CEM

On the certificate discussed above, we proposed to require certification that the mare have at no time been bred by a stallion that is known to have been affected with CEM. Because CEM is a venereal disease, a mare's sexual contact with a stallion affected with CEM at the time of the breeding will very likely result in CEM's being transmitted to the mare. Several commenters suggested that we were being unnecessarily stringent in proposing that the stallion *never* has been affected with CEM. They noted that because currently available treatments can with relative ease decontaminate a stallion affected with CEM, a stallion determined to be affected with CEM *prior* to its breeding with a mare is highly likely already to have been treated for and cleansed of CEM at the time of the breeding. Further, they said, a stallion found to be contaminated with CEM *after* breeding with the mare is not likely to have been affected with CEM at the time of the breeding.

These commenters suggested some modification of the proposed requirement that the mare have at no time been bred by a stallion known to have been affected with CEM. Two commenters suggested that only stallions affected with CEM in the year of the breeding be considered "contaminated." One commenter suggested that a stallion affected with CEM no later than 5 years prior to the breeding be considered "safe." One commenter suggested that the provision should exempt mares bred to stallions prior to the season the stallion is known to have been affected with CEM, and exempt mares if they either produce foals in two or more breeding seasons after the season in which the stallion was last known to be affected with CEM or are bred at least two seasons after the stallion was last known to be affected with CEM. One commenter suggested that the provision be modified to apply only to a mare that has been bred to a stallion in the year in which the stallion is known to have been contaminated with the CEM organism or in the following year.

The suggestion to consider as contaminated only stallions affected with CEM in the year of the breeding is rejected. If a stallion is diagnosed as being affected with CEM in the year following the year the mare is bred, there is a possibility that the mare intended for importation transmitted CEM to the stallion. The risk of this possibility is too great to allow the mare in question to be imported without a sinusectomy.

The suggestion to disqualify mares that have been bred by a stallion that is determined to be affected with CEM during the 5 years prior to the breeding is rejected on the grounds that it is too stringent, in light of the effective treatments for CEM that currently exist, and that were cited by other commenters and are noted above.

We are rejecting the suggestion that mares not be disqualified only if they either produce foals in two or more breeding seasons after the season in which the stallion last exhibited any signs of CEM or if they are bred at least two seasons after the stallion was last known to be affected with CEM. These safeguards would concern mares bred to a stallion in a year *after* the stallion was found to be affected with CEM. While such provisions would help ensure that such a mare is not affected with CEM when imported, they are unnecessarily stringent in light of the standard and effective treatments that are used to cleanse stallions of the CEM organism before they are bred to mares.

We are adopting the suggestion that mares be ineligible for importation without a clitoral sinusectomy if they are bred to a stallion that is determined to be affected with CEM either in the year of the breeding or the following year. By including the "one-year-after" provision, we are providing a safeguard in the event the stallion found to be affected with CEM in the following year received the organism from the mare intended for importation.

Period of Certified Information

One commenter noted that 9 CFR 92.17 requires that a horse imported into the United States from any part of the world be accompanied by a veterinary certificate showing, among other things, that the horse has not been in any country affected with CEM during the 12 months preceding importation. This commenter pointed out that such a horse could have resided in a CEM-affected country until 12 months before its importation, and, as long as it resided in a non-CEM-affected country for the 12 months preceding its importation, not be subject to the provisions proposed for horses imported from CEM countries. The commenter concluded that, to be consistent with 9 CFR 92.17, any recordkeeping that the rule proposed for horses imported from CEM countries should cover only the 12 months preceding the horse's importation into the United States.

This suggestion is rejected. A country in which CEM does not currently exist is highly unlikely to allow the importation of a horse from a CEM country without requiring that the horse undergo stringent testing and, if necessary, treatment. This fact serves as a safeguard against a CEM-affected horse being imported into the United States from a non-CEM country, even if a horse imported from that country had at sometime prior to the 12 months preceding importation resided in a CEM-affected country. In contrast, countries in which CEM currently exists are not as likely to impose stringent testing and treatment requirements for horses imported from other CEM-countries. Consequently, the culturing, treatment, and recordkeeping requirements that we proposed are necessary for horses imported from CEM countries.

Certification of Abstinence From Breeding

One of the criteria for importing a mare into the United States without her having undergone a clitoral sinusectomy is that the mare not be bred from the time she undergoes the treatment required by the regulations through the date of export. Although our proposal did not specify that such information be included on the certificate required from the country of origin, one commenter suggested that it should. To ensure that the mare is not bred from the time of treatment until export, we are requiring that such information be included on the required certificate.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been classified as not a major rule. The Department has determined that this action will not have a significant annual effect on the economy; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The primary effect of this document will be to reduce the time necessary to prepare a mare for importation and to lower the cost of such importation, without increasing the risk of disseminating CEM in the United States. This rule will not significantly change the number of mares currently imported into the United States.

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions that are included in this rule under § 92.4, have been approved by the Office of Management and Budget (OMB) and have been given the 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, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues 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 § 92.1, a new definition of "Code of Practice" is added as paragraph (cc), to read as follows:

§ 92.1 Definitions.

* * * * *

(cc) *Code of practice.* A voluntary system of procedures designed to reduce disease spread, that is established by the veterinarians and horse industry in a country and that includes procedures for the following: testing for and treatment of the disease, quarantine of horses that are affected with or are suspected of being affected with the disease, certification of whether horses have been affected with or exposed to the disease, and hygiene for personnel conducting treatments and specimen collections.

3. § 92.2, paragraphs (1)(2)(iii)(C), (i)(2)(iv) (A) and (B), (i)(2)(v)(A)(2)(*i*), (i)(2)(v)(B), (i)(2)(v)(E), and (i)(2)(v)(G) are revised, paragraph (i)(2)(vi) is redesignated as (i)(2)(vii), and a new paragraph (i)(2)(vi) is added, as follows:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(2) * * *

(iii) * * *

(C) For stallions over 731 days of age, that negative cultures were obtained from sets of specimens collected on 3 separate occasions from each of the surfaces of the urethral fossa, the urethra, and the penile sheath for each set of specimens, at intervals of not less than 7 days between the collection of each set of specimens, and that the last set of specimens was collected within 30 days of the date of exportation; and

* * * * *

(iv) * * *

(A) On 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion described on the certificate were aseptically cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent of a surgical type of chlorhexidine and were then thoroughly coated (packed) with an ointment of not less than 0.2 percent nitrofurozone, either by or under the supervision of the veterinarian signing the certificate;

(B) After an interim of 7 days following the 5th consecutive day of scrubbing and packing required in paragraph (i)(2)(A) of this section, 3 separate sets of 3 specimens each were collected from the stallion described on the certificate, at intervals of not less than 7 days between the collection of each set, from the surface of the fossa glandis, urethral sinus, and the penile sheath respectively, either by or under the supervision of the veterinarian signing the certificate, and that all of the 9 specimens collected were cultured negative for CEM in a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin;

* * * * *

(v) * * *

(A) * * *

(2) * * *

(*i*) That the veterinarian signing the certificate either performed or directly supervised the surgery, topical treatment, and specimen collection required by paragraphs (i)(2)(v)(B), (i)(2)(v)(C), (i)(2)(v)(D), (i)(2)(v)(E), and (i)(2)(v)(G) of this section.

* * * * *

(B) A licensed veterinarian collects a specimen from each clitoral sinus of the mare within 2 hours prior to the surgery required by paragraph (i)(2)(v)(C) of this section, and submits such specimens to a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin; and

* * * * *

(E) After an interim of 7 days following the 5th consecutive day of scrubbing the external genitalia and the vaginal vestibule and filling the clitoral fossa, a licensed veterinarian on 3 separate occasions collects a specimen from the clitoral fossa, at intervals of not less than 7 days between the collection of each specimen, and each specimen is cultured with negative results for CEM at a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. For any nonpregnant mare, a licensed veterinarian collects an additional specimen during estrus from the endometrium of the uterus and the specimen is cultured with negative results for CEM at a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. The last of the 3 specimens collected from the clitoral fossa during this procedure is collected within 30 days of the date of export of the mare described on the certificate; and

* * * * *

(G) Any specimen required by paragraph (i)(2)(v)(B), (i)(2)(v)(C), (i)(2)(v)(D), or (i)(2)(v)(E) of this section is found to be positive for CEM, and a licensed veterinarian on 3 separate occasions collects an additional specimen from the clitoral fossa, at intervals of not less than 7 days between the collection of each specimen, with the first additional specimen collected not less than 1 year from the date of the last positive culture, and each additional specimen is cultured with negative results at a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. One additional specimen shall be collected from the endometrium of the uterus during estrus. The last of the 3 specimens collected from the clitoral fossa shall be collected within 30 days prior to the date of export.

* * * * *

(vi) Any mare over 731 days of age imported, if:

(A) The mare is accompanied by an import permit as required in § 92.4; and,

(B) The mare is accompanied by a certificate which contains the information required by § 92.17, which is either signed by a salaried veterinarian of the National Veterinary Services of the country of origin or signed by a veterinarian authorized by the National Veterinary Services of the country of origin and endorsed by a salaried veterinarian of the National Veterinary Services of the country of origin, thereby representing that the veterinarian signing the certificate was authorized to do so, and, which in addition, states:

(*1*) That the mare has never resided in a country in which CEM is known to exist, unless such country has had in effect for no less than 5 years preceding the mare's importation into the United States a code of practice containing requirements and procedures designed to contain and eradicate CEM, and unless such country is one in which CEM is a disease notifiable or reportable to the National Veterinary Services of the Country of origin for the breed of which the mare is a registered member;

(*2*) That the CEM organism has never been recovered from the mare and the mare has at no time been affected with CEM;

(*3*) That the mare has not been bred by a stallion that is known to have been affected with CEM in the year of such breeding or in the following year;

(*4*) That during the 12 months preceding its importation into the United States, the mare has not been on a premises on which CEM has within such 12-month period been diagnosed in any horse on such premises;

(*5*) The results of all cultures required by paragraph (i)(2)(vi) of this section and the name of the laboratory that conducted such cultures;

(*6*) That all specimens required to be cultured have been found negative for CEM; and

(*7*) The name of each country in which the mare has resided during the 5 years preceding the mare's importation into the United States, and the dates during which the mare resided in such countries; and

(C) Records of the mare's breeding history for each year the mare has been bred during the 3 years preceding its importation into the United States are available for inspection by a salaried representative of the National Veterinary Services of the country of origin. Such records shall include the names of stallions by which the mare was bred, and shall indicate that such stallions have at no time been affected with CEM. Such records shall also indicate that the mare has at no time been affected with CEM when bred, based on bacteriological results from cultures that were taken by a veterinarian each time the mare was bred and that were analyzed by a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. Such bacteriological results shall be certified by a salaried veterinarian of the National Veterinary Services of the country of origin or signed by a veterinarian authorized by the National Veterinary Services of the country of origin and endorsed by a salaried veterinarian of the National Veterinary Services of the country of origin, thereby representing that the veterinarian signing the record of such bacteriological results was authorized to do so; and

(D) A licensed veterinarian, who either is, or is acting under the supervision of, the veterinarian signing the certificate specified in paragraph (i)(2)(vi)(B) of this section, collects a specimen from each clitoral sinus of the mare within 2 hours prior to the treatment required by paragraph (i)(2)(vi)(F) of this section and submits such specimens to a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. Such required supervision, the dates of collection and culturing, and the results of such cultures shall be recorded on the certificate specified in paragraph (i)(2)(vi)(B) of this section; and

(E) For 5 consecutive days, a licensed veterinarian, who either is, or is acting under the supervision of, the veterinarian signing the certificate specified in paragraph (i)(2)(vi)(B) of this section, aseptically cleans and washes (scrubs) the external genitalia and vaginal vestibule, including the clitoral fossa and clitoral sinuses, with a solution of not less than 2 percent chlorhexidine in a detergent base and then fills the clitoral fossa and clitoral sinuses and coats the external genitalia and vaginal vestibule with an ointment of not less than 0.2 percent nitrofurozone. Such required supervision and the dates of treatment shall be recorded on the certificate specified in paragraph (i)(2)(vi)(B) of this section; and

(F) After an interim of 7 days following the 5th consecutive day of scrubbing the external genitalia and the vaginal vestibule and filling the clitoral fossa and clitoral sinuses, a licensed veterinarian, who either is, or is acting under the supervision of, the veterinarian signing the certificate specified in paragraph (i)(2)(vi)(B) of this section, on 3 separate occasions collects a set of specimens comprised of a specimen from the clitoral fossa and a specimen from each of the clitoral sinuses, at intervals of not less than 7 days between the collection of each set of specimens, and each specimen is cultured with negative results for CEM at a laboratory approved to culture for CEM by the National Veterinary Services of the country of origin. The last of the 3 sets of specimens collected during this procedure is collected and cultured within 30 days of the date of export of the mare described on the certificate. Such required supervision, the dates of collection and culturing, and the results of such cultures shall be recorded on the certificate specified in paragraph (i)(2)(vi)(B) of this section; and

(G) The mare described on the certificate is not bred from the time treatment required by this paragraph was begun through the date of export, and such information is recorded on the certificate specified in paragraph (i)(2)(vi)(B) of this section.

* * * * *

4. Section 92.4 is amended by revising paragraphs (a)(6)(iii)(C)(*1*), (a)(8)(i) and the introductory paragraph of (ii), and the introductory paragraph of (a)(9), (a)(9)(ii), and (a)(9)(iii), to read as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes; [1] and reservation fees for space at quarantine facilities maintained by Veterinary Services.

(a) * * *

(6) * * *

(iii) * * *

(C) *For mares after breeding.* For each mare: (*1*) Cultures for CEM shall be conducted from sets of specimens that are collected from each of the mucosal surfaces of the cervix, the clitoral fossa, and the clitoral sinuses on the second, fourth, and seventh day after the breeding.

* * * * *

(8)(i) For mares over 731 days of age from countries listed in § 92.2(i)(1) and for which a permit is requested pursuant to § 92.2(i)(2)(v) or § 92.2(i)(2)(vi), a permit will be issued only if the mare for which the permit is issued is to be consigned to a State which the Deputy Administrator, Veterinary Services, has approved to receive mares over 731 days of age in accordance with the provisions of paragraph (a)(9) of this section.

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v) and § 92.2(i)(2)(vi):

* * * * *

(9) In order for a State to be approved to receive mares over 731 days of age pursuant to § 92.(i)(2)(v) or § 92.2(i)(2)(vi), the following conditions must be met:

* * * * *

(ii) The State must agree to quarantine all mares over 731 days of age imported from countries listed in § 92.2(i)(1) pursuant to § 92.2(i)(2)(v) or § 92.2(i)(2)(vi), until such mares have been treated in accordance with the provisions of this paragraph, and

(iii) The State must have laws and regulations to insure that mares over 731 days of age imported from countries listed in § 92.2(i)(1), pursuant to § 92.2(i)(2)(v) or § 92.2(i)(2)(vi), have been treated and handled in the following manner:

(A) For 5 consecutive days, an accredited veterinarian shall aseptically clean and wash (scrub) the external genitalia and vaginal vestibule, including the clitoral fossa, with a solution of not less than 2 percent chlorhexidine in a detergent base and then fill the clitoral fossa and coat the external genitalia and vaginal vestibule with an ointment of not less than 0.2 percent nitrofurozone; except that, in the case of mares over 731 days of age imported pursuant to § 92.2(i)(2)(vi), an accredited veterinarian shall also clean and wash the clitoral sinuses with a solution of not less than 2 percent chlorhexidine in a detergent base and fill the clitoral sinuses with an ointment of not less than 0.2 percent nitrofurozone.

(B) After an interim of 7 days following the 5th consecutive day of the topical treatment required by § 92.4(a)(9)(iii)(A):

(1) For any pregnant mare over 731 days of age, an accredited veterinarian shall on 3 separate occasions collect a specimen from the clitoral fossa and, if the clitoral sinuses are present, a specimen from each clitoral sinus, at intervals of not less than 7 days between the collection of each specimen or set of specimens, and shall submit each specimen or set of specimens to a State or Federal animal disease diagnostic laboratory for culture. Seven days after the mare foals, an accredited veterinarian shall collect 1 specimen from the endometrium of the uterus of the mare and 1 specimen from the foal, and each specimen shall be submitted by the accredited veterinarian to a State or Federal animal disease diagnostic laboratory for culture. If the foal is female, this specimen shall be collected from the vaginal vestibule; and, if male, the specimen shall be collected from the prepuce.

(2) For any nonpregnant mare over 731 days of age, an accredited veterinarian shall on 3 separate occasions collect a specimen from the clitoral fossa and, if the clitoral sinuses are present, a specimen from each clitoral sinus, at an interval of not less than 7 days between the collection of each specimen or set of specimens, with one additional specimen collected from the endometrium of the uterus during estrus, and shall submit each specimen to a State or Federal animal disease diagnostic laboratory for culture.

(C) For any mare imported from countries listed in § 92.2(i)(1) pursuant to § 92.2(i)(2)(v), if any specimen required by this section or by § 92.2(i)(2)(v)(H) is found to be positive for CEM, the mare shall not be released from State quarantine except as provided in this paragraph. For such mare, an accredited veterinarian shall on 3 separate occasions collect a specimen from the clitoral fossa, at intervals of not less than 7 days between the collection of each specimen, with the first specimen collected not less than 1 year from the date of the last positive culture; and one additional specimen shall be collected from the endometrium of the uterus during estrus. If each of such specimens are negative for CEM, the mare may be released from quarantine.

(D) For any mare imported from countries listed in § 92.2(i)(1) pursuant to § 92.2(i)(2)(vi), if any specimen required by this section is found to be positive for CEM, the mare shall not be released from State quarantine except as provided in this paragraph. For such mare, an accredited veterinarian shall remove the clitoral sinuses of the mare and submit such clitoral sinuses to a State or Federal animal disease diagnostic laboratory. An accredited veterinarian shall then on 3 additional separate occasions collect a specimen from the clitoral fossa, at intervals of not less than 7 days between each specimen, with the first specimen collected subsequent to the clitoral sinusectomy required by this paragraph, and not less than 1 year from the date of the last positive culture; and 1 additional specimen shall be collected from the endometrium of the uterus during estrus. If each of such specimens are negative for CEM, the mare may be released from quarantine.

* * * * *

5. Section 92.17 is amended by revising the clause in the first sentence that presently reads "and, except as provided in § 92.2(i)(2) (i), (ii), (iii), (iv),

[1] For the other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (Part 17, Title 50, Code of Federal Regulations) and the regulations issued by the U.S. Department of Health and Human Services (Subpart J-1 of Part 71, Title 42, Code of Federal Regulations) should be consulted.

and (v), the horse have not been in any country listed in § 92.2(i)(1) as affected with CEM during the 2 months immediately prior to their importation into the United States;" to read "and, except as provided in § 92.2(i)(2) (i), (ii), (iii), (iv), (v), and (vi), the horses have not been in any country listed in § 92.2(i)(1) as affected with CEM during the 12 months immediately prior to their importation into the United States;".

Done at Washington, DC, this 27th day of January, 1987.

J.K. Atwell,

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

[FR Doc. 87-1862 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Functions of Atomic Safety and Licensing Appeal Board

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to provide for Atomic Safety and Licensing Appeal Board review of all decisions rendered by the Atomic Safety and Licensing Board in formal agency adjudications.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 634-1465.

SUPPLEMENTARY INFORMATION: Section 2.785(a) of 10 CFR Part 2 authorizes the establishment of an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions that would have otherwise been exercised and performed by the Commission in proceedings on applications for licenses under Part 50 (power reactors). The Commission is amending its regulations to authorize the establishment of appeal boards in all proceedings conducted pursuant to 10 CFR Part 2, Subpart G, unless the Commission by order directs otherwise. The effect of this amendment is to authorize the establishment of appeal boards in all formal agency adjudicatory proceedings. In the past the Commission has authorized the establishment of Appeal Boards in virtually all such proceedings by issuing an Order to that effect. This rule change will obviate the need to issue such orders.

Because these amendments deal with agency practice and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A) and consistent with the agency's exceptions to notice and comment for rulemaking procedures (10 CFR 2.804(d)(1)). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature that will change the agency's rules of practice to allow routine referral of requests for certain hearings to a licensing board without the need for a Commission order.

Environmental Impact: Categorical Exclusion

The action required under this final rule is administrative and would not impact the environment. The Commission has determined pursuant to 10 CFR 51.22(a) that this final rule would be the type of action that is described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Regulatory Analysis

This rule codifies existing agency practice of authorizing the establishment of Atomic Safety and Licensing Appeal Boards in virtually all formal agency adjudications. Accordingly, it does not impose additional costs on applicants, licensees, or members of the public.

Backfit Analysis

This final rule does not modify or add to systems, structures, components or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, By product material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, E.O. 11222 of May 8, 1965, 5 CFR 735.104, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 2:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241) sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, and 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200 through 2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.300-2.309 also issued under Pub. L. 97-415, 96 Stat. 2071 (42 U.S.C. 2133). Sections 2.600 through 2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a and 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.700, and 2.780 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 65 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 (U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91-580, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.785, paragraph (a) is revised to read as follows:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Board.

(a) The Commission has authorized Atomic Safety and Licensing Appeal Boards to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission, including, but not limited to, those under §§ 2.760 through 2.771, 2.912, and 2.913 in (1) proceedings conducted pursuant to Subpart G of this part and (2) such other proceedings as the Commission may specify.

* * * * *

Dated at Washington, DC, this 27th day of January, 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87-1873 Filed 1-29-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR part 240

[Release No. 33-6685; 34-24003; IC-15541; File No. S7-45-85]

Prohibition Against Trading by Persons Interested in a Distribution

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule Amendments.

SUMMARY: The Commission today announced the adoption of amendments to Rule 10b-6 under the Securities Exchange Act of 1934, which proscribes certain conduct by persons who are participating in a distribution of securities. The amendments permit underwriters and broker-dealers to engage in solicited brokerage transactions until two or nine business days before offers of sales of the securities being distributed; define the rule's applicability to certain persons who are affiliated with participants in a distribution; allow distribution participants to exercise throughout the distribution period standardized call options written prior to the time that they became distribution participants; and provide a parallel formulation of the cooling-off periods within Exceptions (xi) and (xii) of the rule. The amendments also modify the rule's preamble to reflect more fully the authority for the rule's provisions, and codify the Commission's position that a distribution participant may rely on the rule's exceptions only if the contemplated transactions are not made for manipulative purposes.

EFFECTIVE DATE: March 1, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy J. Burke, or Stephen M. Piper at (202) 272-2848, Office of Legal policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background and Summary of Amendments

The Securities and Exchange Commission is adopting amendments to Rule 10b-6 ("Rule 10b-6" or "Rule")[1] under the Securities Exchange Act of 1934.[2] Rule 10b-6 is an antimanipulative rule that, subject to certain exceptions, prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to bid for or purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security ("related securities"), until they have completed their participation in the distribution. The purpose of the Rule is to prevent participants in a distribution from artificially conditioning the market for the securities in order to facilitate the distribution. The Rule is designed to protect the integrity of the securities trading market as an independent pricing mechanism and thereby enhance investor confidence in the marketplace. The Rule contains thirteen exceptions to its general prohibitions that are intended to permit an orderly distribution of securities or limit disruption in the market for the securities being distributed.

In 1983, the Commission adopted comprehensive amendments [3] to Rule 10b-6 that were aimed at adapting the Rule, to the extent consistent with its anti-manipulative purposes, to the extensive changes that had occurred in the securities markets and in industry practices since the Rule's adoption in 1955.[4] At that time, the Commission expressed its intention to continue its review of several issues, including solicited brokerage transactions, the application of the Rule to affiliates of underwriters and broker-dealers, and the exercise of exchange-traded call options. After obtaining experience with the operation of the amended rule and receiving suggestions and comments from industry participants, in 1985 the Commission proposed additional amendments to the Rule addressing, *inter alia*, the issues left open in 1983.[5] After considering the comments received on the Proposing Release, the Commission is adopting amendments that:

—Permit distribution participants to engage in solicited brokerage transactions until two or nine business days before offers or sales in the distribution;

—Define the applicability of the Rule with respect to affiliates of distribution participants;

—Permit the exercise of standardized call options throughout the distribution period for positions established prior to participation in the distribution;

—Modify the Rule's preamble to reflect more fully the authority for the Rule's provisions, and codify the Commission's position that the Rule's exceptions may be relied upon only if the contemplated activity is not for the purpose of creating actual, or apparent, active trading in or raising the price of the security; and

—Revise the formulation of the cooling-off periods in Exceptions (xi)[6] and (xii)[7] for securities not qualifying for the two business day cooling-off period.

Nineteen letters on the proposed amendments to Rule 10b-6 were received from fifteen commentators.[8] The commentators favored most of the proposed rule changes and many provided comments or suggestions that the Commission found helpful in formulating the final amendments. With the exception of the proposal relating to affiliates of distribution participants, the amendments are adopted substantially as proposed.

II. Discussion of Amendments

A. Solicited Brokerage

1. Relaxation of restrictions

As discussed above, subject to certain exceptions, Rule 10b-6 prohibits a person participating in a distribution from bidding for or purchasing, or inducing any other person to bid for or purchase, the security that is the subject of the distribution, or any related security, from the time such person becomes a participant in the distribution

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[1] 17 CFR 240.10b-6.

[2] 15 U.S.C. 78a *et seq.*

[3] Securities Exchange Act Release No. 19565 (March 4, 1983), 48 FR 10628 (March 14, 1983) ("Release 34-19565").

[4] *See.* Securities Exchanges Act Release No. 5194 (July 5, 1955).

[5] Securities Exchange Act Release No. 22510 (October 10, 1985), 50 FR 42716 (October 22, 1985) ("Proposing Release").

[6] 17 CFR 240.10b-6(a)(3)(xi). As a result of the amendments adopted today, the exceptions to the Rule that formerly appeared under (a)(3) will now appear under subparagraph (a)(4). The citations in this release refer to the exceptions prior to the adoption of the amendments announced today.

[7] 17 CFR 240.10b-6(a)(3)(xii).

[8] The letters of comment, as well as a copy of the summary of the comment letters prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room. *See* File No. S7-45-85.

until the distribution has been completed.[9] The Rule thus prohibited a participating broker-dealer from soliciting brokerage transactions throughout the distribution period.[10] Such transactions are referred to as solicited brokerage. In contrast, Exception (v) to the Rule [11] permits unsolicited brokerage transactions to be effected by distribution participants throughout the distribution period.

Exception (xi) to Rule 10b–6 allows an underwriter, prospective underwriter, or dealer participating in a distribution to, among other things: (1) Effect solicited principal transactions prior to a specified cooling-off period before the commencement of offers or sales in a distribution; and (2) effect unsolicited principal purchases prior to the commencement of offers and sales in the distribution.[12] The exception reflects the desirability of maintaining depth and liquidity in the market for the issuer's securities to the maximum extent possible consistent with the anti-manipulative objectives of the Rule. When Exception (xi) was adopted in 1983, the Commission specifically declined to follow the suggestions of some commentators that the Commission should except solicited brokerage from the ambit of Rule 10b–6 in the same fashion that Exception (xi) excepted solicited principal transactions.[13] In 1985, the Commisssion proposed to relax the restrictions on solicited brokerage by amending Exception (v) to permit a broker-dealer participating in the distribution to engage in solicited brokerage (1) in the case of securities qualified under paragraph (a)(3)(xi)(A) of the Rule, prior to the later of two business days before the commencement of offers or sales of the securities to be distributed or the time such broker-dealer becomes a participant in the distribution, and (2) in the case of other securities, prior to the later of nine [14] business days before the commencement of offers or sales of the securities to be distributed or the time such borker-dealer becomes a participant in the distribution.[15] This proposal was based upon the Commission's belief that the premises underlying the adoption of the two and nine business day cooling-off periods for principal purchases in Exception (xi)(A) appear to be compatible with permitting solicited brokerage with the same cooling-off periods, since the two types of transactions should have similar market impact.[16]

The seven commentators who addressed this proposed amendment endorsed it.[17]

[9] Pursuant to 17 CFR 240.10b–6(a)(3)(vi), the distribution participant can induce persons to purchase the securities that are actually being distributed.

[10] An underwriter becomes a distribution participant at the time that it reaches an agreement with the issuer with respect to a prospective offering. *See* Proposing Release, 50 FR at 42721 n.44.

[11] 17 CFR 240.19b–6(a)(3)(v).

[12] 17 CFR 240.10b–6(a)(3)(xi).

[13] Release 34–19565, 48 FR at 10633.

[14] Prior to the amendments adopted today, this cooling-off period was formulated in terms of ten business days. The Commission has, however, modified the formulation in recognition of the fact that the cooling-off period is actually nine business days. *See* Section E *infra.*

[15] Proposing Release, 50 FR at 42717–18.

[16] *See id.* at 42718. In the Proposing Release, the Commission recognized that a solicited brokerage transaction generally will occur immediately following or shortly after the solicitation, and the solicited customer must make an independent, affirmative decision to buy the recommended security. *Id.* In response to the suggestion of two commentators, the Commission is stating its position that transactions by a distribution participant in a discretionary account will be deemed to be solicited brokerage transactions for purposes of the application of Exception (v) as amended. As stated in the Proposing Release, *id.* n.18, it is the Commission's position that, until the termination of the distribution period, once a customer is solicited, any order he enters to purchase the particular security is considered a solicited borkerage transaction for purposes of the Rule. Thus, during the applicable cooling-off period and until the termination of the distribution, a broker-dealer participating in the distribution may not solicit a transaction or execute an order based upon a prior solicitation, other than with respect to the securities actually being distributed.

[17] Five commentators suggested that the Commission modify the position expressed in the Proposing Release with respect to the application of the proposed amendment to research reports. *See* 50 FR at 42718 n.19. The Commission, however, continues to believe that the manner in which certain research reports are employed may constitute an inducement to purchase. As discussed in Securities Act Release No. 6550 (September 19, 1984), 49 FR 37569, 37572 & n.25 (September 24, 1984), in most circumstances, research reports that conform to Rule 139 under the Securities Act of 1933, 17 CFR 230.139, will not constitute prohibited inducements to purchase for the purposes of Rule 10b–6 ("permissible research reports"). Nevertheless, such permissible research reports could constitute solicitations of brokerage transactions, *e.g.*, if such research is focussed on the issuer whose securities are in distribution and is directed at particular customers by a broker dealer's sales personnel. Under Exception (v), as amended, permissible research reports constituting solicitations of brokerage transactions may be disseminated up until the specified cooling-off period, although customer orders resulting from such research dissemination may not be executed during the cooling-off period. *See* n.16 *supra.*

A number of commentators took exception to the statements in n.19 of the Proposing Release with respect to Exchange Act Rule 15c1–6, Rule 17 CFR 240.15c1–6, asserting that the rule only addresses disclosure with respect to transactions in the distribution itself, and does not apply to open market transactions. In light of these comments and the limited history of this rule, the Commission is withdrawing the statements with respect to this rule in n.19 at this time, and will consider whether this matter should be addressed at a later date.

2. Continuing agreements

Generally, a broker-dealer that agrees with the issuer to participate in all offerings, or in all of a particular type of offering, of shelf-registered securities under the Securities Act of 1933 ("Securities Act") [18] is considered to have a "continuing agreement" with the issuer and to be a participant in all offerings of the type for which it has such an agreement with the issuer.[19] Accordingly, broker-dealers with continuing agreements are deemed to be distribution participants throughout the term of the shelf. Because this position potentially created some hardships for broker-dealers with continuing agreements, it has been the staff's position that the staff would not recommend enforcement action if broker-dealers with continuing agreements engage in solicited brokerage transactions ten or more business days before commencement of offers of sales of shelf-registered securitries in the case of any offers of sales made subsequent to an initial offering ("initial tranche requirement") pursuant to an effective shelf registration.[20] Under Exception (v) as amended, the cooling-off periods applicable to solicited brokerage will apply in the context of offers and sales of shelf-registered securities.[21]

After analyzing the comments received, the Commission has adopted the amendment to Exception (v) as proposed.[22]

B. Affiliates of Distribution Participants

In adopting amendments to Rule 10b-6 in 1983, the Commission stated that, "[h]istorically, the prohibitions of Rule 10b–6 have been interpreted to apply to distribution participations and to all

[18] 15 U.S.C. 77a *et seq.*

[19] *See* Rule 415 under the Securities Act, 17 CFR 230.415.

[20] *See* Release 34–19565, 48 FR at 10638.

[21] Since a broker-dealer with a continuing agreement remains a participant in the distribution throughout the shelf period, that broker-dealer will be prohibited from engaging in solicited brokerage during the entire applicable cooling-off period. 50 FR at 42719 n.23.

Although the Commission invited commentators to address the impact on underwriters with continuing agreements of Rule 10b–6 as then formulated and as proposed to be amended and, in particular, the extent to which such underwriters are prevented in practice from engaging in solicited brokerage transactions, no commentator responded directly to this request. The Commission continues to believe that a broker-dealer with a continuing agreement may have an incentive to condition the market to facilitate a distribution because of the certainty of its participation in such a distribution.

[22] As amended, Exception (v) supersedes the staff's no-action position regarding shelf distributions, including the initial tranche requirement, discussed at the text at n.20 *supra.*

affiliates of such participants." [23] At that time, the Commission narrowed the Rule's coverage as it relates to issuers and selling shareholders ("Issuers") by adding the "affiliated purchaser" concept to paragraph (a)(2) [24] and defining that term in paragraph (c)(6) of the Rule.[25] The Commission, however, declined to narrow the affiliate concept as it applies to underwriters, prospective underwriters, brokers, and dealers participating in the distribution of securities ("Underwriters" and, collectively with Issuers, "Distribution Participants").[26]

In the Proposing Release, the Commission recognized that a broad application of the Rule to all affiliates of Underwriters might result in unnecessary restrictions upon the increasing number of Underwriters that are part of organizational complexes offering diversified financial services.[27] Accordingly, the Commission proposed to narrow the category of Underwriter affiliates that would be subject to the Rule, and to reformulate the definition of "affiliated purchaser" to be applied with respect to all Distribution Participants. The proposed amendments would also have defined the term "distribution participant" as including issuers, selling shareholders, underwriters, prospective underwriters, brokers, dealers, and other persons who have agreed to participate or are participating in the distribution.

The proposed revised definition of "affiliated purchaser" would have incorporated the "acting in concert" and "control" standards of paragraphs (i) and (ii) [28] of current paragraph (c)(6) of the Rule, and, in addition, would have added a new paragraph (c). New paragraph (C) would have included generally any affiliate of a Distribution Participant that was a broker, dealer, investment company, investment adviser, or otherwise regularly purchased securities, through a broker-dealer or otherwise, for its own account or for the account of others, or recommended or exercised investment discretion with respect to the purchase or sale of securities. The Commission indicated that it would consider requests for relief from this provision of the Rule on a case-by-case basis, taking into consideration whether the relationship between the Distribution Participant and the affiliate was such that bids, purchases, and inducements to purchase by the affiliate did not present any of the abuses that Rule 10b–6 was designed to prevent.[29]

Many of the commentators objected to the proposed revised definition of "affiliated purchaser" on the ground that it was too broad. They argued that certain affiliates, such as investment companies, investment advisers, and insurance companies, are already comprehensively regulated by federal and state governments, and that other laws, duties, impediments, and proscriptions, such as the Investment Company Act of 1940,[30] the Investment Advisers Act of 1940,[31] and the Employee Retirement Income Security Act of 1974,[32] inhibit such affiliates from bidding for or purchasing securities for the purpose of facilitating a distribution in which an affiliated Distribution Participant is engaged. In addition, these commentators maintained that, in order to compete effectively in the financial services market, affiliates of Distribution Participants must make their purchasing decisions solely on the basis of economic factors that will render the optimum return most appropriate for a particular client or customer. These commentators asserted that the inability of such affiliates to purchase in the market securities being distributed by an affiliated Distribution Participant could deprive such clients and customers of the affiliate's best fiduciary and investment judgment, and would place those affiliates at a competitive disadvantage.[33]

Commentators also argued that the proposed revised definition of "affiliated purchaser" would place cumbersome administrative burdens on certain affiliates of Distribution Participants. They raised as one example the practical requirement of implementing procedures to disseminate restricted lists,[34] potentially on a world-wide basis, throughout a corporate structure that includes Distribution Participants and affiliates falling within the revised definition. They pointed out that while a typical broker-dealer might have procedures in place for maintaining a restricted list, other affiliates may not. They also contended that surveillance and compliance would be impracticable on such a broad scale. Finally, the commentators asserted that a case-by-case approach to exemptive relief was unworkable since every full-service financial firm and bank trust department would need to seek relief from the Rule.[35]

The Commission agrees with commentators that continued application of the Rule to all affiliates engaging in a securities business may impose substantial burdens on those organizations. Moreover, the Commission recognizes that many affiliates of Distribution Participants will be subject to federal and state statutory and common law fiduciary duties and proscriptions that may impede an affiliate from acting in a manner calculated to facilitate a distribution by an affiliated Distribution Participant.[36] For these reasons, the

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[23] Release 34–19565, 48 FR at 10632. *See, e.g., Letter concerning Pacific Stock Exchange Incorporated*, [1976–77 Decisions] Fed. Sec. L. Rep. (CCH) ¶ 80,822 (September 30, 1976).

[24] 17 CFR 240.10b–6(a)(2). The Commission has adopted the suggestion by one commentator to modify paragraph (a) in a manner that will eliminate verbiage and will clearly show the application of the Rule to affiliated purchasers. Accordingly, the present and proposed references to affiliated purchasers in paragraphs (a)(1), (a)(2), and (a)(3) have been deleted, and a new paragraph (a)(4) has been added that applies the Rule to any person "who is an 'affiliated purchaser' as that term is defined in paragraph (c)(6)" of the Rule as amended by this release.

[25] 17 CFR 240.10b–6(c)(6).

[26] Release 34–19565, 48 FR at 10633.

[27] Proposing Release, 50 FR at 42719.

[28] Current paragraphs (i) and (ii) are redesignated as (A) and (B), respectively, and will be referred to as such hereinafter.

[29] 50 FR at 42721 n.37, citing *Letter regarding Alliance Capital Management Corporation* [1983–84 Decisions] Fed. Sec. L. Rep. (CCH) ¶77,515 (June 24, 1983) ("Alliance Capital Management Letter").

[30] 15 U.S.C. 80a *et seq.* ("Investment Company Act").

[31] 15 U.S.C. 80b–1 *et seq.* ("Investment Advisers Act").

[32] 29 U.S.C. 1001 *et seq.* ("ERISA").

[33] It should be noted that Rule 10b–6 does not prohibit affiliates of Distribution Participants from purchasing the securities being distributed. *See, e.g., Letter regarding VLI Corporation*, [1984 Decisions] Fed. Sec. L. Rep. (CCH) ¶77,625 (October 17, 1983) (staff Rule 10b–6 no-action position with respect to purchases of the securities in distribution by officers and directors of the issuer where such purchases were on the same terms and conditions offered to others, and were made for investment); *Letter regarding Edie Management Services*, [1972–73 Decisions] Fed. Sec. L. Rep. ¶78,914 (June 16, 1972) (staff Rule 10b–6 no-action position regarding purchases of distribution securities by investment company affiliate of the underwriter where such purchases are made in compliance with Rule 10f-3 under the Investment Company Act, 17 CFR 270.10f-3). The amendments adopted today will have no effect on these positions.

[34] *But see Letter regarding Edie Management Services*, [1972–73 Decisions] Fed. Sec. L. Rep. ¶78,914 (June 16, 1972) (restricted list disseminated to investment company affiliates of broker-dealer).

[35] The Commission notes in this connection, however, that since 1983 only one large financial organization formally requested and was granted relief from the Rule based upon organizational structure. *See* Proposing Release, 50 FR at 42721 n.37.

[36] *E.g.*, section 206 of the Investment Advisers Act, 15 U.S.C. 80b–6, makes it unlawful for an investment adviser "to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative;" section 17 of the Investment Company Act, 15 U.S.C. 80a–17, generally governs transactions between registered investment companies and their affiliates; section 36 of the Investment Company Act, 15 U.S.C. 80a–36, authorizes the Commission to bring an action in district court against certain persons, including investment advisers and certain underwriters.

Continued

Commission agrees with the commentators that it is appropriate to exclude certain affiliates from the operation of the Rule where objective criteria demonstrate the structural and operational independence of the affiliate.

As a result, the Commission is adopting a reformulated definition of "affiliated purchaser" that retains the "acting in concert" and "control" standards of proposed paragraphs (c)(6)(i) (A) and (B) of the Rule. The structure of the affiliated purchaser definition regarding securities affiliates has been revised. Specifically, the amendments as adopted will apply to an affiliate[37] that regularly engages in securities transactions unless that affiliate satisfies the following conditions:[38] (1) The affiliate is not itself a broker or dealer, (2) the affiliate is a separate and distinct organizational entity from, with no officers (or persons performing similar functions) or employees (other than clerical, ministerial, or support personnel) [39] in common with, the Distribution Participant, (3) the affiliate and the Distribution Participant have separate employee compensation arrangements,[40] and (4) the affiliate's bids for, purchases of, and inducements to purchase the securities subject to the Rule are made in the ordinary course of its business.[41] Broker-dealer affiliates will continue to be subject to the Rule. The Commission agrees with the view of a number of commentators that broker-dealer affiliates present a unique risk of coordinated manipulative activity. The Commission believes that such coordinated activity may be difficult to detect and prove, and therefore believes that it is appropriate to apply the Rule's requirements to broker-dealer affiliates without subjecting the Commission to the evidentiary burden of demonstrating that the Distribution Participant and its broker-dealer affiliate acted in concert.[42]

The reformulated definition of "affiliated purchaser" reflects the Commission's belief that paragraphs (A) and (B) do not by themselves capture all entities that may have the means and incentives to facilitate a distribution by an affiliated Distribution Participant. However, new paragraph (D) is specifically tailored to accommodate the concerns of the commentators that many affiliates that regularly engage in securities transactions are independent of the Distribution Participant and may have no incentive to facilitate a distribution in which an affiliated Distribution Participant is engaged.

C. Exercise of Call Options

1. Cooling-off period

Under the present formulation of Rule 10b-6, distribution participants are prohibited from exercising exchange-traded call options during the five business days prior to the commencement of offers and sales in the distribution of the underlying security or related securities. The five-day period was chosen by the Commission in recognition of the fact that there is a period of up to three days between the exercise of such options and the notification of the call writer of the exercise. In recognition of the fact that the five business day cooling-off period for the exercise of call options [43] may be unnecessarily restrictive, the Commission proposed two alternative approaches that would provide greater flexibility to distribution participants to exercise call options overlying qualified securities that are the subject of the distribution.[44] Under the first alternative, the five business day cooling-off period in Exceptions (xi) and (xii) would be eliminated, and the prohibition on the exercise of standardized call options for qualified securities would begin upon the commencement of offers and sales in the distribution. The second alternative would modify Exceptions (vii), (xi), and (xii) [45] to permit distribution participants to exercise standardized call options throughout the distribution period where such call option positions were established prior to the time that the person became a distribution participant, and with respect to standardized call option positions established after the time that the person became a distribution participant, the existing five business day cooling-off period would be retained.

All of the commentators responding to this portion of the Proposing Release again expressed doubt that call options represent an effective way in which to manipulate and, therefore, argued that restrictions on the exercise of call options constitute an unnecessary burden. Accordingly, they argued that the Rule should impose no restrictions on the exercise of call options. None of the commentators, however, offered any example of any economic detriment befalling a distribution participant as a result of these restrictions. With respect to the Commission's proposed alternative approaches, commentators were divided as to which approach would be preferable, with some commentators favoring the second alternative with a two-day cooling-off period for the exercise of call options acquired after becoming a distribution participant.

The Commission has determined to adopt the second alternative. The Commission continues to believe that

alleging breach of fiduciary duties; section 404 of ERISA, 29 U.S.C. 1104, generally imposes a "prudent man" standard on ERISA fiduciaries, and requires them to diversify investments so as to minimize the risk of large losses; section 406 of ERISA, 29 U.S.C. 1106, prohibits an ERISA fiduciary from engaging in certain transactions generally involving conflicts of interest; Regulation 12 CFR 337.4(e)(1) of the Federal Deposit Insurance Corporation generally prohibits an insured nonmember bank affiliated with, *inter alia*, an Underwriter from making discretionary purchases, as fiduciary or managing agent, of any security that "is currently distributed, currently underwritten, or issued by" such Underwriter unless the purchase is consistent with the bank's fiduciary obligations.

While the Commission acknowledges the relevance of these various conflict of interest restrictions, none of these requirements are specifically directed at the market impact of bids for, purchases of, and inducements to purchase securities by persons who may have an incentive to facilitate distribution of such securities. As a result, the Commission is not persuaded that the operation and existence of other legal duties and proscriptions adequately address the prophylactic purposes of Rule 10b-6.

[37] Although the term "affiliate" is not defined in Rule 10b-6, the Commission will apply the definition found in Rule 10b-18(a)(1) under the Exchange Act, 17 CFR 240.10b-18(a)(1), *i.e.*, "any person that directly or indirectly controls, is controlled by, or is under common control with" the Distribution Participant. *See also Letter regarding Pacific Stock Exchange Incorporated, supra* n.23.

[38] The criteria are similar to those set forth in the Alliance Capital Management Letter and as suggested by several commentators.

[39] "Clerical, ministerial, or support personnel" includes employees whose functions are limited to "back office," data processing, administrative, or other support activities.

[40] The requirement of separate employee compensation arrangements is designed to ensure that the profitability of the affiliate's operations and the compensation of its employees are separate from those of the Distribution Participant. The requirement does not preclude the participation of employees of both entities in a common investment vehicle, such as a pension plan.

[41] This requirement is intended to ensure that the affiliate's activities are made in the regular conduct of its business, and are not influenced by activities of the Distribution Participant in connection with the distribution.

With respect to affiliates of Distribution Participants that cannot satisfy the criteria enumerated in paragraph (D), the staff will continue to consider requests for exemptive or no-action relief on case-by-case basis.

[42] The definition of "distribution participant" in paragraph (c)(6)(ii) is adopted as proposed.

[43] The cooling-off period was made available only for exchange-traded call options on securities qualifying for the two business day cooling-off period under Exception (xi)(A) or (xii)(A) ("qualified securities"). As discussed *infra*, the Commission today is adopting an amendment to substitute the term "standardized" for "exchange-traded" in the Rule, thereby expanding the types of call options for the Exception.

[44] *Id.* at 42721-22.

[45] 17 CFR 240.10b-6(a)(3))(vii), (xi), and (xii).

the exercise of a substantial number of call options in certain circumstances can have a significant market effect on the underlying stock. The second alternative addresses this concern by continuing to apply a cooling-off period to call option positions established after the time that the person became a distribution participant and, therefore, has an incentive to manipulate.[46] This alternative also amends Exception (vii) to allow maximum flexibility with respect to positions established prior to the time that the person became a distribution participant. The Commission does not consider the two-day cooling-off period suggested by some commentators to be feasible in this context because exercises of call options two days prior to the commencement of offers and sales would result in purchases of the underlying security coincident with offers and sales in the distribution.[47]

2. Standardized call options

The Commission proposed to change the term "exchange-traded call options" where that term is presently used in the Rule to "standardized call options"[48] to include standardized over-the-counter options on qualified securities within the provisions of Exceptions (xi) and (xii) relating to call option exercises. No commenter objected to this proposal, and the amendment is adopted as proposed.

D. Clarification of Authority for Rule 10b-6 and the Availability of Rule 10b-6 Exceptions

Although the Rule's provisions have been adopted under a broad range of authority,[49] the current preamble to the Rule refers only to section 10(b) of the Exchange Act.[50] In order to more completely reflect the prophylactic scope of the Rule, the authority for the Rule's provisions, and the Commission's intention to use its full statutory authority, including the authority to adopt rules that are reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices,[51] the Commission proposed to modify the formulation of the Rule's preamble to provide that "it shall be unlawful" for persons covered by the Rule to engage in activities prohibited by the Rule.

Persons commenting on the amendment to the Rule's preamble took the position that this proposal represented an attempt by the Commission to "expand" the authority for the Rule. This is not the Commission's intention or purpose. The amendment simply reflects that fact that the provisions of the Rule have been adopted pursuant to various sections of the Exchange Act. The Commission continues to believe that the Rule's preamble should reflect all of the authority upon which the Rule is based, and therefore has adopted the amendment as proposed.

The Proposing Release stated that the exceptions to Rule 10b-6 were adopted because the Commission believed that the manipulative potential of the activity permitted by the exceptions was small, and was generally outweighed by the beneficial effects to the securities markets of permitting the activity. It was further noted, however, that the exceptions do not provide "safe harbors" from charges of manipulation with respect to transactions otherwise covered by an exception where persons seek to manipulate the market for the securities in distribution by engaging in such transactions for the purpose of creating actual, or apparent, active trading in or raising or maintaining the price of the security in distribution.[52] To make this explicit, the Commission proposed an amendment to the introductory portion of paragraph (a)(3) of the Rule to add the phrase "if not for the purpose of creating actual, or apparent, active trading in or raising or maintaining the price of any such security."[53]

The commentators that discussed the proposed amendment to paragraph (a)(3) took the position that the proposed amendments would be an unwarranted extension rather than a clarification of the Rule. It was argued that the exceptions were developed to permit transactions considered necessary for a distribution to occur or to preserve a normal trading market for outstanding shares of the security to be distributed. Arguing that the exceptions are necessary and in any event do not afford a realistic possibility for manipulation, the commentators contended that the proposed amendments would substantially complicate compliance with Rule 10b-6 and would make reliance on the exceptions unnecessarily onerous by requiring broker-dealers to examine their motivations before they may rely on an exception.

The Commission believes that the commentator's arguments generally miss the point of the amendment: It is a clarification of the fact that the exceptions are not, and never have been, safe harbors.[54] The Commission believes that a lack of improper motive when relying on the Rule's exceptions has always been required, and the amendment codifies that requirement.

In one respect, however, the Commission agrees with the commentators that the proposed amendment may result in unnecessary confusion. Several commentators expressed concern that the proposed inclusion of the word "maintaining" in paragraph (a) of the Rule would make Exception (viii)[55] unavailable. In order

[46] The Commission notes that the Rule does not prohibit the sale of a call option in order to close out an existing position. In light of the time value component of option pricing, the exercise of an option contract (as opposed to selling the option contract in the secondary market) is generally economically desirable only near the expiration of the contract or shortly before the ex-dividend date on the underlying security. The Commission understands that issuers and underwriters generally do not schedule a common stock offering near the expiration date of an option overlying the security or the dividend date on the common stock. *See* 50 FR at 42722 n.47. The staff will consider requests for relief in appropriate circumstances and, if problems develop with respect to the application of the Rule near expiration or dividend dates, the Commission will consider the need for further Rule amendments.

The Commission also notes that it is adopting this amendment in the context of existing position and exercise limits relating the standardized option contracts. *See* 50 FR at 42721 n.42 and accompanying text. If position and exercise limits are significantly increased in the future, the Commission will consider whether further amendments to the Rule are warranted.

[47] *See* Release 34-19565, 48 FR at 10637.

[48] Standardized call options are call option contracts trading on a national securities exchange, an automated quotation system, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate. *See* Rule 17 CFR 240.9b-1(a)(4).

[49] Sections 2, 3, 9(a)(6), 10(b), 13(e), 15(c), and 23(a) of the Exchange Act, 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(b), 78m(e), 78o(c), and 78w(a).

[50] 15 U.S.C. 78j(b).

[51] *See* Exchange Act sections 13(e)(1) and 15(c)(2), 15 U.S.C. 78m(e)(1), 78o(c)(2).

[52] 50 FR at 42722.

[53] Exceptions (xi) and (xii) of the Rule contained language to this effect (with the exception of the word "maintaining") at the time that the amendment was proposed.

[54] The availability of Exceptions (xi) and (xii), which probably are the most important from the point of view of issuers, underwriters, and broker-dealers participating in a distribution, has always been explicitly conditioned upon the lack of a manipulative purpose. It has not been suggested that distribution participants are unable to comply with Exceptions (xi) or (xii). *See also* 17 CFR 240.10b-7(f). With the adoption of the amendment today, the duplicative language in Exceptions (xi) and (xii) has been deleted.

[55] 17 CFR 240.10b-6(a)(3)(viii). This exception permits stabilizing transactions not in violation of Rule 17 CFR 240.10b-7 under the Exchange Act. One commentator raised a similar concern with respect to Exception (ix), 17 CFR 240.10b-6(a)(3)(ix), which permits bids for and purchases of rights not in violation of Rule 17 CFR 240.10b-8 under the Exchange Act. The availability of Exception (ix) is not affected by the amendment adopted today.

to avoid confusion, the Commission has determined to adopt the proposed amendment without including the word "maintaining." The Commission emphasizes that this deletion does not alter the fact that transactions by persons subject to the Rule that are for the purpose of maintaining or stabilizing the price of the security in distribution are prohibited unless the transactions comply with Rule 10b-7.[56]

E. Reformulation of the Cooling-Off Periods of Exceptions (xi) and (xii)

In the Proposing Release, the Commission proposed to reconcile the formulation of the cooling-off periods of Exceptions (xi) and (xii).[57] The Commission noted that the formulations were archaic, inconsistent, and may be confusing to persons subject to the Rule. The proposed amendments were designed to recast Exceptions (xi)(C) and (xii)(C) in the clearer language used in the other references to a cooling-off period in Exceptions (xi) and (xii).

Only one comment letter referred to this aspect of the Proposing Release and it commented favorably. The Commission has determined to adopt this amendment as proposed.

III. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis, which relates to Rule 10b-6, has been prepared in accordance with 5 U.S.C. 604. The corresponding Initial Regulatory Flexibility Analysis ("IRFA") is contained in the Proposing Release.[58]

A. The Need for and Objectives of the Amendments

Rule 10b-6 is an anti-manipulative rule that, subject to certain exceptions, prohibits persons who are engaged in a distribution of securities from, directly or indirectly, bidding for or purchasing or inducing other persons to bid for or purchase such securities, any security of the same class and series as those securities or any right to purchase any such security until they have completed their participation in a distribution. The Rule is needed to prevent participants in a distribution from artificially conditioning the market for the securities in order to facilitate the distribution. The Rule is intended to protect the integrity of the securities trading market as an independent pricing mechanism and thereby enhance investor confidence in the marketplace.

The amendments permit underwriters and broker-dealers involved in a distribution of securities to engage in solicited brokerage transactions until two or nine business days before offers or sales of the securities being distributed, define the applicability of the rule to certain persons who are affiliated with underwriters, brokers, dealers, or others participating in a distribution, reduce the restrictions on the exercise of standardized call options by distribution participants, and provide a parallel formulation of the cooling-off periods within Exceptions (xi) and (xii) of the Rule. Additionally, the amendments modify the Rule's preamble to more fully reflect the authority for the provisions of the Rule, and codify the Commission's position that a distribution participant may rely on the Rule's exceptions only if the contemplated transactions are not made for manipulative purposes.

As the above description indicates, the primary thrust of the amendments is to clarify the application of the Rule; codify existing Commission positions; and lessen the restrictions of Rule 10b-6 in a number of circumstances. The amendments reflect the fact that the Commission has had the opportunity to examine and gain experience with the operation of Rule 10b-6 and evaluate further developments in the securities markets since the adoption of comprehensive amendments to the Rule in 1983.

B. Issues Raised by Public Comment

The Commission received one comment on the IRFA. The commentator stated that, in the absence of any evidence of abuse, it disagreed with the Commission's view that the fiduciary obligations of certain affiliates of distribution participants do not provide sufficient protection against manipulative activity to except such affiliates from Rule 10b-6.

While not referencing the IRFA, several commentators stated that the amendments would bring additional entities under the ambit of the Rule, resulting in additional burdens. Specifically, these commentators asserted that rather than more narrowly defining the affiliates to which the Rule applied, the Commission was, in fact, expanding the coverage of the Rule to include these affiliates. The Commission disagrees with this interpretation.

C. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives to the Rule consistent with the stated objectives of the applicable statutes and designed to minimize any significant economic impact of the Rule on small entities. The amendments have the potential to affect all small businesses that anticipate a public offering, all small broker-dealers that participate in the distribution of securities, and some small organizations affiliated with these entities. It is unclear whether there will be an adverse impact on small entities, since the primary thrust of the amendments is to codify certain Commission positions, clarify the application of the Rule and, in a number of circumstances, lessen the Rule's restrictions. Nevertheless, the Commission acknowledges that some parties may not have realized that the Rule covered certain affiliates. These parties may incur additional compliance costs. The Commission has reviewed alternative proposals, including those discussed below.

The Commission again considered whether the fiduciary obligations of certain affiliates of distribution participants are sufficient protection against manipulative activity and that, therefore, these affiliates should be excepted from the operation of Rule 10b-6. The Commission continues to believe that such an approach would not afford adequate protection for the very significant interests of investors in the integrity of the securities trading market. However, it adopted an approach to the affiliate issue that substantially incorporates the suggestions of a number of commentators and that more narrowly defines an "affiliated purchaser" of a Distribution Participant than did the proposed definition.

With respect to call options, the Commission considered and rejected a formulation of the cooling-off period for standardized options parallel to those provided within Exceptions (xi) and (xii). It is the Commission's view that a two-day cooling-off period would be counter-productive, since purchases of securities in response to such options exercises would be likely to occur contemporaneously with the commencement of offers and sales in the distribution of the underlying security. Instead, the Commission proposed two alternatives in an effort to derive the formulation least burdensome to distribution participants consistent with the overriding considerations of investor protection. After considering the suggestions of commentators on this subject, the Commission adopted the amendment permitting exercise of standardized call options throughout the distribution for positions established prior to participation in the distribution

[56] *See* 50 FR at 42722 n.56; 17 CFR 240.10b-7(f). *See also* Note, "The SEC's Rule 10b-6: Preserving a Competitive Market During Distributions," 1967 Duke L.J. 809, 829.

[57] 50 FR at 42722-23.

[58] Securities Exchange Act Release No. 22510 (October 10, 1985), 50 FR 42716 (October 22, 1985).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Issuers, Broker-dealers, Fraud.

IV. Statutory Basis and Text of Amendments

Pursuant to sections 2, 3, 9(a)(6), 10(b), 13(e), 15(c) and 23(a) of the Exchange Act, 15 U.S.C. 78b, 78c, 78i(a), 78j(b), 78m(e), 78o(c), 78w(a), the Commission proposes to amend § 240.10b–6 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation, and the authority citation following section 10b–6 in Part 240 is removed:

Authority: Sec. 23, 48 Stat. 901, as amended, 15 U.S.C. 78w, * * * * * § 240.10b–6 also issued under secs. 2, 3, 9(a)(6), 10(b), 13(e), 15(c); 15 U.S.C. 78b, 78c, 78i(a), 78j(b), 78m(e), 78o(c) * * *

2. Section 240.10b–6 is amended by revising paragraph (a) introductory text, (a)(1) and (a)(2), by removing paragraph (a)(3) introductory text, by redesignating (a)(3)(i) through (a)(3)(xiii) as (a)(4)(i) through (a)(4)(xiii), by adding a new paragraphs (a)(3) and (a)(4) introductory text, by revising newly redesignated (a)(4)(v), (vii), (xi) and (xii), and by revising paragraph (c)(6), to read as follows:

§ 240.10b–6 Prohibition against trading by persons interested in a distribution

(a) It shall be unlawful for any person,

(1) Who is an underwriter or prospective underwriter in a particular distribution of securities, or

(2) Who is the issuer or other person on whose behalf such a distribution is being made, or

(3) Who is a broker, dealer, or other person who has agreed to participate or is participating in such a distribution, or

(4) Who is an "affiliated purchaser" as that term is defined in paragraph (c)(6) of this section.

directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, either alone or with one or more other persons, to bid for or purchase for any account in which he has a beneficial interest, any security which is the subject of such distribution, or any security of the same class and series, or any right to purchase any such security, or to attempt to induce any person to purchase any such security or right, until after he has completed his participation in such distribution: *Provided, however,* That this section shall not prohibit the following, if not engaged in for the purpose of creating actual, or apparent, active trading in or raising the price of any such security:

* * * * *

(v) Brokerage transactions:

(A) Not involving solicitation of the customer's order, or

(B) Involving solicitation of the customer's order (*1*) in the case of securities qualified under paragraph (a)(4)(xi)(A) of this section, prior to the later of two business days before the commencement of offers or sales of the securities to be distributed or the time the broker-dealer becomes a participant in the distribution, or (*2*) in the case of other securities, prior to the later of nine business days before the commencement of offers or sales of the securities to be distributed or the time the broker-dealer becomes a participant in the distribution; or

* * * * *

(vii) The exercise of any right or conversion privilege, set forth in the instrument governing a security, to acquire any security directly from the issuer, or the exercise of standardized call options that were acquired prior to the time a person became a participant in the distribution; or

* * * * *

(xi) Bids or purchases by an underwriter, prospective underwriter, or dealer, or by an affiliated purchaser, if all such bids or purchases are made:

(A) In the case of stock with a minimum price of five dollars per share and a minimum public float of 400,000 shares, or any security of the same class and series as such stock, or any right to purchase any such security, except for the exercise of standardized call options, prior to the later of two business days before the commencement of offers or sales of the securities to be distributed or the time such person becomes a participant in the distribution, or

(B) In the case of the exercise of standardized call options of securities qualified under paragraph (a)(4)(xi)(A) of this section, which call options were acquired after the time such person becomes a participant in the distribution, prior to five business days before the commencement of offers or sales of the securities to be distributed, or

(C) In the case of other securities, prior to the later of nine business days before the commencement of offers or sales of the securities to be distributed or the time such person becomes a participant in the distribution, or

(D) In the case of unsolicited purchases, prior to the later of the date of commencement of offers or sales of the securities to be distributed or the time such person becomes a participant in the distribution; or

(xii) Bids or purchases by an issuer or other person on whose behalf a distribution is being made or by an affiliated purchaser (as defined in paragraph (c)(6) of this section), if all such bids or purchases are made:

(A) In the case of stock with a minimum price of five dollars per share and minimum public float of 400,000 shares, or any security of the same class and series as such stock, or any right to purchase any such security, except for the exercise of standardized call options, prior to two business days before commencement of offers or sales of the securities to be distributed, or

(B) In the case of the exercise of standardized call options on securities qualified under paragraph (a)(4)(xii)(A) of this section, which call options were acquired after the time that such person becomes a distribution participant, prior to five business days before the commencement of offers or sales of the securities to be distributed, or

(C) In the case of other securities, prior to nine business days before the commencement of offers or sales of the securities to be distributed, or

(D) In the case of unsolicited purchases, prior to the date of commencement of offers or sales of the securities to be distributed; or

* * * * *

(c)(6)(i) The term "affiliated purchaser" means:

(A) A person directly or indirectly acting in concert with a distribution participant in connection with the acquisition or distribution of any security which is the subject of such distribution, or any security of the same class and series, or any right to purchase any such security, or

(B) An affiliate who, directly or indirectly, controls the purchases of such securities by a distribution participant, whose purchases are controlled by a distribution participant, or whose purchases are under common control with those of a distribution participant, or

(C) An affiliate that is a broker or a dealer, *Provided, however,* That this paragraph (C) shall not include a broker or a dealer whose business consists solely of effecting transactions in "exempted securities" as defined in Section 3(a)(12) of the Act, or

(D) An affiliate (other than a broker or a dealer) that regularly purchases securities, through a broker-dealer or otherwise, for its own account or for the account of others, or recommends or exercises investment discretion with respect to the purchase or sale of securities: *Provided, however,* That this paragraph (D) shall not apply to an affiliate that satisfies the following conditions: (*1*) The affiliate is a separate and distinct organizational entity from, with no officers (or persons performing similar functions) or employees (other than clerical, ministerial, or support personnel) in common with, the distribution participant; (*2*) The affiliate and the distribution participant have separate employee compensation arrangements; and (*3*) The affiliate's bids for, purchases of, and inducements to purchase the securities subject to this section are made in the ordinary course of its business.

(ii) For purposes of this paragraph (c)(6), the term "distribution participant" means

(A) The issuer or other person on whose behalf the distribution is being made, and

(B) An underwriter, prospective underwriter, dealer, broker, or other persons who has agreed to participate or is participating in the distribution.

* * * * *

By the Commission.

Dated: January 16, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-1695 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 51, 301 and 602

[T.D. 8122]

Definition of Subchapter S Item and Special Rule for Certain Small S Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains Temporary Regulations on Procedure and Administration relating to the definition of the term "subchapter S item" and the exception for small S corporations from the requirement of corporate-level determination of the tax treatment of "subchapter S items." This document also contains Temporary Regulations on the Crude Oil Windfall Profit Tax Act of 1980 relating to the definition of "subchapter S item" under the rules for tax treatment of subchapter S items. Changes to the applicable tax law were made by the Subchapter S Revision Act of 1982. These regulations provide guidance to S corporations, their shareholders, and Internal Revenue Service personnel for compliance with the tax law. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: Except as otherwise provided, the regulations contained in this document are effective for taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Stuart G. Wessler of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. (Attention CC:LR:T, LR-73-86) (202-566-3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Subchapter S Revision Act of 1982 (96 Stat. 1691), there was only a limited mechanism for making corporate-level tax adjustments since the S corporation generally was not the taxable entity. A shareholder's tax liability was determined in proceedings between the shareholder and the Internal Revenue Service. Thus, issues involving the income or deductions of an S corporation were determined in separate administrative and judicial proceedings involving each shareholder whose tax liability was affected. Periods of limitations were also determined at the shareholder level, based on returns filed by the shareholders. The filing of the S corporation return did not affect the period of limitations applicable to the shareholders.

Section 4(a) of the Subchapter S Revision Act of 1982 added sections 6241–6245 to the Internal Revenue Code to provide for unified corporate-level administrative and judicial proceedings to determine the tax treatment of "subchapter S items" rather than separate shareholder-level proceedings. These provisions generally follow the provisions of subchapter C of chapter 63 of the Code relating to the tax treatment of "partnership items."

Explanation of Provisions

Tax Treatment Determined at the Corporate Level

For taxable years beginning after December 31, 1982, section 6241 of the Code provides that, except as otherwise provided in regulations, the tax treatment of a subchapter S item shall be determined at the corporate level. The temporary regulations define the term "S corporation" to include any corporation required to file a return under section 6037(a) of the Code. However, the temporary regulations provide a small S corporation exception to the unified corporate-level proceedings similar to the exception provided by Congress under section 6231(a)(1)(B) for small partnerships. The regulations provide that for any taxable year of an S corporation the due date of the return for which (determined without regard to extensions) is on or after January 30, 1987, the unified corporate proceeedings do not generally apply to small S corporations. A small S corporation is defined as an S corporation with 5 or fewer shareholders, each of whom is a natural person or an estate. An S corporation does not qualify for the exception if any of its shareholders is a pass-through shareholder (other than a shareholder's estate).

The regulations apply the "5 or fewer" limitation to the aggregate number of persons who are shareholders at any one time during the corporate taxable year. Thus, an S corporation that never has more than 5 shareholders at any one time during the taxable year would be treated as a small S corporation even if, because of transfers, 6 or more shareholders own stock in the S corporation during the course of the taxable year. For purposes of the small S corporation exception, a husband and wife will be treated as one shareholder.

An exempt small S corporation may elect to be subject to the new unified corporate procedures. The regulations provide procedural rules for making this election.

Definition of Subchapter S Item

Under section 6245 of the Code, the term "subchapter S item" is defined to include any item of an S corporation to the extent regulations provide that the item is more appropriately determined at the corporate level than at the shareholder level. The temporary regulations list the items that the Internal Revenue Service considers to be more appropriately determined at the corporate level for income tax purposes.

Among the items listed are the "pro rata share" items that the corporation must allocate to the shareholders (including special purpose data such as that necessary to enable shareholders to compute depletion). Also included are corporate-level determinations that have a bearing on transactions affecting a shareholder, including contributions to the corporation and distributions to the shareholder. The temporary regulations provide illustrations of corporate-level determinations that have a bearing on contributions and distributions.

Windfall Profit Tax

Certain windfall profit tax items will be treated as subchapter S items so that the proper treatment of these items will be determined at the corporate level rather than at the shareholder level. A subchapter S item for purposes of the windfall profit tax is any item relating to the computation of the windfall profit tax on crude oil produced by the S corporation for which the Service determines that the tax treatment is more appropriately determined at the corporate level than at the shareholder level. The temporary regulations set forth items which will be treated as subchapter S items for purposes of the windfall profit tax.

Other Issues

Guidance on other issues raised by subchapter D of chapter 63 of the Code will be provided in later regulations or rulings under sections 6241–6245 of the Code.

Special Analyses

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required.

Paperwork Reduction Act

The collection of information requirements contained in these temporary regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0130.

Drafting Information

The principal author of these temporary regulations is Stuart G. Wessler of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 51

Excise taxes, Petroleum, Crude oil.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 51, 301, and 602 are amended as follows:

PART 51—EXCISE TAX REGULATIONS UNDER THE CRUDE OIL WINDFALL PROFIT TAX OF 1980

Paragraph 1. The authority for 26 CFR Part 51 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Section 51.6245–1T is also issued under 26 U.S.C. 6245.

Par. 2. New § 51.6245–1T is added in the appropriate place to read as follows:

§ 51.6245–1T Subchapter S items.

(a) *In general.* For purposes of section 6245 and the regulations thereunder, the term "subchapter S item" means any item relating to the determination of the tax imposed by chapter 45 to the extent that such item is more appropriately determined at the corporate level than at the shareholder level.

(b) *Subchapter S items.* The following items with respect to oil removed from any property in which the S corporation holds an interest are more appropriately determined at the corporate level than at the shareholder level and, therefore, are subchapter S items:

(1) The tier or tiers of the crude oil (including the category of the crude oil to the extent determinable at the corporate level);

(2) The quantity of crude oil in each tier;

(3) The adjusted base price and removal price;

(4) The severance tax adjustment;

(5) The determination of whether the oil qualifies as exempt Alaskan oil;

(6) The determination of when removal from the premises occurs and what constitutes the property;

(7) The percentage interest of each shareholder in the oil removed;

(8) The amount of (and each shareholder's share of) the windfall profit tax withheld from, or paid by, the S corporation for S corporation oil removed during the taxable period;

(9) The windfall profit tax liability of each shareholder for that shareholder's share of the S corporation oil removed during the taxable period (computed without regard to the net income limitation and on the assumption that information furnished to the S corporation by the shareholder with respect to the shareholder's status as an independent producer or exempt status is correct); and

(10) The net income limitation to the extent the limitation can be computed at the corporate level.

(c) *Effective date.* The provisions of this section are applicable to taxable periods beginning after December 31, 1982.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority for 26 CFR Part 301 is amended by adding the following citations:

Authority: 26 U.S.C. 7805. * * * Section 301.6241–1T also issued under 26 U.S.C. 6241. Section 301.6245–1T also issued under 26 U.S.C. 6245.

Par. 4. New §§ 301.6241–1T and 301.6245–1T are added in the appropriate places to read as follows:

§ 301.6241–1T Tax treatment determined at corporate level.

(a) *In general.* For a taxable year of an S corporation beginning after December 31, 1982, a shareholder's treatment of a subchapter S item (as defined in § 301.6245–1T) on the shareholder's return may not be changed except as provided in sections 6241–6245 of the Code and the regulations thereunder. Thus, for example, if a shareholder treats an item on the shareholder's return consistently with the treatment of that item on the S corporation return, the Internal Revenue Service generally cannot adjust the treatment of that item on the shareholder's return except through a corporate-level proceeding. Similarly, the shareholder may not put a subchapter S item in issue in a proceeding relating to nonsubchapter S items. For example, the shareholder may not offset a potential increase in taxable income based on changes in nonsubchapter S items by a potential decrease based on subchapter S items.

(b) *Restrictions inapplicable after items become nonsubchapter S items.*

Section 6241 and paragraph (a) of this section cease to apply to items arising from an S corporation with respect to a shareholder when those items cease to be subchapter S items with respect to that shareholder under section 6231(b)(1) (as extended to and made applicable to subchapter S items under section 6244).

(c) *S corporation*—(1) *In general.* For purposes of subchapter D of chapter 63 of the Code, except as provided in paragraph (c)(2) of this section, the term "S corporation" means any corporation required to file a return under section 6037(a).

(2) *Exception for small S corporations*—(i) *Effective date.* This paragraph (c)(2) shall apply to any taxable year of an S corporation the due date of the return for which (determined without regard to extensions) is on or after January 30, 1987.

(ii) *Five or fewer shareholders.* For purposes of this paragraph (c), an S corporation shall not include a small S corporation. A small S corporation is defined as an S corporation with 5 or fewer shareholders, each of whom is a natural person or an estate. For purposes of this paragraph (c)(2), a husband and wife (and their estates) are treated as one shareholder. If stock (owned other than by a husband and wife) is owned by tenants in common or joint tenants, each tenant in common or joint tenant is considered to be a shareholder of the corporation. The limitation is applied to the number of natural persons and estates that were shareholders at any one time during the taxable year of the corporation. Thus, for example, an S corporation that at no time during the taxable year had more than 5 shareholders may be treated as a small S corporation even if, because of transfers of interests in the corporation, 6 or more natural persons or estates owned stock in the corporation for some portion of the taxable year.

(iii) *Special rule.* The exception provided in paragraph (c)(2)(ii) of this section does not apply to an S corporation for a taxable year if any shareholder in the corporation during that taxable year is a pass-through shareholder. For purposes of this paragraph (c)(2)(iii), a pass-through shareholder is—

(A) A trust;

(B) A nominee; or

(C) Other similar pass-through persons through whom other persons have an ownership interest in the stock of the S corporation. For purposes of the preceding sentence, a shareholder's estate shall not be treated as a pass-through shareholder.

(iv) *Determination made annually.* The determination of whether an S corporation meets the requirements for the exception under paragraph (c)(2)(ii) of this section shall be made for each taxable year of the corporation. Thus, an S corporation which does not qualify as a small S corporation in one taxable year may qualify as a small S corporation in another taxable year if the requirements for the exception under paragraph (c)(2)(ii) of this section are met with respect to that other taxable year.

(v) *Election to have subchapter D of chapter 63 apply*—(A) *In general.* Notwithstanding paragraph (c)(2)(ii) of this section, a small S corporation may elect to have the provisions of subchapter D of chapter 63 of the Code apply with respect to that corporation.

(B) *Method of election.* A small S corporation shall make the election described in paragraph (c)(2)(v)(A) of this section for a taxable year of the corporation by attaching a statement to the corporate return for the first taxable year for which the election is to be effective. The statement shall be identified as an election under § 301.6241–1T(c)(2)(v)(A), shall be signed by all persons who were shareholders of that corporation at any time during the corporate taxable year to which the return relates, and shall be filed at the time (determined with regard to any extensions of time for filing) and place prescribed for filing the corporate return.

(C) *Years covered by election.* The election shall be effective for the taxable year of the corporation to which the return relates and all subsequent taxable years of the corporation unless revoked with the consent of the Commissioner.

§ 301.6245–1T Subchapter S items.

(a) *In general.* For purposes of subtitle F of the Internal Revenue Code of 1986, the following items which are required to be taken into account for the taxable year of an S corporation under subtitle A of the Code are more appropriately determined at the corporate level than at the shareholder level and, therefore, are subchapter S items:

(1) The S corporation aggregate and each shareholder's share of, and any factor necessary to determine, each of the following:

(i) Items of income, gain, loss, deduction, or credit of the corporation;

(ii) Expenditures by the corporation not deductible in computing its taxable income (for example, charitable contributions);

(iii) Items of the corporation that may be tax preference items under section 57(a) for any shareholder;

(iv) Items of income of the corporation that are exempt from tax;

(v) Corporate liabilities (including determinations of the amount of the liability, whether the corporate liability is to a shareholder of the corporation, and changes from the preceding year); and

(vi) Other amounts determinable at the corporate level with respect to corporate assets, investments, transactions, and operations necessary to enable the S corporation or the shareholders to determine—

(A) The general business credit provided by section 38;

(B) Recapture under section 47 of the credit provided by section 38;

(C) Amounts at risk in any activity to which section 465 applies;

(D) The depletion allowance under section 613A with respect to oil and gas wells;

(E) Amortization of reforestation expenses under section 194;

(F) The credit provided by section 34 for certain uses of gasoline and special fuels; and

(G) The taxes imposed at the corporate level, such as the taxes imposed under section 56, 1374, or 1375;

(2) Any factor necessary to determine whether the entity is an S corporation under section 1361, such as the number, eligibility, and consent of shareholders and the classes of stock;

(3) Any factor necessary to determine whether the entity has properly elected to be an S corporation under section 1362 for the taxable year;

(4) Any factor necessary to determine whether and when the S corporation election of the entity has been revoked or terminated under section 1362 for the taxable year (for example, the existence and amount of subchapter C earnings and profits, and passive investment income); and

(5) Items relating to the following transactions, to the extent that a determination of such items can be made from determinations that the corporation is required to make with respect to an amount, the character of an amount, or the percentage of stock ownership of a shareholder in the corporation, for purposes of the corporation's books and records or for purposes of furnishing information to a shareholder:

(i) Contributions to the corporation; and

(ii) Distributions from the corporation.

(b) *Factors that affect the determination of subchapter S items.*

The term "subchapter S item" includes the accounting practices and the legal and factual determinations that underlie the determination of the existence, amount, timing, and characterization of items of income, credit, gain, loss, deduction, etc. Examples of these determinations are: The S corporation's method of accounting, taxable year, and inventory method; whether an election was made by the corporation; whether corporate property is a capital asset, section 1231 property, or inventory; whether an item is currently deductible or must be capitalized; whether corporate activities had been engaged in with the intent to make a profit for purposes of section 183; whether the corporation qualified for the credit for increasing research activities under section 41; and whether the corporation qualified for the credit for clinical testing expenses for a rare disease or condition under section 28.

(c) *Illustrations*—(1) *In general.* This paragraph (c) illustrates the provisions of paragraph (a)(5) of this section. The determinations illustrated in this paragraph (c) that the corporation is required to make are not exhaustive; there may be additional determinations that the corporation is required to make which relate to a determination listed in paragraph (a)(5) of this section. The critical element is that the corporation is required to make a determination with respect to a matter for the purposes stated; failure by the corporation actually to make a determination (for example, because it does not maintain proper books and records) does not prevent an item from being a subchapter S item.

(2) *Contributions.* For purposes of its books and records, or for purposes of furnishing information to a shareholder, the S corporation must determine:

(i) The character of the amount received by the corporation (for example, whether it is a contribution, loan, or repayment of a loan);

(ii) The amount of money received by the corporation; and

(iii) The basis to the corporation of contributed property (including necessary preliminary determinations, such as the shareholder's basis in the contributed property).

To the extent that a determination of an item relating to a contribution can be made from these and similar determinations that the corporation is required to make, that item is a subchapter S item. To the extent that the determination requires other information, however, that item is not a subchapter S item. Such other information would include those factors used in determining whether there is recapture under section 47 by the contributing shareholder of the general business credit because of the contribution of property in circumstances in which that determination is irrelevant to the corporation.

(3) *Distributions.* For purposes of its books and records, or for purposes of furnishing information to a shareholder, the S corporation must determine:

(i) The character of the amount transferred to a shareholder (for example, whether it is a dividend, compensation, loan, or repayment of a loan);

(ii) The amount of money distributed to a shareholder;

(iii) The fair market value of property distributed to a shareholder;

(iv) The adjusted basis to the corporation of distributed property; and

(v) The character of corporation property (for example, whether an item is inventory or a capital asset).

To the extent that a determination of an item relating to a distribution can be made from these and similar determinations that the corporation is required to make, that item is a subchapter S item. To the extent that the determination requires other information, however, that item is not a subchapter S item. Such other information would include the determination of a shareholder's basis in the shareholder's stock or in the indebtedness of the S corporation to the shareholder.

(d) *Cross reference.* For the definition of subchapter S item for purposes of the windfall profit tax, see § 51.6245-1T.

(e) *Effective date.* This section shall apply to taxable years beginning after December 31, 1982.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority for 26 CFR Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101 (c) is amended by inserting the following item in the appropriate place in the table:

§ 301.6241-1T 1545-0130

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: January 21, 1987.

O. Donaldson Chapoton,
Acting Assistant Secretary of the Treasury.

[FR Doc. 87-1792 Filed 1-27-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Approval of State Program Amendments

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of program amendments submitted by the State of Maryland as modifications to its permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments contain both emergency regulations and proposed permanent program regulations for permitting and regulating previously unpermitted coal preparation plants in the State. The revisions are intended to satisfy the requirements of OSMRE's interim-final rule of July 10, 1985, regarding coal preparation plants not located within the permit area of a mine.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director has determined that the amendments meet the requirements of SMCRA and the Federal regulations. The Federal rules at 30 CFR 920 codifying decisions concerning the Maryland program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay. Consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of

Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On March 3, 1980, OSMRE received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following the submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217). Subsequent actions concerning the Maryland program which led to further required amendments are discussed at 50 FR 47379–47386 (November 18, 1985) and are contained in 30 CFR 920.16.

II. Submission of Program Amendments

On March 18, 1986, Maryland submitted to OSMRE proposed emergency and permanent program regulations concerning coal preparation plants, support facilities and related definitions (Administrative Record No. MD 334).

On April 23, 1986, Maryland resubmitted its emergency regulations for coal preparation plants. The regulations are the same as the draft emergency regulations which were submitted on March 18, 1986, except for COMAR 08.13.09.01B(14) and 08.13.09.03G. The changes to the regulations were in format only and the intent of the regulations was not changed by the revisions. The emergency regulations, which were published in the Maryland Register on April 11, 1986, were approved by Maryland's Administrative, Executive and Legislative Review Committee and took effect on March 25, 1986. The emergency regulations expired on July 3, 1986 (Administrative Record No. MD 335).

On July 31, 1986, Maryland advised OSMRE that its proposed permanent program regulations for regulating unpermitted coal preparation plants, as published in the Maryland Register on May 23, 1986, were adopted as proposed and became effective on July 28, 1986. As explained in the May 23rd Maryland Register notice, the proposed permanent program regulations are identical to the proposed emergency regulations for regulating unpermitted coal preparation plants which were published in the Maryland Register on April 11, 1986. The Maryland regulations required the submission of Modules I and II by May 22, 1986, and phase two required the submission of Modules III and IV by July 25, 1986. Maryland has received applications for four previously nonregulated processing plants. The four applications will allow the Bureau of Mines to permit all existing unregulated coal preparation plants that have been identified by the State (Administrative Record No. MD 363).

The proposed amendments are intended to satisfy OSMRE's interim final rule of July 10, 1985, and bring additional coal preparation plants and other off-site facilities under the State's permanent program regulations (50 FR 28186–28190). This action is being taken as a result of, and in compliance with, the District Court for the District of Columbia's July 6, 1984, ruling in *In Re: Permanent Surface Mining Regulation Litigation II, Civil Action No. 79–1144*. The Court ruled that the Secretary's definitions for coal preparation plant and support facilities improperly narrowed the regulatory scope of SMCRA. The Court held that processing facilities which in any way leach, chemically process, or physically process coal should be regulated as coal preparation plants, even if they do not separate coal from its impurities.

The proposed Maryland amendments are intended to bring coal preparation facilities not located within the permit area of a mine under the jurisdiction of the Maryland program in accordance with the Court's decision. Maryland proposes to amend its definition of coal preparation plant at COMAR 08.13.09.01, revise its permitting requirements at COMAR 08.13.09.03, and amend its special performance standards for coal preparation plants at COMAR 08.13.09.28.

On August 8, 1986, OSMRE published a notice in the **Federal Register** which announced receipt of the proposed modifications and requested public comments on their adequacy (51 FR 28801–28802). The public hearing that was scheduled for August 28, 1986, was not held because no one expressed an interest in participating in the hearing. The public comment period closed on September 8, 1986 (Administrative Record No. MD 338).

III. Director's Findings

In accordance with 30 CFR 732.17 and SMCRA, the Director finds that the proposed amendments, as submitted by Maryland on March 18, 1986, and April 23, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed below. Because Maryland's proposed permanent program regulations of July 28, 1986, (are identical to the proposed emergency regulations which took effect on March 25, 1986), and that were submitted by Maryland on April 23, 1986, the following findings apply to both sets of regulations.

1. COMAR 08.13.09.01

OSMRE's previous definition of coal processing plant, like Maryland's definition, required that coal be separated from its impurities. This definition was challenged in Round I of *In Re: Permanent Surface Mining Regulation Litigation II, Civil Action No. 79–1144 (D.D.C. 1984)*. In a July 6, 1984, opinion, the District Court decided that the definition improperly narrowed the regulatory scope of SMCRA. The definition was remanded and on July 10, 1985, OSMRE revised its definition of coal preparation plant. OSMRE directed the States to amend their programs accordingly. Maryland deleted its definition of "coal processing plant" at COMAR 08.13.09.01B(14) and added a new definition of "coal preparation plant". The term coal preparation plant is now defined to mean any facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. The new definition requires that facilities which in any way leach, chemically process, or physically process coal must be regulated as coal preparation plants, even if they do not separate coal from its impurities. The Director finds that the State's new definition of coal preparation plant at COMAR 08.13.09.01B(14) is no less effective than the revised Federal definition at 30 CFR 701.5.

In its July 6, 1984, decision, the District Court ruled that the determination of whether a facility was subject to SMCRA could not include an element of proximity. Since OSMRE's previous definition of support facilities included an element of proximity, OSMRE suspended its definition. OSMRE also decided that a definition of support facility was not needed. However, OSMRE maintains that all such facilities which are resulting from or are incident to a regulated activity are regulated surface coal mining operations under SMCRA. As such, they are subject to the prohibitions of section 522(e) and the applicable performance standards of SMCRA. On February 21, 1986, OSMRE advised Maryland that if it defines support facilities in its permanent program, the definition would have to be deleted or amended to not include an element of proximity (Administrative Record No. MD 333). On March 18, 1986, Maryland advised OSMRE that its permanent program regulations do not define support facilities. Further, Maryland's regulations have never excluded support facilities based on proximity, or the absence of proximity. Maryland revised its regulations to remove the term "support facilities" and include the term "associated facilities" wherever it appeared (Administrative Record No. MD 334). Therefore, the Director finds that the Maryland regulations are no less effective than the Federal requirements concerning support facilities.

The statutory authority for the regulation of off-site coal preparation plants originates from the definition of "surface coal mining operations" in section 701(28)(A) of SMCRA. OSMRE interpreted the definition to mean that the activities "leaching and other chemical or physical processing" were limited by the term "in situ". The District Court ruled that such an interpretation was improper. On July 10, 1985, OSMRE amended its definition of surface coal mining operations by replacing the comma between distillation and retorting with an "or" and by placing a semicolon after the phrase "in situ distillation or retorting". This change means that "leaching, chemical or physical processing" will no longer be limited by the term "in situ" and these operations will have to be regulated wherever they occur. Because Maryland did not amend its definition of "surface mining operations" at COMAR 08.13.09.01B(49)(d), OSMRE requested that the State submit a legal interpretation affirming that its definition of surface coal mining operations is consistent with section 701(28) of SMCRA and 30 CFR 700.5. On March 18, 1986, Maryland stated that its definition of "surface coal mining operations" at COMAR 08.13.09.01B(49)(d) is, in relevant parts, identical to the Federal definition at section 701(28) of Pub. L. 95–87. Maryland went on to say that the July 10, 1985, **Federal Register** notice traces the amendments that OSMRE has made to its definition of surface coal mining operations at 30 CFR 700.5. While OSMRE's definition has been modified more than once, Maryland has not modified its definition since it was approved as part of the Maryland program. Maryland said that the results of the sequence of changes that OSMRE has made to its definition at 30 CFR 700.5 is that the Federal definition has a semicolon after the phrase "in situ distillation or retorting", while Maryland has a comma after that phrase. Since Maryland's definition is identical to the definition in Pub. L. 95–87, Maryland concluded that its definition is consistent with section 701(28) of Pub. L. 95–87. Further, assuming OSMRE's definition at 30 CFR 700.5 is consistent with the definition at section 701(28) of Pub. L. 95–87, Maryland said that its definition is also consistent with 30 CFR 700.5. That is, Maryland's comma is consistent with OSMRE's semicolon (Administrative Record No. MD 334). Since Maryland has never interpreted its definition of surface coal mining operations to mean that leaching and other chemical or physical processing activities are limited by the term in situ and the State's definition of surface coal mining operation is for the most part identical to the Federal definition at section 701(28), the Director finds that COMAR 08.13.09.01(B)(49)(d) is no less effective than 30 CFR 700.5 and no less stringent than section 701(28) of SMCRA. Therefore, the State does not have to amend its definition of surface coal mining operations.

2. COMAR 08.13.09.02

Maryland amended its regulations at COMAR 08.13.09.03G to prohibit any person from operating a coal preparation plant in the State without first obtaining a permit from the Bureau of Mines. It also provides that a person operating a coal preparation plant on the effective date of the regulation, who was not previously regulated under the Maryland program may continue to conduct that operation for eight months if an application for a permit has been made to the Bureau. On and after eight months from the effective date of the regulation, a person may not operate a coal preparation plant unless he has obtained a permit from the Bureau. However, a previously unregulated coal preparation plant that was operating on the effective date of the regulation may continue to operate after the eight month deadline if: (a) The application for a permit has been made to the Bureau; and (b) the Bureau has not made a decision to issue or deny the permit. Maryland's regulations at COMAR 08.13.09.03(H) provide a schedule for submitting an application for a previously unregulated coal preparation plant. The revised regulation requires that Modules I and II of the application for mining operations and a map be submitted to the Bureau within two months of the effective date of the regulation. The map must identify owners and boundaries of surface properties within 1,000 feet of the permit area; boundaries of the proposed permit area and all existing contiguous permits; the location of all buildings on and within 1,000 feet of the proposed permit area and the current use of each building; the location of surface and subsurface man-made features within, passing through or over the proposed permit area; each public road within 1,000 feet of the proposed permit area; each public or private cemetery or Indian burial ground within 100 feet of the proposed permit area; the location of surface water bodies within the proposed permit and adjacent areas; the boundaries of any public park, forest or wildlife management area; the locations of any cultural or historic resources in the National Register of Historic Places and the locations of any known archeological sites within the permit area or adjacent areas; the distance from the permit area to the nearest structure where mining is prohibited, unless a waiver is obtained; and the location of all monitoring stations used to gather water quality and quantity data in preparation of the application. Within four months of the effective date of the regulation, the operator must also submit Modules III and IV of the application for mining operations, a mining plan map and any other required information to complete the application under the Maryland program. The Director finds that Maryland's revised permitting requirements at COMAR 08.13.09.03G and H for coal preparation plants not located within the permit area of a mine are no less effective than the Federal requirements at 30 CFR 785.21.

On February 21, 1986, OSMRE notified Maryland that COMAR 08.13.09.03G(1), unlike 30 CFR 785.21(a), does not exempt the permitting of coal preparation plants located at the site of ultimate use. Since coal preparation plants located at the site of ultimate use are not currently being regulated by Maryland, OSMRE recommended that the State may want to amend its regulations to exclude these facilities. On March 18, 1986, Maryland advised OSMRE that prior to May 5, 1983, OSMRE's exemption of coal preparation plants located at the site of ultimate use was only in the preamble to the Federal regulations. Maryland said that they have adopted and will continue to abide by OSMRE's interpretation that coal preparation facilities located at the site of ultimate use are exempt. Unless it is necessary, Maryland prefers not to amend its regulations every time OSMRE amends its regulations in order to avoid the confusion and burden involved in changing its regulations and to retain as much program stability as possible. Since Maryland's regulations do not require the permitting of coal preparation plants located at the site of ultimate use and the State has and will continue to interpret its program as exempting such facilities from regulation, the Director finds that COMAR 08.13.09.03G and the State's interpretation of these provisions is no less effective than 30 CFR 785.12(a).

On February 21, 1986, OSMRE also informed Maryland that COMAR 08.13.09.03G and 08.13.09.28E require that persons who operate coal preparation plants not located within the permit area of a mine must obtain a permit. However, the Federal regulations require that the person must also obtain a performance bond. On March 18, 1986, the State advised OSMRE that if the Bureau of Mines decides to issue a permit, COMAR 08.13.09.04M(1)(c) requires that the Bureau must specify a time limit within which the applicant must submit a performance bond. COMAR 08.13.09.04M(4) also provides for the issuance of the permit following the receipt of the required bond. Maryland concluded that although performance bonds are not explicitly required under .03G and .28E, they are required of all permits issued under the program, including all preparation plants that have been or will be permitted by the State. Therefore, the Director finds the COMAR 08.13.09.03G, 08.13.09.28E, 08.13.09.04M(1)(c) and 08.13.09.04M(4) are no less effective than 30 CFR 827.11 in regard to the bonding of coal preparation plants.

3. COMAR 08.13.09.28

Maryland revised its special performance standards at COMAR 08.13.09.28E for coal preparation plants and associated facilities not located within a permit area of a mine. The revisions related to signs and markers, sediment control structures, permanent impoundments and coal processing waste dams. Except for the sediment control provisions, the State's requirements remained essentially the same. OSMRE advised the State on February 21, 1986, that its draft regulations at COMAR 08.13.09.28E(4) did not require the use of sediment control structures for coal preparation plants and support facilities. The Federal regulations at 30 CFR 827.12(c) require that all drainage from any disturbed area related to a coal preparation plant must comply with 30 CFR 816.45 through 816.47. Maryland revised both its emergency and proposed permanent program regulations at COMAR 08.13.09.28E(4) so that sediment control structures for coal preparation plants and associated facilities would not be optional. Therefore, the Director finds that the State's revised special performance standards of COMAR 08.13.09.28E are no less effective than the Federal requirements at 30 CFR 827.12.

4. COMAR 08.13.09.05D

OSMRE advised Maryland on February 21, 1986, that its regulations did not provide for the temporary and permanent cessation of operations as required by 30 CFR 827.12(i). On March 18, 1986, the State informed OSMRE that although the cessation of operations is not explicitly addressed under COMAR 08.13.09.03 and 08.13.09.28, the State's requirements at COMAR 08.13.09.05D (6) and (7) provide for temporary and permanent cessation of mining operations. The State said that the requirements apply to all permits issued under Maryland's approved program, including coal preparation plants and associated facilities not located within the permit area of a mine. Therefore, the Director finds that COMAR 08.13.09.05D (6) and (7) are no less effective than 30 CFR 827.12(i).

IV. Public Comments

Public comments on Maryland's proposed program amendments were solicited by OSMRE on August 8, 1986 (51 FR 28601–28602). No public comments were received on the amendments.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies on the proposed amendments (Administrative Record No. MD 348). Of those Federal agencies invited to comment, acknowledgments were received from the Department of Agriculture, Soil Conservation Service; the Department of Labor, Mine Safety and Health Administration; the Department of the Army, Corps of Engineers; the Environmental Protection Agency; and the Department of the Interior, Bureau of Land Management. None of the agencies identified any deficiencies in the proposed program amendments. The Corps of Engineers reminded OSMRE of its nationwide permit No. 21 which authorizes discharges of fill or dredged material in wetlands and other waters of the United States associated with certain coal mining activities. According to the Corps of Engineers, these activities must be authorized under Maryland's permanent program, and the district engineer must be given an opportunity to review the permit application and all relevant documentation prior to any decision on the application. The district engineer must determine that the individual and cumulative adverse effects on the environment from the operation are minimal in order for the operation to be authorized under the nationwide permit. OSMRE provided Maryland a copy of the Corps of Engineers' comments. As in the past, OSMRE will continue to monitor the State's program closely to ensure the coordination of permitting activities in accordance with SMCRA and section 404 of the Clean Water Act.

IV. Director's Decision

Based on the above findings, the Director is approving the emergency regulations and the proposed permanent program regulations submitted by the State of Maryland on March 18, 1986, and April 23, 1986, for regulating previously unpermitted coal preparation plants and associated facilities not located within the permit area of a mine. The Federal rules at 30 CFR Part 920 are being amended to implement this decision. The Director is also adding paragraph (d) at 30 CFR 920.15 which was inadvertently deleted during the last rulemaking.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 8, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule 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.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 20, 1987.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining, Reclamation and Enforcement.

PART 920—MARYLAND

30 CFR Part 920 is amended as follows:

1. The authority citation for Part 920 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and reclamation Act of 1977 (30 U.S.C. 1201 *et. seq.*)

§ 920.15 [Amended]

2. 30 CFR 920.15 is amended by redesignating existing paragraph (d) as (e) and adding a new paragraph (d) which was inadvertently omitted during the last rulemaking; and by adding a new paragraph (f), to read as follows:

* * * * *

(d) The following statutory and regulatory amendments submitted to OSMRE on January 13, 1984, June 8, 1984, August 7, 1984, October 1984, and November 9, 1984, are approved effective November 18, 1985, subject to the requirements set forth in § 920.16: Maryland's permitting requirements and performance standards for coal exploration activities at COMAR 08.13.09.07 as submitted on January 13, 1984; statutory revision to § 7–506(h) and § 7–514.6 of Title 7 of the Annotated Code of Maryland regarding the advertisement of bond release and prospecting, respectively, as submitted on January 13, 1984; Maryland's statutory and regulatory revisions concerning the form, amount and release procedures for performance bonds at proposed COMAR 08.13.09.15H(2), proposed COMAR 08.13.09.15I(1) (b) and (c), proposed COMAR 08.13.09.15I(2)(a), proposed COMAR 08.13.09.15J (4), (5) and (6)(a), § 7–511 (a) and (b) of the Annotated Code of Maryland, COMAR 08.13.09.15C(3), COMAR 08.13.09.15F(3), COMAR 0.8.1309.15H(5), COMAR 08.13.09.15B(2)(c), and § 7–506(c)(3) of the Maryland Annotated Code as submitted on June 8, 1984; regulatory revisions to COMAR 08.13.09. as submitted on August 7, 1984, providing for the regulation of surface coal mining and reclamation operations of State-owned land; statutory revisions to § 7–504 (a) and (c) and § 7–505.1(e) of the Annotated Code of Maryland concerning license suspension and protection of areas designated for mining as submitted on October 10, 1984; statutory and regulatory revision concerning the circumstances under which extensions to the 90-day abatement period can be authorized at § 7–507(c)(2) of the Annotated Code of Maryland and COMAR 08.13.09.40F (4), (5), (6), and (7) as submitted on January 13, 1984; and regulatory revisions at proposed COMAR 08.13.09.40B as submitted on November 9, 1984, and clarified on January 16, 1985, concerning the State's inspection frequency standards. This approval is contingent upon the promulgation of the aforementioned proposed regulations.

* * * * *

(f) The following amendments submitted to OSMRE on March 18, 1986, and April 23, 1986, are approved effective January 30, 1987: Maryland's addition of the definition for "coal preparation plant" and the deletion of the definition of "coal processing plant" at COMAR 08.13.09.01B(14); the deletion of the term "support facilities" and the inclusion of the term "associated facilities" at COMAR 08.13.09.03 and .28; revisions to COMAR 08.13.09.03G setting forth the permit application requirements for coal preparation plants and associated facilities not located within the permit area of a mine; addition of COMAR 08.13.09.03H which contains a schedule for submitting permit applications for all previously unregulated coal preparation plants; and revisions to COMAR 08.13.09.28E concerning special performance standards for coal preparation plants and associated facilities not located within the permit area of a mine. These amendments include both Maryland's emergency regulations which appeared in the Maryland Register on April 11, 1986, and became effective March 25, 1986, and the permanent program regulations which were announced in the Maryland Register on May 23, 1986, and took effect on July 28, 1986.

[FR Doc. 87–1849 Filed 1–29–87; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 17

Charges for Care or Medical Services

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) has amended its medical series of regulations (38 CFR Part 17) to conform to requirements of Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985, which gave the VA statutory authority to recover the cost of medical care furnished to nonservice-connected veterans from third party health insurance policies carried by those veterans. As required by the Act, no attempt will be made by the VA to collect from the veteran deductibles or coinsurance payments prescribed by health insurance policies.

EFFECTIVE DATE: These regulations have a retroactive effective date of April 7, 1986, the effective date of the law which they implement.

FOR FURTHER INFORMATION CONTACT: Karen Walters, Chief, Policies and Procedures Division, Medical Administration Service, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2337.

SUPPLEMENTARY INFORMATION: Comments from seven organizations were received concerning the proposed regulatory changes published on pages 19814–19815 of the **Federal Register** of June 2, 1986.

Six comments expressed the view that the regulations as proposed do not give adequate notice that payment to the VA by third party health insurance carriers is subject to utilization review/cost containment practices such as preadmission certifications, second surgical opinions, concurrent reviews, ambulatory surgery, etc., and other criteria, exclusions and benefit limitations that may be contained in the health care contract. Since the new law limits VA recoveries to amounts third parties would pay in accordance with prevailing rates, but does not mention specific utilization review/cost containment mechanisms, no changes have been made.

One comment recommended the phrase "may be liable" be used in § 17.48(g)(1)(ii) in lieu of the phrase "are, or will become liable" to account for the possibility that a third party payer might not be liable by virtue of contract exclusions of limitations applicable to care rendered in non-Federal facilities as well as in VA facilities. This suggestion is incorporated in the language of the final regulation.

One comment requested the VA to clarify language in § 17.62(h)(2)(i) to specifically indicate that no deductible and/or coinsurance charge prescribed by a health plan contract shall be required from the veteran "as a condition for receiving care." This language is adopted in the final regulation.

In the same section (§ 17.62(h)(2)(i)) the phrase "the veteran" is changed to "the otherwise eligible veteran" to draw a clear distinction between copayments and deductibles specified in health care contracts and payments to the VA for health care services required from certain higher income nonservice-connected veterans in order to establish eligibility for VA care under § 17.47(d). Two comments requested this clarification.

Three comments questioned the proposed effective date of these final regulations as retroactive to April 7, 1986. April 7, 1986, is the effective date of section 19013 of Pub. L. 99-272, the section which made insurers subject to claims for VA-provided care. The VA continues to find that there is good cause to adhere to the decision to make these regulations retroactively effective since a delayed effective date would clearly be contrary to statutory design and would complicate administration of this provision of law. The regulations simply readopt the Agency's present methodology for computing charges, described in 38 CFR 17.62(h)(3), adding only certain provisions from Pub. L. 99-272 so as to conform to the requirements of the new law. The regulations involve no substantive exercise of VA discretion or rulemaking authority other than to continue the present VA procedures for computation of charges, and to apply them equally to those third parties newly subject to reimbursement claims under 38 U.S.C. 629 as amended. Pub. L. 99-272, on its date of enactment, April 7, 1986, put third reimbursers on notice that they were subject to claims for reimbursement for VA-provided care under any policy renewed or entered into after that date.

One comment addressed the need of third party payers for records (such as financial records) in addition to patients' medical records to support charges made for care and to determine that covered services have been provided. The VA has no objection to making available to third party payers any records, except those specifically protected by statute, needed by the payer to process VA claims. Records protected by statute include certain records specifically maintained for quality assurance purposes (38 U.S.C. 3305) and individual patient records containing information on drug, alcohol, or sickle-cell anemia conditions where the patient refuses to consent to the release of this protected information to an insurer (38 U.S.C. 4132). In the final regulation, § 17.62(h)(2)(ii) is changed to incorporate these provisions in the interest of clarity.

One commentor expressed concern over the need to preserve the confidentiality, as trade secrets under the Freedom of Information Act (FOIA), of information furnished to the Administrator for the purpose of demonstrating what the third party would pay for care or services in accordance with prevailing rates paid to comparable facilities. When insurers submit any "confidential commercial information" to the VA which they believe is proprietary and exempt from mandatory disclosure under exemption (b)(4) of the FOIA, 5 U.S.C. 552(b)(4), VA requests that they clearly stamp or identify it to the VA as such. If the VA receives a FOIA request for such records, we would then carefully review them under the requirements of that FOIA exemption, and give the submitting insurer the opportunity to convince the VA of the applicability of that FOIA exemption to the requested records before any VA disclosure determination is made.

One comment questioned the method of computing costs assigned by the VA to certain treatment procedures. The methodology used by the VA to establish charges is described in § 17.62(h)(3) and specifies use of all-inclusive per diem rates by type of inpatient care (i.e., per diem rate by designated bed section or discrete treatment unit providing the inpatient service.) The same methodology has been used by the VA for many years in recovering costs of care furnished tort victims under the Federal Medical Care Recovery Act, 42 U.S.C. 2651-2653, and other hospital collections. No charge by treatment procedure or diagnosis is contemplated.

One comment expressed concern that the VA would prematurely discharge patients if their insurance policies provided only partial coverage or if their insurance benefits were exhausted. The same commentor also expressed concern for the potential of discriminatory practices in the admission of nonservice-connected veterans with third party health insurance coverage into VA facilities. The VA's compliance with insurance carrier provisions for utilization review, second surgical opinions, preadmission certifications, etc., to the extent feasible, is intended to effect the maximum cost recovery by the VA on behalf of the United States Treasury for care furnished to otherwise eligible veterans. The existence or nonexistence of health insurance coverage has nothing at all to do with eligibility for care by the VA nor is it a factor in determining priority for care. Only a VA physician has the authority to either admit or discharge a patient from a VA facility. The VA's commitment to meeting the needs of veterans has not changed and it will continue to consider the overall well-being of the veteran in arranging patient discharges, fully recognizing that the VA's right to recover in those circumstances is limited to the extent to which a non-Federal health care provider would receive payment under similar circumstances.

One comment expressed concern that administrative staff shortages will adversely affect services to veterans. The VA is committed to maintaining the highest quality of direct patient care and will implement third party cost recovery and other provisions of Pub. L. 99-272 ("means test") without adversely affecting services to veterans.

One comment questioned the reasonableness of the cost elements included in the computation of per diem rates charged for VA medical care and services. The Office of Management and Budget (OMB) establishes and publishes annually in the **Federal Register** the reimbursement rates for medical services furnished by all Federal agencies, in accordance with OMB Circular No. A-25 entitled User Charges. VA has consistently followed the cost accounting guidelines published by OMB in Circular No. A-25. Depreciation factors used to recover the cost of VA buildings and equipment are appropriate, since the Cost Distribution Report which forms the basis for computation of VA per diem rates excludes the acquisition cost of office overhead, fringe benefit costs, and interest on capital investment. Although not all such costs are directly funded, their inclusion is appropriate as they are true costs of the Federal government.

One comment addressed the right of third party payers to challenge VA determinations regarding whether or not a veteran has a service-connected disability. Under 38 U.S.C. 211(a), the determination of service-connection rests solely within the VA and is not subject to review even by the courts. The VA may provide evidence of the determination of service-connection by the VA Department of Veterans Benefits upon the request of the third party payer. Such documentation is routinely contained in the patient's medical record. Further the VA routinely refunds any amounts incorrectly charged and paid, either by the veteran or other party, occurring when a veteran is awarded retroactive service-connection.

One commentor recommended that § 17.62(h)(4) be amended so as to require the VA to consider health plan payments based on a "contract definition of reasonable cost" different from that promulgated by the VA or determined through the Cost Distribution Report. The reason for the recommendation was not stated, and, until the VA has had an opportunity to review a sufficient number of health plan contracts, it is not possible to determine whether such an amendment would be appropriate or necessary. The same commentor also recommended that the regulations contain more guidelines regarding the evidence the VA will accept as sufficient to establish the prevailing rates paid for comparable services in the same geographic area. Until the program has operated for a reasonable period, during which the prevailing rates and means of documenting them can be expected to be clarified, it would not be appropriate to restrict the evidence that the third party may present to the VA to defend its estimate of the reasonble cost of similar care in the community.

Executive Order 12291: Cost recoveries from all third party carriers are expected to be in excess of the E.O. 12291 criteria for a major rule, which is $100 million per year in future years, however the VA has determined that sufficient alternatives to its proposal do not exist and that these regulations will have no adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Office of Management and Budget has provided a waiver from conducting a Regulatory Impact Analysis.

For the above reasons, the Administrator certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs, Health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

(The Catalog of Federal Domestic Assistance numbers are 64.009, 64.010, 64.011)

Approved: December 9, 1986.

By direction of the Administrator.

Thomas E. Harvey,

Deputy Administrator.

38 CFR Part 17, MEDICAL, is amended as follows:

1. In § 17.48, paragraph (g) is revised to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(g)(1) Persons hospitalized who have no service-connected disabilities pursuant to § 17.47, and/or persons receiving outpatient medical services pursuant to paragraphs (e), (f), (i), (j), and/or (k) of § 17.60 who have no service-connected disabilities who it is believed may be entitled to hospital care and/or medical services, or reimbursement for the expenses of care or services for all or part of the cost thereof by reason of the following:

(i) Membership in a union, fraternal or other organization, or

(ii) Coverage under an insurance policy, or contract, medical, or hospital service agreement, membership, or subscription contract or similar arrangement under which health services for individuals are provided or the expenses of such services are paid, will not be furnished hospital care or medical services without charge therefore to the extent of the amount for which such parties referred to in paragraphs (g)(1)(i) or (g)(1)(ii) of this section, are, will become, or may be liable. Persons believed entitled to care under any of the plans discussed above will be required to provide such information as Administrator may require. Provisions of this paragraph are effective April 7, 1986, except in the case of a health care policy or contract that was entered into before that date, the effective date shall be the day after the plan was modified or renewed or on which there was any change in premium or coverage and will apply only to care and services provided by the VA after the date the plan was modified, renewed, or on which there was any change in premium or coverage. (38 U.S.C. 629; sec. 19013, Pub. L. 99–272)

(2) Persons hospitalized for the treatment of nonservice-connected disabilities pursuant to § 17.47, or persons receiving outpatient medical services pursuant to paragraph (e), (f), (h), (i), (j), or (k) of § 17.60, and who it is believed may be entitled to hospital care and/or medical services or to reimbursement for all or part of the cost thereof from any one or more of the following parties:

(i) "Workers' Compensation" or employer's liability statutes, State or Federal;

(ii) By reason of statutory or other relationships with third parties, including those liable for damages because of negligence or other legal wrong;

(iii) By reason of a statute in a State, or political subdivision of a State;

(A) Which requires automobile accident reparations or;

(B) Which provides compensation or payment for medical care to victims suffering personal injuries as the result of a crime of personal violence;

(iv) Right to maintenance and cure in admiralty;

will not be furnished hospital care or medical services without charge therefore to the extent of the amount for which such parties are, will become, or may be liable. Persons believed entitled to care under circumstances described in paragraph (g)(2)(ii) of this section will be required to complete such forms as the Administrator may require, such as a power of attorney and assignment. Notice of this assignment will be mailed promptly to the party or parties believed to be liable. When the amount of charges is ascertained, a bill therefore will be mailed to such party or parties. Persons believed entitled to care under circumstances described in paragraph (g)(2)(i) or (g)(2)(iii) of this section will be required to complete such forms as the Administrator may require. (38 U.S.C. 629, sec. 19013, Pub. L. 99–272)

* * * * *

2. In § 17.62, paragraph (h) is revised to read as follows:

§ 17.62 Charges for care or services.

* * * * *

(h) *Furnished for nonservice-connected disabilities.* (1) Charges at rates prescribed by the Administrator shall be made for inpatient or outpatient care and services rendered a veteran for nonservice-connected disabilities,

(i) Incident to the veteran's employment and the disability is covered under a workers' compensation law or plan that provides reimbursement or indemnification for the cost of such care and services,

(ii) As the result of a motor vehicle accident in a State which required automobile accident reparations insurance, or

(iii) As the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person so injured is entitled to receive health care and services for that injury at the expense of the State or subdivision. (38 U.S.C. 629, sec. 19013, Pub. L. 99–272)

(2) Charges at rates prescribed by the Administrator shall be made for inpatient or outpatient care and services rendered to a veteran who has no service-connected disabilities and who is entitled to care, or reimbursement for the expenses of care, under an insurance policy, or contract medical, or hospital service agreement, membership, or subscription contract, or similar agreement for the purpose of providing, paying for, or reimbursing expenses for health service.

(i) No deductible and/or coinsurance charge prescribed by any such policy, contract, membership or agreement shall be made to or required from the otherwise eligible veteran as a condition to receiving care.

(ii) VA medical, financial, and other records shall, to the extent reasonably necessary and permitted by law, be made available for inspection and review by the parties to any kind of agreement referred to in paragraph (h) (1) and (2) of this section with respect to which recovery or collection sought by the VA for the purpose of verifying that services for which recovery or collection is sought were furnished and that the provision of such services meets criteria generally applicable under the health plan contract involved. (38 U.S.C. 629(h)(i); Pub. L. 99–272)

(3) The method for computing the charges for medical care and services is based on the Cost Distribution Report, which sets forth the actual basic costs and per diem rates by type of inpatient care and outpatient visit. Factors for depreciation of buildings and equipment and Central Office overhead are added, based on accounting manual instructions. Additional factors are added for interest on capital investment and for standard fringe benefit costs covering government employee retirement and disability costs. The current year billing rates are projected on prior year actual rates by applying the budgeted percentage increase. In addition, based on the detail available in the Cost Distribution Report, VA intends to, on each bill break down the all-inclusive rate into its three principal components; namely, physician cost, ancillary services cost, and nursing, room and board cost. The rates generated by the foregoing methodology are the same rates prescribed by the Office of Management and Budget and published in the **Federal Register** for use under the Federal Medical Care Recovery Act, 42 U.S.C. sections 2651–2653. (38 U.S.C. 629; sec. 19013, Pub. L. 99–272)

(4) The reasonable cost of care or services sought to be recovered or collected from a third party liable under a health plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments for comparable care under health plan contracts to facilities (other than facilities of departments or agencies of the United States) in the same geographic area. (38 U.S.C. 629; sec. 19013, Pub. L. 99–272)

(5) Any contract or agreement into which the Administrator enters with a person under 31 U.S.C. 3718 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to 38 U.S.C. 3301 and 4132. (38 U.S.C. 629; sec. 19013, Pub. L. 99–272)

(6) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts. (38 U.S.C. 629; sec. 19013, Pub. L. 99–272)

* * * * *

[FR Doc. 87–1830 Filed 1–29–87; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct

AGENCY: United States Department of the Interior.

ACTION: Notice of availability of Appendix C.

SUMMARY: This notice announces the availability of Appendix C to 43 CFR Part 20. This Appendix list positions within the Department of the Interior for which Confidential Statements of Employment and Financial Interests (DI–212) are required to be filed. This Appendix has been updated as of December 1, 1986 and has been printed as an agency document. This Appendix will not be published in the **Federal Register** but will be available to the public upon request.

EFFECTIVE DATE: December 1, 1986.

ADDRESS: Copies of Appendix C may be obtained from the Deputy Ethics Counselor for each bureau or office within the Department of the Interior. You may address your requests to the Deputy Ethics Counselor, (insert the name of the specific bureau or office), 18th & C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gabriele J. Paone or Mr. Mason Tsai, Departmental Ethics and Audit Coordination Staff, U.S. Department of the Interior, Washington, DC 20240, (202)343–5916 or 343–3932.

SUPPLEMENTARY INFORMATION: The Department of the Interior has received approval from the Office of Government Ethics, Office of Personnel Management, to publish Appendix C to 43 CFR Part 20 as an agency document. The availability of this document is hereby announced in the **Federal Register**. The initial notice of this annual process was provided with the publication of 43 CFR Part 20 as proposed rule on October 6, 1980 (45 FR 66370). This arrangement meets administrative requirements which affect only Department of the Interior employees and at the same time defrays the cost of publishing the Appendix C listing in the **Federal Register**. Copies of Appendix C are available at the above address.

Appendix C lists Department of the Interior positions, in addition to GS (or GM)–15's for which a Confidential Statement of Employment and Financial Interests (Form DI–212) is required to be filed by Executive Order 11222. Positions identified in Appendix C are effective for the February 1, 1987 filing deadline. Appendix C has been approved by the Office of Personnel Management.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Authorities: Appendix C to Part 20 of Title 43 of the Code of Federal Regulations is published under Executive Order 11222, 30 FR 6469, 3 CFR, 1964–65 Comp., as amended (19 U.S.C. 201 Note); 5 CFR 735.104; and 5 U.S.C. 301.

Appendix C was complied by Bureau and Office Ethics Counselors and consolidated by Mason Tsai and Deborah Williams of the Departmental Ethics and Audit Coordination Staff.

Dated: January 9, 1987.

Gerald R. Riso,

Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 87–1872 Filed 1–29–87; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 84

Procedures Relating to Health Care for Handicapped Infants

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This document clarifies the status, following court litigation, of a Final Rule published by the Department of Health and Human Services on January 12, 1984 (49 FR 1651) under section 504 of the Rehabilitation Act of

1973. The Final Rule, establishing procedures relating to health care for handicapped infants, is codified at 45 CFR 84.55. The Supreme Court affirmed a lower court decision that invalidated and enjoined enforcement of paragraphs (b)–(e) of § 84.55 by the Department.

The Department is adding a statement clarifying the effect of the Supreme Court decision on certain provisions set forth under this section.

FOR FURTHER INFORMATION CONTACT: Marcella Haynes, Division of Policy and Special Projects, (202) 245–6671.

SUPPLEMENTARY INFORMATION: This document clarifies the status of 45 CFR 84.55(b)–(e) of the Department's regulations under section 504 of the Rehabilitation Act of 1973. 45 CFR 84.55(b)–(e) establish certain procedures regarding health care for handicapped infants. After these regulations were promulgated on January 12, 1984, they were the subject of litigation in which a United States District Court declared them invalid and enjoined their enforcement. On June 9, 1986, in the case of *Bowen* v. *American Hospital Association*, ____ U.S. ____, 106 S. Ct. 2101 (1986), the Supreme Court upheld the District Court, 585 F. Supp. 541 (S.D.N.Y. 1984). In order to clarify the status of these provisions, the Department is adding a statement regarding the litigation and its outcome.

PART 84—[AMENDED]

Accordingly, the Secretary is adding a clarifying statement to 45 CFR 84.55 to read as follows:

§ 84.55 Procedures relating to health care for handicapped infants.

Note.—The mandatory provisions set forth in paragraphs (b)–(e) inclusive of this section are subject to an injunction prohibiting their enforcement. In *Bowen* v. *American Hospital Association*, ____ U.S. ____, 106 S. Ct. 2101 (1986), the Supreme Court upheld the action of a United States District Court, 585 F. Supp. 541 (S.D.N.Y. 1984), declaring invalid and enjoining enforcement of provisions under this section, promulgated Jan. 12, 1984.

Dated: January 21, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–1867 Filed 1–29–87; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-215]

Organization and Delegation of Powers and Duties

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment revises the reservation of authority to the Secretary or the Secretary's delegatee within the Office of the Secretary with respect to the withholding or suspension of Federal Aid highway funds on a State-wide basis. This revision is necessary to eliminate the possibility an possible ambiguity regarding the authority of the Administrators.

DATE: The effective date of this amendment is January 22, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 366–9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

The Secretary has determined that an existing reservation of authority contained in Part 1 of 49 CFR should be amended. The reservation indicates that the withholding or suspension of Federal-aid highway funds on a State-wide basis and the waiver or compromise of such withholding or suspension is reserved to the Secretary or the Secretary's delegatee within the Office of the Secretary. Specific delegations to the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration enable them to take all necessary actions with respect to the 55 mph statutory sections, 23 U.S.C. 141 and 154, which currently are specifically delegated to them in 49 CFR 1.48(b) (23) and (28) and 49 CFR 1.50(i) (1) and (2). The responsibilities under those statutory and regulatory sections can involve the withholding of up to ten percent of a state's Federal-aid non-interstate highway funds.

To eliminate any possibile ambiguity regarding the authority of the Administrators, the specific reservation is being amended to ensure that the Administrators can fully address the above statutory sections, with respect to the 55 mph program.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Subtitle A of 49 CFR is amended as set forth below:

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.44 is amended by revising paragraph (j) to read as follows:

§ 1.44 [Amended]

* * * * *

(j) *Withholding of funds.* Withholding or suspension of Federal-Aid Highway funds on a state-wide basis and the waiver or compromise of such withholding or suspension, except for the administration of 23 U.S.C. 141 and 154, which are specifically delegated in § 1.48(b) (23) and (28) and in § 1.50(i) (1) and (2).

* * * * *

Issued in Washington, DC, on January 22, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87–1768 Filed 1–29–87; 8:45 am]

BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449

[Docket No. 3888S]

General Amendment; Various Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomato, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449, respectively), effective for the 1988 and succeeding crop years. The intended effect of this rule is to: (1) provide that premium may be deducted from a replant payment; and (2) provide that the original liability is reinstated on the replanted crop. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than March 31, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Department Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under the procedures. The sunset review dates established for the regulations affected by this action remain unchanged.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

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

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

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

FCIC proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomator, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449, respectively), effective for the 1988 and succeeding crop years to allow the Corporation to: (1) deduct premium from a replant payment without regard to billing dates; and (2) reinstate full liability on the replanted crop.

Beginning with the 1981 crop year, replant payment provisions were initiated by the Corporation on several crops to be limited to the actual cost of replanting. The replant payment was considered by the Corporation to be an indemnity payment and the amount of premium owed was deducted from the replant payment in the same manner as it was deducted from an indemnity payment.

Some persons questioned the appropriateness of applying the replant payment against premium owed. They contended that deducting the replant payment from any subsequent indemnity is unfair in that there were extra expenses incurred for replanting, and that such actions did, in most cases, result in lower losses for FCIC. It was generally agreed that a replant payment should not increase the total liability under the contract.

Effective with the 1985 crop year, the Corporation amended the replant payment provisions to provide that premiums owed may be deducted from the replant payment only if the billing date had passed, and that replant payments continue to be regarded as part of the total liability of the contract but not be deducted from subsequent indemnities until the sum equals the total liability.

It was determined that the deduction of premium owed only after the billing date had passed hampered the Corporation's obligation to collect premium in a timely and businesslike manner.

The present provisions in the subject policies provide that premium owed may be deducted from a replant payment and reads as follows:

> Any unpaid amount due us may be deducted from any indemnity payable to you or from a replant payment if the billing date has passed on the date you are paid the replant payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

The insurance contracts provide that the premium is due and payable when insurance attaches, usually at the time of planting. The Corporation has determined, as a matter of policy, that payment will not be demanded until approximately the time of harvest or the time of loss whichever is earlier. Therefore, the Corporation delays billing until approximately harvest time so that the insured may pay the premium from the proceeds of the crop or from any indemnity which may be due.

If there is a substantial loss during the period before the final planting date, it is to the benefit of both the insured and the Corporation that the crop be replanted. The contracts require that replanting be done if time permits. For this purpose the Corporation pays a set amount not to exceed the actual cost. However, since the premium is due and owing to the Corporation before the time of replanting, good business practices require that the replanting payment be set off against the outstanding debt owed to the Corporation. The replanting payment is in the nature of an indemnity.

Since the premium is due and owing at the time insurance attaches, the insured's replanting payment is used to reduce the amount of premium outstanding, thereby reducing the amount the insured must pay to the Corporation at the time of harvest. Application of the payment to premium due will increase the collection of accounts due to the Corporation in accordance with sound business practices and will reduce the confusion caused by making payments to insureds and shortly thereafter billing them for premium due on the same contract.

In exchange for replanting, the Corporation pays a replanting payment. Since the replanted crop is, in effect, a new crop, the Corporation proposes to pay up to the guarantee if loss occurs, in accordance with the contract, without deduction for the amount of the replant payment. As a further consideration in exchange for replanting, the Corporation will absorb the premium for the portion of the guarantee reinstated.

The full guarantee will be reinstated only if the crop is replanted in accordance with the requirements for planting the initial crop. For example, if the initial crop was required to be planted in rows far enough apart to be cultivated, replanting by broadcast will not result in reinstatement of the full grarantee. In that example, replanting would result in the guarantee being reduced by the amount of the replanting payment.

This approach is actuarially sound. Review has shown that replanting usually results in a substantial reduction of indemnity paid. If a normal crop is raised, the insured will realize, at a minimum, 25 percent more than reimbursement by the replant indemnity.

It is further proposed that the applicable section of the policy relative to a replanting payment be amended to include the following statement:

The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment without increase in the premium charged for insurance coverage. To be eligible for transfer of liability, the crop must be planted in accordance with the requirements of the initial planting.

By this means, the Corporation provides incentive to the policyholder to do all possible to replant to the insured crop by defraying most of the cost involved in replanting and by absorbing any premium increase normally associated with assumption of increased liability. Taken together, the replant payment and absorption of premium increase are considered jointly beneficial to the insured producer and cost effective to the Corporation in lieu of full indemnity payment under the terms of insurance.

Changes are proposed for all the subject crop insurance policies in Sections 6, 9, and 17 for this purpose.

This amendment is proposed to be effective on all the subject crops for the 1988 and succeeding crop years.

FCIC is soliciting public comment on this proposed rule for 60 days after publication in the **Federal Register**. Written comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449

Crop insurance; Grain sorghum, Rice, Peanut, Sunflower, Sugar beet, Soybean, Corn, Dry bean, Fresh market tomato, Pepper, Popcorn, and Fresh market sweet corn (respectively).

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Grain Sorghum, Rice, Peanut, Sunflower, Sugar Beet, Soybean, Corn, Dry Bean, Fresh Market Tomato, Pepper, Popcorn, and Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, 449, respectively), effective for the 1988 and succeeding crop years in the following instances:

1. The authority citation for 7 CFR Parts 420, 424, 425, 428, 430, 431, 432, 433, 444, 445, 447, and 449 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In §§ 420.7(d), 424.7(d), 425.7(d), 428.7(d), 430.7(d), 431.7(d), 432.7(d), 433.7(d), 444.7(d), 445.7(d), 447.7(d), and 449.7(d), Section 6 of the FCIC Policy is revised to read as follows:

§§ 420.7, 424.7, 425.7, 428.7, 430.7, 431.7, 432.7, 433.7, 444.7, 445.7, 447.7, and 449.7 The application and policy.

* * * * *

(d) * * *

6. Deduction for debt.

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

* * * * *

3. In §§ 420.7(d), 424.7(d), 428.7(d), 430.7(d), 444.7(d), 445.7(d), and 449.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.f.(3) to read as follows:

§§ 420.7, 424.7, 428.7, 430.7, 444.7, 445.7, and 449.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

f. * * *

(3) The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

4. In § 447.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.f.(4) to read as follows:

§ 447.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

f. * * *

(4) The Corporation will transfer the original liability to the replanted crop without reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

5. In §§ 425.7(d), 432.7(d) and 433.7(d), Section 9 of the FCIC Policy is amended by adding subsection 9.g.(3) to read as follows:

§§ 425.7, 432.7, and 433.7 The application and policy.

* * * * *

(d) * * *

9. Claim for indemnity.

* * * * *

g. * * *

(3) The Corporation will transfer the original liability to the replanted crop without

reduction by the amount of the replant payment and without increase in the original premium charged for insurance coverage. To be eligible for transfer of liability without reduction, the crop must be planted in accordance with the requirements of the initial planting.

* * * * *

6. In § 447.7(d), Section 17 of the FCIC Policy is amending by redesignating present subsections j. through l. as k. through m. respectively, and by adding a new subsection 17.j., to read as follows:

§ 447.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

j. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

7. In § 432.7(d), Section 17 of the FCIC Policy is amending by redesignating the present subsections k. through n. as l. through o. respectively, and by adding a new subsection 17.k. to read as follows:

§ 432.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

8. In §§ 420.7(d), 428.7(d), and 431.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections k. through m. as l. through n. and by adding a new subsection 17.k., respectively, to read as follows:

§§ 420.7, 428.7, and 431.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

9. In § 424.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections k. through o. as l. through p. respectively, and by adding a new subsection 17.k., to read as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

k. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

10. In § 430.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections l. through n. as m. through o. respectively, and by adding a new subsection 17.1., to read as follows:

§ 430.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

l. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

11. In § 433.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsection l. through n as m. through o. respectively, and by adding a new subsection 17.1., to read as follows

§ 433.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

1. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

12. In § 425.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections l. through o. as m. through p. respectively, and by adding a new subsection 17.1., to read as follows:

§ 425.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

1. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

* * * * *

13. In § 449.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections p. through u. as q. through v. respectively, and by adding a new subsection 17.p. to read as follows:

§ 449.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

p. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

14. In § 444.7(d), Section 17 of the FCIC Policy is amended by redesignating the present subsections s. through w. as t. through x. respectively, and new subsection 17.s., to read as follows:

§ 444.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

21. s. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

15. In § 445.7(d), Section 17 of the FCIC policy is amended by redesignating the present subsections t. through w. as u. through x. respectively, and by adding a new subsection 17.t., to read as follows:

§ 445.7 The application and policy.

* * * * *

(d) * * *

17. Meaning of terms.

* * * * *

t. "Replant payment" means that payment made to the insured in accordance with the provisions of subsection 9.f. of this policy which payment is subject to offset for premium owed.

* * * * *

Done in Washington, D.C. on November 26, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-1700 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-08-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6683; File No. S7-1-87]

Regulation D Revisions; Exemption for Certain Employee Benefit Plans

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is publishing for comment proposed amendments to several of the rules comprising Regulation D, which provides for three separate, distinct exemptions from the registration requirements of the Securities Act of 1933 (the "Securities Act"). The revisions involve additions to the "accredited investor" definition in the regulation, an increase in the ceiling on the total offering price permitted under Rule 504 for certain offerings, and a revision of the general solicitation restrictions under Rule 504. Additional technical revisions to Regulation D are proposed. Comments also are sought on the elimination of accreditation based solely upon a $150,000 purchase and the application of the disqualifying provisions currently applicable in Rule 505 offerings to Rule 506 offerings. A new rule apart from Regulation D is also being proposed herein which will provide an exemption from the registration requirements of the Securities Act for offers and sales of securities pursuant to certain employee benefit plans and employment contracts of non-reporting companies.

DATE: Comments must be received on or before March 16, 1987.

ADDRESS: Comment letters should refer to File No. S7-1-87 and be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments will be available for public inspection and copying in the Commission's Public Reference Room at the above address.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff or Karen M. O'Brien, (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission, acknowledging the cooperation of the North American Securities Administrators Association, Inc. ("NASAA"),[1] is proposing for comment several revisions to Regulation D,[2] the limited offering exemption from the registration requirements of the Securities Act.[3] In addition, a new rule to be promulgated pursuant to the Commission's exemptive authority under section 3(b) of the Securities Act[4] is proposed to exempt from the registration requirements of the Securities Act offers and sales of securities pursuant to certain employee benefit plans or employment contracts of issuers that are not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act ("non-reporting companies or issuers").

The proposed revisions to Regulation D primarily extend the definition of accredited investor[5] to include various institutional investors, such as savings and loan associations and broker-dealers, certain trusts, partnerships and corporations, and to permit a joint as well as an individual income test; increase the total offering price permitted under Rule 504 from $500,000 to $1 million for certain offerings; and permit general solicitations in offerings pursuant to Rule 504 in states which offer no qualifying registration procedure, if the offering documents used have been reviewed by at least one state which provides for such registration. Other proposed revisions are technical changes prompted by interpretative inquiries made to the Office of Small Business Policy in the Commission's Division of Corporation Finance. Comments also are sought on the elimination of accreditation based solely upon a $150,000 purchase, and application of the disqualifying provisions applicable in Rule 505 offerings to Rule 506 offerings.

I. Proposed Revisions to Regulation D

Regulation D is a series of six rules, designated Rules 501-506, that establish three separate, distinct exemptions from the registration requirements of the Securities Act. Rules 501-503 set forth definitions, terms and conditions that apply generally throughout the regulation. The exemptions proper are contained in Rules 504, 505 and 506.

Rules 504 and 505 were designed primarily for smaller issuers. Currently, Rule 504 is an exemption under section 3(b) of the Securities Act available to non-reporting companies and companies that are not investment companies as defined in the Investment Company Act of 1940[6] for offerings not in excess of $500,000. Under this rule, there is no limitation on the number of purchasers and, under certain circumstances, there may be a general solicitation and the securities issued may be resold without any restrictions. In adopting Rule 504, the Commission stated that it intended to create a clear and workable exemption for small offerings by small issuers to be regulated by State "Blue Sky" requirements. Rule 505 also provides an exemption under section 3(b) of the Securities Act for non-investment companies (either reporting or non-reporting) for offerings not in excess of $5 million. Although there may be no general solicitation under this rule, sales may be made to accredited investors and up to 35 other persons who need not be sophisticated.[7] The ability to sell to non-sophisticated investors in an amount greater than that permitted by Rule 504 was intended to make it easier for small issuers to find potential purchasers.

Rule 506 is a safe harbor rule under section 4(2) of the Securities Act available to any issuer, including both reporting and investment companies. There is no limit to the amount that may be raised under this exemption. However, there can be no general solicitation, and sales may be made only to accredited investors and up to 35 sophisticated persons.[8]

The majority of the proposed revisions to Regulation D are being proposed by the Commission in response to continuing suggestions from interested persons concerning ways to enhance the practical use of Regulation D as a capital formation tool for small business without compromising investor protection. Many of the proposed revisions to Regulation D were addressed by the participants at the recent Fifth Annual SEC Government-Business Forum (the "Fifth Annual Forum") as well.[9]

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[1] NASAA is an association of securities commissioners from each of the 50 states, the District of Columbia, Puerto Rico and several of the Canadian provinces.

[2] 17 CFR 230.501-506.

[3] 15 U.S.C. 77a et seq.

[4] 15 U.S.C. 77c(b).

[5] 15 U.S.C. 77b(15); 17 CFR 230.215; 17 CFR 230.501.

[6] 15 U.S.C. 80a et seq.

[7] Rule 505 also contains disqualification provisions. *See infra* note 19.

[8] Regulation D provides the framework for a limited offering exemption with potential uniform applicability at both the federal and state levels. This uniform limited offering exemption ("ULOE") is an official policy guideline of NASAA. Rule 504 is not a part of ULOE. *See infra* note 32 and accompanying text.

[9] This Forum is conducted annually, hosted by the Commission, to bring small businessmen, their representatives and officials of the federal and local governments together to discuss ways of removing governmental impediments to the capital raising ability of small business. Section 503, Small Business Investment Incentive Act of 1980, 94 Stat. 2275. A final report of the Forum's recommendations is submitted to the U.S. Congress, as well as to interested instrumentalities and agencies of government for appropriate consideration and action. The final report is generally published in January following the Forum proceedings. The Fifth Annual Forum was held on September 25-27, 1986 in Washington, DC.

The Commission will publish an information release containing the entire texts of the securities regulation recommendations of the Fifth Annual Forum, when the final report is submitted to Congress later this month.

A. Accredited Investors

A keystone of Regulation D is the concept of the "accredited investor", a listing of persons recognized as not requiring mandated disclosure in the limited offerings under Regulation D or section 4(6) of the Securities Act.[10] As presently constructed, certain institutional investors, private business development companies, eleemonsynary organizations, company insiders, purchasers of more than $150,000, natural persons with substantial net worth or income, and entities all of whose equity owners are accredited, qualify as accredited investors. This concept is intended to encompass those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act's registration process unnecessary.

Under the proposals, the institutional investor item, Rule 501(a)(1), which is currently limited to certain banks, insurance companies, registered investment companies, business development companies, small business investment companies and specified employee benefit plans, would be expanded to include savings and loan associations and similar institutions whether acting for their own accounts or as fiduciaries, and broker/dealers registered under the Securities Exchange Act of 1934 (the "Exchange Act").[11] Indeed, many states already exempt securities offerings involving institutional investors such as savings and loan associations, and broker/dealers.[12] There appears to be no basis for distinguishing these institutional investors from banks, insurance companies or registered investment companies for purposes of Regulation D. Therefore, the Commission proposes to amend Rules 215 and 501 to specifically include these institutions. With respect to broker/dealers, the Commission has not proposed any specific size test for determining their accreditation. Comments are requested as to whether a total asserts, net capital or other size test should be included with respect to accrediting broker/dealers. The dollar or other size criteria should be specified in the comments along with an explanation of the bases for the limits suggested.

Rule 501(a)(1) also would be amended to codify a staff interpretation that a self-directed employee benefit plan is an accredited investor where the investment decisions are made solely by accredited investors and the investments are made only on behalf of those investors.[13]

Rule 501(a)(3) currently accredits tax-exempt organizations with total asets in excess of $5 million. It is proposed to expand this item to include any corporation, partnership or business trust meeting the total assets threshold so long as it has not been specifically formed for the purpose of purchasing any securities being offered pursuant to Regulation D. The eleemosynary organizations currently encompassed by Rule 501(a)(3) would continue to be covered by the provision. This revision would broaden the coverage of the accredited investor definition to include corporations, partnerships and business trusts which are not currently accredited unless they purchase at least $150,000 of securities. The $5 million total assets measurement included in Rule 501(a)(3) parallels the current standard for entry into the Exchange Act reporting system.[14] As indicated above, the $5 million threshold has been used for accrediting eleemosynary organizations and the Commission is not aware of any problems that have occurred with respect to these entities.[15]

As presently drafted, Rule 501(a)(4) accredits any executive officer of an issuer. It has been suggested that other officers, if sophisticated, could also be deemed to be accredited. Comments are requested about broadening Rule 501(a)(4) so that certain other officers of a company although not policymakers, could be considered accredited investors, if they have such knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment.

The income test included in Rule 501(a)(7) for accredited status currently requires an individual to have earned in excess of $200,000 for the two most recent years and the individual must expect to earn in excess of $200,000 in the current year. Many have suggested that the provision ignores the reality of the two-income household as commonplace in today's society. The proposed amendments would expand this income test to provide thay any natural person who had, together with a spouse, annual income in excess of $300,000 for the two-year period and reasonably expects to reach the same income level in the current year, would be accredited.

The Fifth Annual Forum recommended a joint income test of $100,000.[16] Other commentators have suggested either a joint income test of $200,000 or an individual income test of $100,000, with a limitation of $50,000 on the amount that could be invested by individuals with income under $200,000. In addition, it has been suggested that the joint net worth test be reduced from its present level of $1 million to $500,000. The Commission specifically asks for reasoned comments as to the desirability of these proposals and whether they would provide sufficient investor protection.

A new category of accredited investor is proposed to be added in order to permit certain trusts to qualify as accredited investors. As presently structured, a trust can only be accredited if it has a bank as its trustee or it makes a $150,000 purchase under Rule 501(a)(5). Over the years, suggestions have been made that trusts should be accorded accredited status by virtue of their size, sophistication of their investment decision maker or accredited beneficiaries. The Commission proposes to accredit trusts which satisfy three standards: (1) Total assets in excess of $5 million; (2) an investment decision made by sophisticated person; and (3) a total purchase price which does not exceed 10 percent of the trust's total assets. A trust formed to purchase the investment would not qualify under this provision. In addition, since business trusts would be specifically included in Rule 501(a)(3), they would not need to be accredited under this provision.

In view of the accommodations to be made under the proposals for corporations, partnerships and trusts, the Commission is considering eliminating the $150,000 purchaser item contained in Rule 501(a)(5). The provision appears to be primarily used by corporations, partnerships and trusts which under the current rules are not otherwise defined as accredited investors. In addition, a curious anomaly in the provision permits a natural person

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[10] The Commission uses a uniform definition applicable to section 4(6) and Regulation D. In this regard, Rule 501(a) is the same as section 2 (15) of the Securities Act combined with Rule 215, 17 CFR 230.215. The proposals today would also revise the definitions in Rule 215 to continue the uniformity.

[11] 15 U.S.C. 78a et seq. Expanding the "accredited investor" concept has been recommended by the Government-Business Forums, professional organizations and representatives of industry.

[12] *See* Uniform Securities Act, section 402(b)(8).

[13] *In re* Diane P. Weiss (December 21, 1983) (interpretative letter from the Division of Corporation Finance).

[14] *See* 17 CFR 240.12g-1.

[15] The Fifth Annual Forum endorsed the inclusion of a new or the expansion of the existing accredited investor category for entities maintaining minimum financial status. The Forum, however, recommended a $500,000 net worth test.

[16] The Fifth Annual Forum would expand the income test even further to include entities as well as natural persons earnings $100,000.

with as little as $750,000 of net worth to become accredited with a purchase of $150,000 whereas to accredit a natural person for a smaller purchase, a net worth of $1 million is required. Comments are specifically requested as to the effect eliminating accreditation based upon the size of the purchase would have on other purchasers, unable to be accredited under proposed Rule 501.[17]

B. Rule 504

The Commission also is proposing to expand the availability of Rule 504 as a capital-raising device. Rule 504 currently permits offerings of securities up to $500,000, less the aggregate offering price for all securities sold in the prior 12 months in reliance on any exemption under section 3(b) or in violation of section 5(a) of the Securities Act. While the other limited offerings under Regulation D must be made without general advertising or solicitation, both private and public offerings are permitted under Rule 504. The reason for this dichotomy was the Commission's assessment that because of the small dollar amount involved and the likelihood that many of these offerings would be limited geographically, in Rule 504 offerings greater reliance could be placed on state "Blue Sky" laws.

Under the proposal, the aggregate offering price that could be offered under Rule 504 would be raised to $1 million, provided that no more than $500,000 is offered and sold without registration under state securities laws. Where Rule 504 offerings are registered pursuant to the provisions of the states' securities laws, the Commission believes that the costs of compliance with additional federal requirements place an inordinately heavy burden on these small offerings. Therefore, the Commission believes it is consistent with the goals of section 3(b) of the Securities Act and the needs for investor protection to increase the availability of Rule 504 where the states are already overseeing the offering process.

Proposals to raise the Rule 504 ceiling to $1 million without limitation have been made by the Fifth Annual Forum and others. The Commission requests comments from those supporting such proposals to specifically address the justification for such change and the basis for determining that such a change would adequately protect investors.

The proposed revision of Rule 504 also modifies the general solicitation proscription of Regulation D to take fuller account of state securities regulation. Rule 502(c) prohibits the use of general solicitation or general advertising regarding the offer or sale of any Regulation D offering except as provided by Rule 504. The rule permits general solicitation and advertising in offers and sales in those states which provide for the registration of the securities and require the delivery of a disclosure document before sale, provided such offers and sales are made in accordance with the state provisions. Some states, however, do not provide for such a registration procedure, or provide a nonqualifying procedure. To expand the utility of the public side of Rule 504, the Commission proposes to revise Rule 502(c) to permit general solicitation and advertising in states which do not have a registration provision or have a nonqualifying procedure, if the offering has been registered in at least one state and the required disclosure document is delivered prior to sale in the states which have no or a nonqualifying registration procedure.[18]

As drafted, the rule would not treat such public offerings in states with no or nonqualifying registration procedures as "registered" for purposes of the $1 million ceiling in proposed Rule 504(b)(2). Commentators are specifically requested to address whether offers and sales in a nonqualifying state using the disclosure document prepared in accordance with the requirements of a qualifying state in which securities of the same offering are registered should be permitted in the calculation toward the $1 million ceiling.

C. Disqualification Provisions

The Commission is seeking public comment as to whether the disqualification provisions now contained in Rule 505 also should be applied to offerings under Rule 506.

The current system for Rule 505 offerings prohibits the use of the exemption if certain persons involved in the offering, such as the issuer, its affiliates or the underwriters have been the subject of legal action for certain conduct.[19] Representatives of the states

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[17] The Fifth Annual Forum recommended that the $150,000 investment test be reduced to $100,000. Even if the Commission were ultimately to determine to retain accreditation based on the size of purchase, it is not considering reduction in the $150,000 threshold.

Other suggested methods of accreditation have included attribution of the accredited status of a relative. The Commission is concerned that such an expansion would give accredited investor status to persons who need the protections of the registration process. Some have suggested permitting accredited status for entities where less than 100 percent of the equity owners are accredited. The Commission does not believe that it should try to draw distinctions between varying percentages, for purposes of determining accredited entities.

[18] The Commission's intention is to allow the registration in one state to provide an iindependent overview of such offerings for those states which have no registration procedure. This change could aid offerings in areas such as the District of Columbia where no registration procedure is available, but both the surrounding jurisdictions of Maryland and Virginia provide for such registration.

The final recommendations of the Fifth Annual Forum addressed the issue of broadening the permissible methods of general solicitation under Regulation D in relationship to those who are solicited and the limited manner of the solicitation. Specifically, that Forum recommended permitting general solicitation to accredited investors, general advertising by financial intermediaries and general solicitation where a small dollar amount of capital is sought to be raised. Other persons have also suggested that limited forms of general advertising should be permitted under certain circumstances. Althouth the Commission is proposing only a limited expansion for public offerings under Regulation D, commęnts are invited about reducing the scope of the general solicitation restrictions. Commentators should be mindful of the limited kinds of offerings envisioned by the regulations when recommending any changes in this area.

[19] The disqualifying provisions are the same as those contained in Regulations A, 17 CFR 230.252 (c), (d), (e) and (f). The following constitutes a summary of these provisions. For a more complete understanding of the disqualifiers, reference should be made to the complete text of Rule 252.

Subdivision (c) provides that the Rule 505 exemption cannot be used, if the issuer, a predecessor or affiliated issuer, in the five-year period prior to the offering, has been the subject of a stop order or other proceeding under Section 8 of the Securities Act; the subject of a Regulation A suspension or a suspension under another Section 3(b) rule; convicted of a felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission; the subject of a temporary restraining order, preliminary or permanent injunction relating to conduct or practice in connection with the purchase or sale of a security or involving the making of any false filing with the Commission; or the subject of a temporary restraining order, preliminary injunction or order with respect to false representations under the U.S. Postal Service statutes.

The disqualifiers in subdivision (d) relate to affiliates of the issuer and promoters presently connected with the issuer and the underwriter. The disqualifying events include the following: conviction of a felony or misdemeanor in connection with the purchase or sale of any security, involving the making of a false filing with the Commission or arising out of the conduct of the underwriter, broker/dealer or investment advisor business, within the preceding ten years; entry of a temporary restraining order, preliminary or permanent injunction relating to conduct of practice in connection with the purchase or sale of a security, involving the making of a false filing with Commission or arising our of the conduct of the underwriter, broker/dealer or investment advisor business, within the preceding five years; being subject to a Commission sanction pursuant to its authority over broker/dealers, municipal securities dealers or investment advisors; suspension or explusion from a registered national securities exchange, registered national securities association or Canadian exchange or association for conduct inconsistent with just and equitable principles of trade; and entry of a temporary restraining order, preliminary injunction or order with respect to false representations under the U.S. Postal Service statutes, within the preceding five years.

Continued

securities regulations have observed that including disqualifiers in Rule 506 could serve the interests of investor protection by preventing certain persons from offering and selling securities in reliance upon ULOE and the two broadest federal exemptions in Regulation D. These representatives point out that the basis for disqualifying provisions in exemptions is that as privileges, rather than rights, such exemptions can be withheld for certain persons and should not be automatically available to persons that have exhibited a disregard for the law. Provisions of this nature have generally been included in exemptions promulgated by the Commission under Section 3(b).

Recognizing that exceptions should be permitted, all Commission regulations containing such disqualifying provisions also provide a procedure for the Commission to waive the disqualification and permit the exemption to be available. Although in the context of an enforcement action, the staff will not recommend that the Commission accept a settlement offer which includes a statement that the disqualification provisions are waived, waivers are frequently granted thereafter and are based upon a showing of good cause by the issuer or other disqualified person that the exemption should be available. Typically this showing demonstrates that the conduct leading to disqualification has been rectified so that it is unlikely to recur. Any disqualification provision added to Rule 506 would contain a waiver procedure.

D. Other Revisions

A number of technical revisions are proposed to be made to Regulation D. These changes are a result of the Commission's experience with the regulation since its adoption in 1982.[20]

The term "aggregate offering price" as defined in Rule 501(c) was intended to encompass the total amount of securities to be offered for sale, not just the amount of securities actually sold. The staff consistently has interpreted the provision in this way, but as the rule is somewhat ambiguous in this regard, clarifying language is proposed.

The principles governing the calculation of purchasers for purposes of Rules 505 and 506 are contained in Rule 501(e). As currently drafted, an employee benefit plan that invests only in the employer's securities solely with employer contributions cannot count as a single purchaser. Employee benefit plans are intended primarily as employee compensation and incentive mechanisms. In order to lessen impediments to providing employees such opportunities arising out of the Securities Act's registration process and exemption procedures, the Commission believes it appropriate to count a plan that invests in the issuer's securities, only with employer contributions, as a single purchaser.

When Regulation D was adopted, the information requirements in Rule 502(b)(2)(i) were staged to complement the cut-off established in Securities Act registration Form S–18,[21] which at that time was $5 million. Subsequently, the Form S–18 ceiling was raised to $7.5 million but no change was made in Rule 502(b). It is now proposed that such a change be made.

The proposed amendments also provide that the information requirements applicable to reporting companies using a recent Securities Act registration statement be satisfied by Forms S–11 [22] and S–18 as well as Form S–1.

In connection with the disclosure requirements, the proposed amendments to Rule 502(b) include specific reference to the new registration form for business combinations or exchange offers, Form S–4.[23]

The Commission also is considering permitting a reduced level of disclosure under Rule 502(b) for non-reporting companies offering securities in reliance on Rules 505 and 506 but raising a relatively small amount. The Commission is considering setting the amount at less than $2 million. The disclosure requirements could be tied to Regulation A.[24] Old Rule 146 [25] contained a special provision for offerings under $1.5 million. When the Commission initially proposed Regulation D, it also provided special disclosure requirements for offerings at this level, but would have required limited certified financial statements.[26] Specifically, the Commission would have required that financial statements for the issuer's most recent fiscal year be prepared in accordance with generally accepted accounting principles and certified to by an independent public accountant. If certification could not be obtained without unreasonable efforts or expense, only an audited balance sheet as of a date within 120 days of the commencement of the offering would have been required.

The Commission did not adopt the proposal because it appeared to unduly complicate the Regulation D disclosure scheme with little counterbalancing benefit. However, a provision that only a certified balance sheet need be included if certification of the full financial statements cannot be obtained without unreasonable effort or expense is included in Rule 502(d)(2)(i). The experience over the past four years suggests that there may be benefits to providing a reduced level of disclosure for such small offerings, possibly with no requirement for certified financial statements. The Fifth Annual Forum also recommended this change.

Commentators are asked to address whether there should be a new reduced level of disclosure; whether a $2 million ceiling should be used, or whether such ceiling should be higher or lower; whether the Regulation A disclosure standards or some other requirements should be used; and whether or not certified financial statements should be required.

There have been suggestions that the Commission revise Rule 502 in various other ways in order to change the safe harbors so that the application of the integration concept would be different. Inasmuch as the integration doctrine is not unique to Regulation D, the Commission believes that it would be more appropriate to address the integration issues as a whole, at another time.

Another Regulation D issue frequently raised by commentators is that of substantial or good faith compliance with the regulation. Opponents to this concept assert that the benefits of the safe harbor have to be accompanied by conditions which lend certainty to the exemption. They note that the regulation does already contain a certain amount of flexibility, for example, in determining accreditation and

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The disqualifiers in subdivision (e) relate to the underwriters and include the following events within the preceding five years: being involved with an offering subject to stop order or other proceedings under Section 8 of the Securities Act or being involved with an offering subject to a Regulation A suspension or suspension under another Section 3(b) rule.

Subdivision (f) requires that reporting companies must be current in their Exchange Act reports for the 12 calendar months preceding the offering.

The Commission understands that the states may apply additional disqualifiers pursuant to their own law in connection with offerings made under their ULOE-based exemptions.

[20] Release No. 33–6389 (March 8, 1982) [47 FR 11251].

[21] 17 CFR 239.28.

[22] 17 CFR 239.18.

[23] 17 CFR 239.25.

[24] 17 CFR 230.251–264. Regulation A does not require the inclusion of certified financial statements.

[25] 17 CFR 230.146 (rescinded June 30, 1982). For offerings of less than $1.5 million, certified financial statements were not required.

[26] Release No. 33–6339 (August 7, 1981) [46 FR 41791].

sophistication and requiring disclosure to the extent material. On the other hand, advocates for the good faith compliance standard criticize the severity of the current system by pointing to certain offerings which are otherwise in complete compliance with Regulation D but lose the exemption as a result of an inadvertent failure to comply with some provision in a manner that is immaterial to the offering as whole.[27] The failure to legend the shares, or inadvertent sales to 36 unaccredited investors are frequently given as examples. The Commission is seeking comments as to whether or not a substantial or good faith compliance standard should be instituted for purposes of Regulation D. Commentators recommending such a standard should specifically indicate what the good faith compliance would encompass in terms of the various requirements presently contained in the regulation.

II. Proposed Exemption for Employee Benefit Plans and Contracts of Employment

The applicability of the registration requirements or availability of an appropriate exemption under the Securities Act to employee equity incentive arrangements has been a matter of increasing concern among smaller businesses in recent years. Some small companies have found the costs of complying with the Securities Act registration requirements too great, thus eliminating a potentially important tool to attract, compensate and motivate employees. A special registration form, Form S-8, was created to accommodate public companies offering such employee plans.[28] Non-public companies generally have relied upon Regulation A or, in recent years, Rule 504 for the offering of such plans.

Questions have been raised as to the utility of the Regulation A and Rule 504 exemptions for employee benefit plans and arrangements. It has been suggested that since such plans and arrangements are primarily compensatory in nature and incentive oriented, rather than designed to raise capital, special accommodation should be made under the federal securities laws.[29]

The Commission is proposing Rule 701 which would provide for an exemption under Section 3(b) from the registration requirements of the Securities Act for offers and sales of securities by non-reporting issuers pursuant to compensatory employee benefit plans established for the participation of employees, directors, trustees or officers of the issuer (or its parents or wholly-owned subsidiaries), as well as offers and sales of securities pursuant to employment contracts involving these persons.

Persons such as consultants and independent agents would not be within the purview of the exemption, as proposed. Commentators are asked to consider whether or not the plans covered by the exemption should also include participants of this type, who are not directly employed by the issuer but are closely associated with it.

A. Preliminary Notes

Proposed Rule 701 contains four preliminary notes, all of which are derived from similar introductory notes to Regulation D.

Inasmuch as the proposed rule contains no specific disclosure requirements, issuers are reminded in the first note that the antifraud provisions of the federal securities laws may require certain disclosures and that only an exemption from section 5 of the Securities Act is provided by the rule. The second note indicates that reliance on Rule 701 does not obviate the need to comply with applicable state laws governing the offer and sale of securities. The third note states that reliance on the rule does not constitute an election; any other applicable exemption will still be available. The final note indicates that the exemption provided by Rule 701 is only available to the issuer of the securities and not to its affiliates or other persons for purposes of resale. The securities acquired in the Rule 701 transaction generally would be restricted securities and could not be resold without registration under the Securities Act or an exemption therefrom.

B. Proposed Rule 701

The proposed rule would exempt offers and sales of securities by an issuer in accordance with the terms of a compensatory employee benefit plant[30] or pursuant to an employment contract. Commentators are asked to address whether the plan or contract condition will unduly limit the utility of the rule for incentive or compensation purposes. If so, the specific problems should be identified. The Commission intends that the rule be available for most, if not all, compensation arrangements, but is concerned that the exemption provided not be used principally as a capital-raising vehicle. Therefore, any suggested expansion of the ambit of the rule should be accompanied by conditions that will address that concern.

Under the proposed rule, the aggregate offering price under all plans and contracts could not exceed $5 million. This $5 million ceiling would be a maximum lifetime exemption for all company plans or employment contracts. For purposes of this lifetime limitation, all offerings under the employee benefit plan or employment contracts, other Rule 701 offerings and sales in violation of section 5(a) of the Securities Act would be aggregated, but not offerings pursuant to other section 3(b) exemptions.

The proposal would limit sales to $1 million in any 12-month period. An exception to the $1 million ceiling would be provided for sales made within 90 days after the filing of a Securities Act registration statement or within 90 days after the public announcement of a merger transaction.

Proposed Rule 701 provides a $5 million lifetime exemption for a non-reporting company's offers and sales of securities pursuant to all of its employee benefit plans and employment contracts. The Commission specifically requests comments as to whether the $5 million should be a lifetime exemption as proposed or an annual offering limitation. If the rule was otherwise adopted as proposed, an annual limitation would in essence permit a non-reporting issuer to sell $1 million of its securities pursuant to Rule 701 each year it was a non-reporting company.

The Commission is also requesting comments on whether there should be a different threshold for offers and sales in the context of the proposed rule and, if so, whether the $1 million sales limitation should be higher or lower. Such comments should also consider the need for the proposed provision which would permit sales without limitation for a specified period of time following the filing of a registration statement or

[27] *See, e.g.*, Schneider & Zall, section 12(1) and the Imperfect Exempt Transaction: The Proposed I & I Defense, 28 Bus. Law. 1011 (1973).

[28] 17 CFR 239.16b.

[29] As part of its most important securities recommendation, the 1985 SEC Government-Business Forum on Small Business Capital Formation suggested that a specific exemption from the Securities Act registration requirements be developed and adopted "for the issuance of shares of non-public companies to employees under plans that are fundamentally compensatory in nature, such as stock, option, stock bonus, restricted stock, performance share, stock appreciation right and below-market purchase plans." The Fifth Annual Forum again endorsed this position. Representatives of a number of Committees of the American Bar Association have also recommended that such an exemptive rule be devised.

[30] The term is defined in Rule 405, 17 CFR 230.405. Proposed Rule 701 contains a definition identical to that contained in Rule 16b-3, 17 CFR 240.16b-3.

the announcement of a merger. In this regard, the proposed period of 90 days should be addressed and consideration should be given to whether it should be longer or shorter.

Comments are also requested as to whether the aggregate offering limitation proposed should be lower than the maximum of $5 million permitted by section 3(b) if a lesser amount would satisfy the needs of small issuers for their compensation arrangements. In this regard, specific comment is sought on a $1 million aggregate offering ceiling and a $500,000 sales amount in any 12-month period. Factual information and data is requested about the current levels of incentive and compensation plans and arrangements of small issuers involving the sale of their securities.

As proposed, there is no limitation on the manner of the offering. Thus, general advertising or solicitation would be permissible. The Commission requests specific comment as to any limitations that may be necessary or appropriate in the manner of offering or sale.

The rule would not be available to reporting companies. In the event that the issuer subsequently became subject to the reporting provisions of the Exchange Act, it is proposed that shares which had come into the hands of employees pursuant to an employee benefit plan or employment contract exempted by Rule 701 could be resold like shares issued on Form S–8. Thus, affiliates of the issuer could resell without a further holding period under Rule 144 and non-affiliates could resell freely without restriction.[31] In this regard, once a company became subject to the Exchange Act reporting system, Rule 701 would be unavailable. However, as the rule is proposed, offers made in reliance upon Rule 701 could be consummated even after a company became subject to the Exchange Act reporting provisions. Thus, options granted prior to the issuer becoming subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act could be exercised thereafter in reliance upon Rule 701.

C. Proposed Rule 702 and Form 701

The Commission also is proposing Rule 702 which would require Form 701 to be filed within 30 days of the first sale of the issuer's securities that brought aggregate sales in reliance on Rule 701 over $50,000. Thereafter, the form would be required to be filed annually within 30 days following the close of the issuer's fiscal year.

[31] 17 CFR 230.144.

Rule 702 and Form 701 are proposed for a temporary effective period of three years from their date of adoption. The Commission believes that it is important to monitor new exemptive provisions. By requiring this brief form, the Commission will be able to assess the utility of the exemption, and oversee any abuses. At the end of three years, Form 701 would cease to be required unless the Commission took further action to establish it on a permanent basis or extended its life as a temporary requirement.

Comments are requested as to whether Form 701 should be a required filing, and if so whether its filing should be a condition to the Rule 701 exemption as proposed. In this connection, commentators who favor a filing requirement but believe that it should not be a condition to the exemption should suggest ways for the Commission to enforce the requirement. Commentators who support the elimination of Form 701 in its entirety should explain the way in which the Commission would monitor the exemption for both abuses and its utility to the non-reporting companies eligible for its use, in the absence of the filing requirement.

III. NASAA Cooperation

As previously indicated, Regulation D serves as the basis for ULOE, which was formally adopted by NASAA as an official policy guideline in September 1983.[32] Since then, more than half of the states have adopted ULOE or an exemption substantially similar to it. The Commission and NASAA continue to work to encourage the remaining states to adopt ULOE. Since Rule 504 is not a part of ULOE, the proposals in that area as well as proposed Rules 701, 702 and Form 701, which are not a part of Regulation D, have no direct application upon the ULOE policy statement.

The proposals being published today by the Commission have been reviewed by representatives of the NASAA Small Business Finance Committee. The Commission appreciates the continuing cooperation of NASAA and the members of the Committee in connection with the proposals being made.

[32] 1 CCH Blue Sky L. Rep. § 5294 at 1273. An official policy guideline of NASAA represents endorsement of a principle which NASAA believes has general application. NASAA has no power to enact legislation, promulgate regulations or otherwise bind the legislatures or administrative agencies of its members.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed modifications to Regulation D and the new Rules 701, 702 and Form 701.

The analysis notes that the majority of the revisions, i.e., to the "accredited investor" definition, the offering ceiling under Rule 504, the general solicitation provision under Rule 504 and the exemption for offers and sales of securities pursuant to certain compensatory employee benefit plans or employment contracts, are being proposed as a result of public inquiry as well as the Commission's own experience with the exemptive scheme under the Securities Act. The cooperation of NASAA and the ULOE policy guideline is also noted. The objective of coordinating limited offering exemptions at both the federal and state levels is considered along with the goal of aiding smaller issuers in the capital formation process which is greatly assisted through a coordinate exemptive scheme. The proposals, except for proposed Rule 702, would add no new reporting, recordkeeping or other compliance requirements for issuers and in fact may eliminate the need to provide certain information.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Eloise A. Green in the Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

V. Cost—Benefit Analysis

In order to fully evaluate the benefits and costs associated with the revisions to Regulation D and proposed new Rules 701, 702 and Form 701, the Commission requests commentators to provide views and data as to the costs and benefits associated with these proposals. In this regard, the Commission believes that the proposals will work significant costs savings for issuers because increasing the variety of accredited investors and the dollar amount which can be raised under Rule 504 with state approbation should increase the number of offerings under Regulation D which can be effected without the provision of federally mandatory disclosure documents under the regulation which can save issuers some money. Furthermore, the expansion of the general solicitation provision under the regulation should provide for additional savings and greater capital raising potential by allowing the issuer to raise capital in a greater number of jurisdictions which would not otherwise be available under the current status for the regulations. Savings should also occur through the exemption for offers and sales of securities pursuant to employee benefit plans and employment contracts, which now are either required to be registered under the Securities Act or exempted by way of Regulation A. The number of employee plans not being offered because of the federal securities laws requirements should decreases, which may be a significant benefit to businesses in their efforts to seek and retain qualified employees. It appears to the Commission that the proposals, if adopted, will have little if any negative impact upon the protection of investors.

VI. Statutory Basis, Text of Proposed Amendments and Authority

The amendments to the Commission's rules are being proposed pursuant to section 2(15), 3(b), 4(2), 4(6), 19(a) and 19(c) of the Securities Act.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows: (Arrows indicate proposed additions)

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: Sections 230.100 to 230.174 issued under Sec. 19, 48 Stat. 85 as amended; 15 U.S.C. 77s, * * *

2. Section 230.215 is amended by revising paragraphs (a), (c) and (g), redesignating paragraph (h) as (i) and revising it and adding a new paragraph (h) as follows (the introductory text is republished):

§ 230.215 Accredited investor.

The term "accredited investor" as used in section 2(15)(ii) of the Securities Act of 1933 (15 U.S.C. 77b(15)(ii)) shall include the following persons:

(a) ►Any savings and loan association or other institution specified in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934;◄ or any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 either with total assets in excess of $5,000,000 ►or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;◄

* * * * *

(c) ►Any organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;◄

* * * * *

(g) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years ►or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;◄

(h) ►Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in § 230.506(b)(2)(ii), provided that the total purchase price does not exceed 10 percent of the trust's total assets; and◄

►(i)◄ Any entity in which all of the equity owners are accredited investors under paragraph (a), (b), (c), (d), (f), (g) or ►(h)◄ of this § 230.215.

3. Section 230.501 is amended by revising the introductory text, paragraphs (a)(1), (a)(3), (a)(7) and the first sentence of paragraph (c), redesignating and revising paragraph (a)(8) as (a)(9) and adding new paragraphs (a)(8) and (e)(3) before the Note as follows:

§ 230.501 Definitions and terms used in Regulation D.

As used in Regulation D (§§ 230.510—230.506), the following terms shall have the meaning indicated:

(a) * * *

(1) Any bank as defined in section 3(a)(2) of the Act, or ►any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act◄ whether acting in its individual or fiduciary capacity; ►any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934;◄ employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, either if the investment decision is made by a plan fiduciary specified in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser, ►or if a self-directed plan with investment decisions made solely by persons that are accredited investors,◄ or if the employee benefit plan has total assets in excess of $5,000,000;

* * * * *

(3) ►Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;◄

* * * * *

(7) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years ►or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;◄

* * * * *

(8) ►Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in § 230.506(b)(2)(ii), provided that the total purchase price does not exceed 10 percent of the trust's total assets; and◄

►(9)◄ Any entity in which all of the equity owners are accredited investors under paragraphs (a)(1), (2), (3), (4), (6), (7) or ►(8)◄ of this section.

* * * * *

(c) *Aggregate offering price.* "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration ►to be◄ received by an issuer for issuance of its securities. * * *

* * * * *

(e) *Calculation of number of purchasers.* * * *

►(3) A non-contributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.◄

* * * * *

4. Section 230.502 is amended by revising the introductory text, the paragraph headings of (b)(2)(i) (A) and (B), by revising paragraphs (b)(2)(ii)(B) and (b)(2)(vi) as follows:

§ 230.502 General conditions to be met.

The following conditions shall be applicable to offers and sales made under Regulation D (§§ 230.501–230.506):

* * * * *

(b) *Information requirements.*

(1) * * *

(2) *Type of information to be furnished.*

(i) * * *

(A) *Offerings up to* ►$7,500,000.◄

* * * * *

(B) *Offerings over* ►$7,500,000.◄

* * * * *

(ii) * * *

(A) * * *

(B) The information contained in an annual report on Form 10–K under the Exchange Act or in a registration statement on Form S–1 [17 CFR 239.11], ►[Form S–11 [17 CFR 239.18], or Form S–18 [17 CFR 239.28]◄ under the Act or on Form 10 [17 CFR 249.210] under the Exchange Act, whichever filing is the most recent required to be filed.

* * * * *

(vi) For business combinations ►or exchange offers,◄ in addition to information required by ►Form S–4 [17 CFR 239.25],◄ the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders.

* * * * *

5. Section 230.504 is amended by revising the section heading, paragraph (b), and Notes 1 and 2, and adding a new Note 3 as follows:

§ 230.504 Exemption for limited offer►ings◄ and sales of securities not exceeding ►$1,000,000.◄

* * * * *

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this § 230.504, offers and sales must satisfy the terms and conditions of §§ 230.501 through 230.503, except that the provisions of §§ 230.502 (c) and (d) shall not apply to offers and sales of securities under this § 230.504 that are made ►(i)◄ exclusively in one or more states each of which provides for the registration of the securities and requires the delivery of a disclosure document before sale and that are made in accordance with those state provisions; ►(ii) in one or more states which have no provision for the registration of the securities and the delivery of a disclosure document before sale if the securities have been registered in at least one state which provides for such registration and delivery before sale and such document is in fact delivered to all purchasers in the states which have no such procedure.◄

(2) *Specific condition. Limitation on aggregate offering price.* The aggregate offering price for an offering of securities under this § 230.504, as defined in § 230.501(c), shall not exceed ►$1 million,◄ less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this § 230.504 in reliance on any exemption under section 3(b) of the Act or in violation of section 5(a) of the Act, ►provided that no more than $500,000 of such aggregate offering price is made as offers and sales of securities without registration under a state's securities laws.◄

Note 1: The calculation of the aggregate offering price is illustrated as follows:

►*Example 1.* If an issuer sells $500,000 worth of its securities pursuant to state registration on January 1, 1987 under this § 230.504, it would be able to sell an additional $500,000 worth of securities either pursuant to state registration or without state registration during the ensuing 12-month period, pursuant to this § 230.504.◄

►*Example 2.* If an issuer sold $900,000 pursuant to state registration on June 1, 1986 under this § 230.504 and an additional $4,100,000 on December 1, 1986 under § 230.505, the issuer could not sell any of its securities under this § 230.504 until December 1, 1987. Until then the issuer must count the December 1, 1986 sale towards the $1 million limit within the preceding 12-months.◄

Note 2: If a transaction under this § 230.504 fails to meet the limitation on the aggregate offering price, it does not affect the availability of this § 230.504 for the other transactions considered in applying such limitation. For example, ►if an issuer sold $1 million worth of its securities pursuant to state registration on January 1, 1987 under this § 230.504 and an additional $500,000 worth on July 1, 1987, this § 230.504 would not be available for the later sale, but would still be applicable to the January 1, 1987 sale.◄

►Note 3: In addition to the aggregation principles, issuers should be aware of the applicabilitiy of the integration principles set forth in § 230.502(a).◄

6. By adding a new § 230.701 to read as follows:

§ 230.701 Exemption for offers and sales of securities pursuant to certain compensatory employee benefit plans and employment contracts.

Preliminary Notes

(1) Nothing in this exemption is intended to be or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the federal securities laws. The rule only provides an exemption from the registration requirements of the Securities Act of 1933 (the "Act") [15 U.S.C. 77a et seq.].

(2) Nothing in rule obviates the need to comply with any applicable state law relating to the offer and sale of securities.

(3) Attempted compliance with the rule does not act as an exclusive election, the issuer can also claim the availabilitly of any other applicable exemption.

(4) The rule is only available to the issuer of the securities and not to any affiliate of the issuer or to any other person for reselling the securities. The rule provides an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(a) *Exemption.* Offers and sales of securities that satisfy the conditions of paragraph (b) of this § 230.7001 by an issuer that is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.] and is not an investment company shall be exempt from the provisions of seciton 5 of the Act by virtue of section 3(b) of the Act.

(b) *Conditions to be met.*

(1) An exemption under this § 230.701 applies only to offers and sales of an issuer's securities (i) made in accordance with the terms of a compensatory employee benefit plan established by that issuer for the participation of its employees, directors, trustees or officers or the employees, directors, trustees or officers of its wholly-owned subsidiaries or its parents, or (ii) pursuant to a written contract of employment involving such persons.

(2) A compensatory employee benefit plan means an option, bonus, appreciation, profit sharing, retirement, incentive, thrift, savings or similar plan which meets the following conditions:

(i) The plan must be set forth in a written document describing the means or basis for determining the eligibility of individuals to participate and either the price at which the securities may be offered or the method by which the price or the amount of the award is to be determined; and

(ii) The plan must provide with respect to any option or similar right (including a stock appreciation right) offered pursuant to the plan that such option or right is not transferable other than by will or the laws of descent and distribution and that it is exercisable during the employee's lifetime only by him or by his guardian or legal representative.

(3) The aggregate offering price for all securities to be offered shall not exceed $5,000,000. Such offering price shall be reduced by all sales made pursuant to this § 230.701. It shall also be reduced by sales made in violation of seciton 5(a) of the Act within the preceding 12-month period. No adjustment to the aggregate offering price in this section shall be made for other offerings made in reliance upon other rules or regulations adopted pursuant to section 3(b) of the Act. The aggregate offering price under other rules and regulations adopted pursuant to section 3(b) shall not be reduced by offerings made under this § 230.701.

(4) Sales of securities under this § 230.701 shall be limited to $1 million made in any 12-month period, provided that in the event of (i) the filing of a registration statement under the Act, or (ii) the public announcement of a merger transaction, sales made within 90 days after either such event would not be subject to this limitation.

(c) *Resale limitations.* Securities acquired in a transaction pursuant to this § 230.701 shall have the status of securities acquired in a transaction under section 4(2) of the Act and cannot be resold without registration under the Act or an exemption therefrom. This status shall terminate 90 days after the issuer becomes subject to the reporting requirements of section 13 or 15(d) of the Exchange Act.

7. By adding a new temporary § 230.702 to read as follows:

§ 230.702(T) Notice of sales pursuant to an exemption under § 230.701.

(a) The issuer shall file with the Commission five copies of a notice on Form 701 [17 CFR 239.701] within 30 days after the first sale of securities which brings the aggregate sales pursuant to compensatory employee benefit plans or employment contracts exempt from the registration requirements of the Act by § 230.701 above $50,000, and thereafter annually within 30 days following the end of the issuer's fiscal year.

(b) The exemption provided by § 230.701 is specifically conditioned upon compliance with this § 230.702.

(c) A notice on Form 701 is considered filed with the Commission on the date of its receipt at the Commission's principal offices in Washington, DC.

(d) This section shall be effective until [3 years from effective date of final rule].

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

8. The authority citation for Part 239 continues to read in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*

9. By adding § 239.701 (Form 701) to read as follows:

§ 239.701 Form 701, report of sales of securities pursuant to a compensatory employee benefit plan or employment contract.

This form shall be used for the report of sales of securities pursuant to a compensatory employee benefit plan or employment contract under Rule 701 (§230.701 of this chapter).

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

January 16, 1987.

[Form 701 does not appear in the Code of Federal Regulations]

BILLING CODE 8010-01-M

FORM 701

OMB APPROVAL
OMB NUMBER: 3235-
Expires: Pending Action

U.S. Securities and Exchange Commission
Washington, D.C. 20549

REPORT OF SALES OF SECURITIES PURSUANT TO A
COMPENSATORY EMPLOYEE BENEFIT PLAN OR EMPLOYMENT CONTRACT

Name of Issuer:

Address of Principal Executive Offices (Number, Street, City, State, Zip Code) | Telephone No.(Including Area Code)

Type of Business Organization:

[ ] Corporation [ ] Limited Partnership [ ] Business Trust [ ] Other (Please specify): ______

Type of Filing:

[ ] New Filing [ ] Annual Amendment [ ] Other Amendment

Full Title of the Plan:

Type of Plan: (Check all applicable plans)

[ ] Profit Sharing [ ] Appreciation [ ] Retirement [ ] Option [ ] Thrift

[ ] Incentive [ ] Savings [ ] Bonus [ ] Other (Please specify): ______

Or [ ] Employment Contract

Aggregate Offering Price for Plans: $______

Dollar Amount and Number of Securities Offered to Date:

	Dollar Amount	Number of Securities
Plans - $	______	______
Contracts - $	______	______

Aggregate Offering Price pursuant to Employment Contracts: $______

Dollar Amount and Number of Securities Sold to Date:

	Dollar Amount	Number of Securities
Plans - $	______	______
Contracts - $	______	______

Total: $______

Indicate whether either of the following events have occured by marking the appropriate box and providing the additional requested data:

[ ] Merger Transaction Date of Announcement: ______ Parties to Merger: ______

[ ] Registration of Securities Under the Securities Act of 1933.

Date of Filing: ______ File No.: ______

Instructions

Who Must File: All issuers making an offering of securities pursuant to an employee benefit plan or employment contract in reliance upon the exemption provided by Rule 701, 17 CFR 230.701.

When To File: A notice must be filed no later than 30 days after the first sale of securities pursuant to employee benefit plans or employment contracts which cause aggregate sales to exceed $50,000, and thereafter annually within 30 days after the issuer's fiscal year end. A notice is deemed filed with the U.S Securities and Exchange Commission on the date it is received by the Commission at the address below.

Where To File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies Required: Five (5) copies of this notice must be filed with the Commission, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear printed signatures.

Information Required: New filings and annual amendments must contain all information requested. Other amendments need only report the name of the issuer and plan and the information being amended.

Filing Fee: There is no filing fee.

Name(s) of each executive officer, director, general partner, managing partner, beneficial owner of 10% or more of a class of the issuer's equity securities, and promoter of the issuer (name promoter(s) only if issuer was organized within the past five years):

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

Check Box(es) that Apply:

[ ] Executive Officer [ ] Director [ ] General and/or Managing Partner [ ] Beneficial Owner [ ] Promoter

Full Name (Last Name First)

(Use blank sheet, or copy and use additional copies of this sheet, as necessary)

The Issuer has duly caused this Notice to be signed by the undersigned duly authorized person.

Issuer (Print or Type):	Signature:	Date:
Name of Signer (Print or Type):	Title of Signer (Print or Type):	

Attention

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001.)

[FR Doc. 87-1645 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 51 and 301

[LR-74-86]

Definition of Subchapter S Item and Special Rule for Certain Small S Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the small S corporation exception and the definition of subchapter S item. The text of the temporary regulations serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 31, 1987. Except as otherwise provided, the regulations are proposed to be effective with respect to taxable years beginning after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Attention: CC:LR:T (LR-74-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Stuart G. Wessler of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, (Attention: CC:LR:T LR-74-86). Telephone 202-566-3297 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Excise Tax Regulations Under The Crude Oil Windfall Profit Tax of 1980 (26 CFR Part 51) under section 6245 and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6241 and 6245 of the Internal Revenue Code of 1986, as added by section 4(a) of the Subchapter S Revision Act of 1982 (Pub. Law 97-354).

For the text of the temporary regulations, see T.D. 8122 published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that the proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Analysis is therefore not required.

Although this document is a notice of proposed rulemaking that solicits public comment, it is hereby certified, pursuant to 5 U.S.C. 606(b), that the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to this proposed regulation because it will not have a significant economic impact on a substantial number of small entities. The proposed regulations do not impose a significant economic burden on taxpayers; the regulations merely provide an exception to the unified corporation proceedings and define the items that are within the scope of the new rules for unified corporate proceedings.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Stuart G. Wessler of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-1793 Filed 1-27-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Control of Skewed Bidding Procedures

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: On July 1, 1983, and July 16, 1984, the Forest Service published notices of proposed policy to limit skewed bidding (48 FR 30417 and 49 FR 28748).

The first proposal limited bidding on sales exceeding 1 million board feet in Regions 1, 5, and 6 to those species which exceed 10 percent of the total sale volume. In addition it was proposed that bidding be on a weighted average basis, with limits placed on the maximum amount of bid value increase above advertised rates that could be assigned to any biddable species. The amount of bid value increase assignable to any biddable species was based on a total value weighted formula. The July 16, 1984, proposal revised the July 1, 1983, proposal to be responsive to the comments received.

Because of the time and personnel demands caused by implementation of the Federal Timber Contract Payment Modification Act, the Forest Service did not develop a final skewed bidding policy that would implement the July 1984 proposal.

Legislation and changes in timber sale contract practices since the time of the earlier proposals will probably affect bidding on future timber sale contracts. This notice revises the 1983 and 1984 proposals in order to be responsive to current conditions.

The revised proposal upon adoption would revise agency procedures for establishing bid rates for National Forest timber sale contracts. The primary purpose of these procedures is to reduce the Government's revenue losses associated with skewed bidding, the practice in which a bidder on a multispecies timber sale attributes most

of the total bid value to one species and bids the minimum price on the others.

The revised proposal would limit bidding on species that represent a minor proportion of the total sale volume. The proposed procedures would better protect the Government's earnings on timber sales as well as preserve competition among prospective purchasers.

DATE: Comments must be received by March 31, 1987.

ADDRESSES: Send written comments to R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect all written submissions made pursuant to this notice during regular business hours in the Office of the Director of the Timber Management Staff, Room 3207, South Agriculture Building, 12th and Independence Ave., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Olson, Timber Management Staff, (202) 447-4051.

SUPPLEMENTARY INFORMATION: The National Forest Management Act authorizes the sale of timber from National Forest System lands to private purchasers through competitive bidding. Timber may not be sold at less than appraised value (16 U.S.C. 472a).

National forest timber sales often include more than one species of timber. In such case, prospective purchasers offer bids by species or by groups of species. The high bid is determined by multiplying the price bid for a species by the estimated timber volume of that species. The sale is awarded to the qualified bidder whose bid has the highest total sum value of the products of multiplying each species or species group bid by the estimated volume of the species or species group.

A bidder who believes there are possible inaccuracies in the Forest Service's volume estimates of a particular species and that the volume estimated may be too large may place most of the bid value on that species and bid the minimum prices established by the Forest Service on the other species. This practice, known as "skewed bidding", may also be used when a bidder has a better market for a particular species.

Skewed bidding enables bidders to tailor their bids to their competitive strengths. Its use is a comparatively recent development in Forest Service timber sales, and has been concentrated in the western areas with higher priced timber where the final price paid by a purchaser is based on post-sale measurement of removed timber.

While skewed bidding can be advantageous to purchasers, it can reduce Government receipts and increase Forest Service sale administration costs.

These results were documented in a review of skewed bidding by the General Accounting Office (GAO/RCED-83-37). This revised proposal is made in partial response to the recommendations in that review.

The effects of skewed bidding can best be explained presenting an example of skewed bidding. For instance, consider a 10 million board feet (10 MMBF) timber sale containing Douglas fir, Ponderosa pine, hemlock, and cedar. The advertised rates (that is, the minimum bid the Government will accept for each species), the Government estimate of the volume by species, and the offers of Bidders A, B, and C, are in Exhibit 1.

EXHIBIT I.—SAMPLE TIMBER SALE BIDS

	Douglas fir	Ponderosa pine	Hemlock	Cedar	Average total
Estimated volume (thousand board feet)	5,000	3,500	900	600	10,000
Estimated volume (percent)	50	35	9	6	100
Advertised rates (dollars per thousand board feet)	$50	$40	$10	$5	$40.20
Advertised value (dollars)	$250,000	$140,000	$9,000	$3,000	$402,000
Bidder "A" bid rate (dollars per thousand board feet)	$50	$40	$10	$500	$69.90
Bidder "A" bid value (dollars)	$250,000	$140,000	$9,000	$300,000	$699,000
Bidder "B" bid rate (dollars per thousand board feet)	$80	$80	$10	$5	$69.20
Bidder "B" bid value (dollars)	$400,000	$280,000	$9,000	$3,000	$692,000
Bidder "C" bid rate (dollars per thousand board feet)	$60	$60	$10	$5	$52.20
Bidder "C" bid value (dollars)	$300,000	$210,000	$9,000	$3,000	$522,000

Based on the circumstances in Exhibit 1, Bidder "A" would be awarded the sale because the $699,000 total bid was higher than the bids of "B" and "C." Note that most of "A's" bid was on cedar, which was estimated as 6 percent of the total sale volume.

Timber sale volumes are estimated by species based on sampling. Acceptable sampling errors are established for the total sale volume. The sampling errors for individual species, especially minor species, will be much higher. Often the actual volume of timber differs from the estimate at the time of sale. Timber sale purchasers of most western timber sales pay the Government for the volume of each species of timber actually removed.

If in the Sample Timber Sale illustrated in Exhibit 1, there were actually more Douglas fir and less cedar removed than was originally estimated by the Forest Service, the Government could, in effect, lose money. An example of this is shown in Exhibit II.

EXHIBIT II.—RETURNS TO GOVERNMENT ON ACTUAL TIMBER VOLUME IN THE SAMPLE

	Douglas fir	Ponderosa pine	Hemlock	Cedar	Average total
Estimated volume (thousand board feet)	5,000	3,500	900	600	10,000
Actual volume (thousand board feet)	5,400	3,500	900	200	10,000
Advertised rates (dollars per thousand board feet)	$50	$40	$10	$5	$42.20
Advertised value (dollars)	$270,000	$140,000	$9,000	$1,000	$420,000
Bidder "A" bid rate (dollars per thousand board feet)	$50	$40	$10	$500	$51.90
Bidder "A" bid value (dollars)	$270,000	$140,000	$9,000	$100,000	$519,000
Bidder "B" bid rate (dollars per thousand board feet)	$80	$80	$10	$5	$72.50
Bidder "B" bid value (dollars)	$432,000	$280,000	$9,000	$1,000	$722,000
Bidder "C" bid rate (dollars per thousand board feet)	$60	$60	$10	$5	$54.40
Bidder "C" bid value (dollars)	$324,000	$210,000	$9,000	$1,000	$544,000

In this instance, Bidder "B's" offer would have netted the Government $203,000 more than that offered by Bidder "A" who was awarded the sale. This difference equals almost half the original advertised value of the sale.

Thus, a purchaser who skews a bid can actually pay less than the total amount bid where the Forest Service has overestimated the volume of the skewed bid species and/or underestimated the volume of the other species.

Also contract administration would have to be increased over normal levels to make sure that all the $500 per MBF cedar was actually removed from the sale and paid for. Because the purchaser only pays for the timber removed from the sale, ordinary contract administration practices would not be adequate enough to protect the Government. Harvest of a high value species on a sale must be carefully monitored by Government personnel. In addition, when one species has a substantially higher value than other species, scaling costs are higher due to the increased variability of sample scaling units.

One solution to the skewed bidding problem is to sample the volume of each species, rather than the total timber volume in a sale, to satisfactory statistical accuracy standards. However, the increase in costs and time needed to estimate species volume to those standards is unacceptable. Therefore, another alternative is needed to ensure that skewed bidding does not result in the public receiving an inequitable return on National Forest timber sales, yet provide some flexibility to purchasers to tailor their bids to their own, unique situation. Accordingly, the Forest Service is proposing to limit the use of skewed bidding. However, the Forest Service also recognizes the need to maintain competition among purchasers, since this stabilizes the industry and contributes to a better return to the Government. Therefore, the effect of this proposal is to limit skewed bidding, not eliminate it.

A majority of the respondents to the 1983 and 1984 proposals recognized skewed bidding as a problem. However, most of the respondents commented that the earlier proposals were too complicated and/or unclear. Some respondents thought the implementation of the earlier proposals would increase risk to purchasers and reduce competition. Other respondents were concerned that implementation of the proposed procedures would foster more skewed bidding, rather than controlling the problem.

Most respondents suggested alternative policies to control skewed bidding. Many of these suggestions included some type of process to mathematically distribute bid values to the species in the sale.

In light of the effects of current conditions, the negative response to the earlier proposals, and the positive suggestions from respondents, the earlier proposals are withdrawn. The existing policy will be continued until a new policy is finalized.

Proposed Policy

The revised proposal would apply to those sales where the timber is scaled (measured) after felling in Region 1, 5, and 6. Under the proposed policy, species or species groups with less than 10 percent of the total volume would not be biddable. A sale with less than two biddable species or species groups (i.e., more than 10 percent of the advertised sale volume) would be sold on a "sale as a whole" basis. Any increase in bid value above the advertised value of the sale would be distributed to the advertised species or species groups in proportion to the advertised value of the species or species group. Exhibit III shows how the high bid of a sale that was bid on the "sale as a whole" basis would be distributed.

EXHIBIT III.—PROPOSED DISTRIBUTION OF HIGH BID

	Douglas fir	Ponderosa pine	Hemlock	Cedar	Average total
(1) Estimated volume (thousand board feet)	800	7,000	2,000	200	10,000
(2) Advertised value	$40,000	$339,000	$20,000	$1,000	$400,000
(3) Species share of advertised value (percent)	10.0	84.8	5.0	0.2	100.00
(4) High bid	NA	NA	NA	NA	$600,000
(5) Bid increase ((4)-(2))	NA	NA	NA	NA	$200,000
(6) Distribution of bid increase ((3)x(5))	$20,000	$169,600	$10,000	$400	$200,000
(7) Contract value ((2)+(6))	$60,000	$508,600	$30,000	$1,400	$600,000
(8) Contract rate (dollars/thousand board feet)+((7) (1))	$75.00	$72.66	$15.00	$7.00	$60.00

This bidding system is proposed for use on scaled timber sales in Region 1, 5, and 6. If adopted, it may be used in other Regions if the authorizing officer decides that this method may be necessary to identify the bid that will return the most revenue to the Government.

If these bidding methods had been in use in Region 1, 5, and 6 during fiscal year 1985 (October 1, 1984—September 30, 1985) approximately one-third of the sales with about one-fourth of the volume sold would have been advertised on a sale as a whole basis.

The rules and regulations governing bidding methods and award of National Forest timber sale contracts are set forth at 36 CFR Part 223. Timber sale policies and procedures to implement those rules and regulations are set forth in Title 2400 of the Forest Service Manual. This proposed policy, if adopted, would be incorporated in Title 2400 of the Forest Service Manual.

Dated: September 22, 1986.

R. Max Peterson,

Chief.

[FR Doc. 87-1860 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3146-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste (Proposed Denials)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to deny the petitions submitted by seven petitioners to exclude their waste from the hazardous waste lists. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 and 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists.

Based on an initial review of the petitions submitted by the generating facilities, additional information has

been requested to enable the Agency to determine if exclusions should be granted. Most of these petitioners have not provided the requested additional information. For those facilities that provided some information, the Agency has determined that the additional information is insufficient to make a final decision. Our basis, therefore, for denying these petitions is that all of these petitions are incomplete (*i.e.*, the Agency does not have sufficient information to determine the hazardous or non-hazardous nature of the waste). The effect of this action, if promulgated, would be to deny the petitions to exclude certain wastes generated at particular facilities from being listed as hazardous wastes under 40 CFR Part 261. Thus, all of the petitioned wastes would still be considered hazardous.

DATES: EPA will accept public comments on our tentative decision to deny these petitions until March 2, 1987. Any person may request a hearing on these decisions by filing a request with Bruce Weddle, whose address appears below, by February 17, 1987. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Requests for a hearing should be addressed to Bruce Weddle, Director, Permits and State Programs Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Communications should identify the regulatory docket number "F-86-07DP-FFFFF".

The public docket for these petitions (including the requests for the additional information that was never submitted and justifications indicating why the Agency believes this information is necessary) is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346; or at (202) 382-3000. For technical information, contact Ms. Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (i.e., ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or 261.11(a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility, which meets the listing description, may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusive procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed waste.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.[1]

In evaluating these petitions, the Agency first determines whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous, it will propose to deny the petiion. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the criteria for which the waste was listed, it will then evaluate the waste with respect to any other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.

The additional information required under section 222 of HSWA was generally requested from the petitioning facilities through written correspondence. The acquisition and analysis of this additional information by the Agency is necessary before a tentative determination (i.e., a proposal to exclude or deny exclusion) can be made for the petitioned wastes.

[1] In addition, residues from the treatment, storage, or disposal of listed hazardous wastes are eligible for exclusion. The substantive standard for delisting these wastes is the same as for excluding the listed wastes.

Basis for Denying Exclusion Petition

The Agency has experienced lengthy delays in receiving the additional information requested from petitioning facilities. The additional information has been requested because of the Hazardous and Solid Waste Amendments (i.e., the Agency now must consider all factors, if there is a reasonable basis to believe that such factors could cause the waste to be hazardous). Such delays have disrupted the continuity of the petition review process and have created a backlog of petitions awaiting review. In fact, many persons have commented to the Agency that they believe the "delisting process" is non-existent. This is not the case; much of the delay in processing these petitions has been caused by the slowness of petitioners in submitting the additional information. For example, in some instances the Agency has been waiting for years for petitioners to submit the additional information, and still the requested information has not been submitted. In other cases, some information was submitted to the Agency in response to our request for additional information. None of these responses were sufficient to enable the Agency to make a decision on whether or not to grant the exclusion. We do agree with the commenters, however, that due to these long time delays, the delisting process appears to take much too long and appears to be inefficient.

To mitigate the problems that have been created by this situation, the Agency has decided that if a complete petition is not submitted within a reasonable period of time from the date that EPA first requests the addition, the Agency will propose to deny the petition as incomplete. The Agency today is proposing to deny the exclusion petitions submitted by seven facilities, since these facilities have failed to provide the additional information requested within a reasonable period of time.

In all of these cases, the Agency has made at least one written request for information indicating the specific type of information the petitioner was to supply in order for the Agency to complete its evaluation. In addition, the Agency published a notice in the **Federal Register** of its intent to collect this information (49 FR 4802–4803, February 8, 1984). Some of these facilities also received letters on November 26, 1984 requesting additional information required under the Hazardous and Solid Waste Amendments of 1984.

In all of these cases, the Agency has not heard from these petitioners in over a year. In those instances where the Agency has received some information, this information was deficient. The Agency has previously stated its intention to deny petitioners that have not provided additional information one year after the information has been requested (see 50 FR 47763, November 20, 1985). The Agency believes that we have given these petitioners an adequate period of time to provide this information. Since the necessary information has not been submitted, we are proposing to deny these petitioners as incomplete.

Promulgation of Today's Proposal

Since the Agency is proposing to deny these petitions as incomplete the Agency intends to make final today's tentative decisions to deny these petitions, unless the petitioner provides the necessary information during the comment period (i.e., the Agency then has a complete petition).

Petitioners

EPA today proposes to deny the petitions submitted by the following petitioners:

Petitioners No.	Petitioners name
0556	Arvin Automotive, North Vernon, IN.
0396	Exxon Company, Baton Rouge, LA.
0588	Bayliner Marine Corp., Arlington, WA.
0351	Plateau, Incorporated, Bloomfield, NM.
0596	Olin Corporation, Brandenburg, KY.
0608	Marine Group, Inc., Murfreesboro, TN.
0604	Wells Aluminum Southeast, Inc., Belton, SC.

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This proposed denial of exclusions is not major since it has no effect on how the facilities must manage their wastes. Prior to submitting, and during the review of their petitions to exclude certain of the wastes generated from their facility, petitioners should have handled their wastes as hazardous. This denial of their exclusion petitions means that they are to continue managing their wastes as hazardous. There is no additional economic impact on the facilities due to today's proposed rule. This proposed denial is not a major regulation; therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will not change the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: January 16, 1987.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 87–1889 Filed 1–29–87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 414 and 416

[OW-FRL-3143-7]

Organic Chemicals, Plastics and Synthetic Fibers Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and Standards of Performance for New Sources; Correction

AGENCY: Environmental Protection Agency [EPA].

ACTION: Notice of Availability and request for comments; correction.

SUMMARY: This document makes corrections to a document which appeared in the **Federal Register** on December 8, 1986 (51 FR 44082) presenting an analysis of the small business impacts of the Organic Chemicals, Plastics, and Synthetic Fibers proposed regulation.

FOR FURTHER INFORMATION CONTACT: Kathleen Ehrensberger (202) 382–5386.

SUPPLEMENTARY INFORMATION: Table 7, which appeared in the **Federal Register** at (51 FR 44086) is corrected to read as follows:

TABLE 7.—SUMMARY OF SMALL BUSINESS IMPACTS FOR INDIRECT DISCHARGERS AND MITIGATION EFFECTS UNDER ALTERNATIVE REQUIREMENTS

	Small plants [1]	Large plants
Total Plants Analyzed	189	174
Impacts at Options I, II, IV		
Significantly Affected Plants [2]	116	58
Plant Closures	14	4
Product Line Closures	17	0
Number of Plants Under Production Cutoffs [3]	93	[4] 4
Impacts Mitigated by Alternative Requirements		
Option I, II, IV: Complete Exemption:		
Significantly Affected Plants	63	0
Significantly Impact Other Than Closure	45	0
Plant Closures	7	0
Product Line Closures	11	0
Option VI(a): Metals Control Only		
Significantly Affected Plants	44	0
Significant Impact Other Than Closure	26	0
Plant Closures	7	0
Product Line Closures	11	0
Option VI(b): Metals & Cyanide Control Only		
Significantly Affected Plants	28	0
Significant Impact Other Than Closure	14	0
Plant Closures	5	0
Product Line Closures	9	0

[1] Small plants are defined as those with less than $15 million annually in OCPSF shipments.

[2] Significantly affected plants those occurring one or more of the following measures:

a. Plant or product line closure;

b. Annual treatment costs of the option greater than five percent of a plant's OCPSF sales;

c. A greater than 25 percent reduction in profitability (assuming no cost pass through).

[3] For plastics plants 15 million pounds/yr; for organics plants 1.5 million pounds/yr.

[4] Four large plants (> $15 million in annual OCPSF shipments) are below the production cutoffs. However, these plants were not significantly impacted; thus, no mitigation results under the less stringent requirements.

Dated: January 9, 1987.

Rebecca W. Hanmer,

Assistant Administrator, Office of Water (WH–556).

[FR Doc. 87–1102 Filed 1–29–87; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Cigar-Binder (Types 42-44; 53-55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Proposed Determinations.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by March 1, 1987, national marketing quotas for cigar-filler and binder (types 42–44; 53–55) tobaccos for the 1987–88, 1988–89, and 1989–90 marketing years and to determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and cigar-binder (types 42–44; 53–55) kinds of tobacco for the 1987–88 marketing year. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the conduct of the referendum, and other related matters which are discussed in this notice.

DATE: Comments must be received on or before February 13, 1987 in order to be assured of consideration.

ADDRESSES: Send comments to the Director, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." It has been determined that the implementation of these proposed determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

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

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires that, with respect to cigar-filler and binder (types 42–44; 53–55) tobacco, the Secretary of Agriculture must proclaim by March 1, 1987, the respective national marketing quotas for the 1987–88, 1988–89, and 1989–90 marketing years. In addition, the Secretary is required to conduct, within 30 days after proclamation of such national marketing quotas, referenda of farmers engaged in the 1986 production of this kind of tobacco to determine whether they favor or oppose marketing quotas for such years. For cigar-filler and binder tobacco the 1986–87 marketing year is the last year of the three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for this kind of tobacco.

The Secretary is also required: (1) To determine and announce the amounts of the national marketing quotas with respect to fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured, and cigar-filler and cigar-binder (types 42–44, 53–55) tobaccos for the 1987–88 marketing year; (2) to convert such marketing quotas into national acreage allotments and announce the allotments; (3) to apportion such allotments, less reserves of not to exceed 1 percent of each kind of tobacco respectively, through county ASCS committees among old farms; and (4) to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments. Five kinds of tobacco discussed in this notice account for approximately 5 percent of total U.S. tobacco production.

Section 312(a) of the Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim, not later than March 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever the Secretary determines with respect to such kinds of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum. However, if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not again be proclaimed in accordance with section 312(a) of the Act which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers unless, prior to November 10 of the marketing year, one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as the Secretary may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Quotas were previously proclaimed, referenda conducted, and quotas approved by growers as follows: Fire-cured (type 21), fire-cured (types 22–23), and dark air-cured (types 35–36) tobaccos for the 1985–86, 1986–87, and 1987–88 marketing years (50 FR 19765); Virginia sun-cured tobacco for the 1986–87, 1987–88, and 1989–90 marketing years (51 FR 16575); and cigar-filler and binder tobacco (types 42–44; 53–55) for the 1984–85, 1985–86, and 1986–87 marketing years (49 FR 20529). Producers of such kinds of tobacco will be eligible to participate in the tobacco price support program.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 & 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, & 24;
Dark air-cured tobacco, comprising types 35 & 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-filler tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, & 55; and

Section 301(b)(15) of the Act also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has issued a determination (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Also pursuant to such authority, the Secretary has issued a determination (22 FR 367) that beginning with the 1957–58 marketing year, cigar-binder (types 51–52) shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Type 45 tobacco is no longer grown.

The Department has received several requests that types 54, 55 and 42–44 tobaccos be considered as three separate kinds of tobacco for purposes of quotas determinations due to alleged differences in demand and the willingness of producers to continue to approve quotas in referenda. Section 320 of the Act provides that, with limited exceptions, "with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area [i.e., a state] where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area." Therefore, if the types of tobacco which currently constitute cigar-filler and binder tobacco are separated into three kinds of tobacco, as long as marketing quotas are in effect in an area for anyone of such three kinds of tobacco, the other two types of tobacco grown in such area would also be subject to marketing quotas although producers had disapproved marketing quotas for such other kinds of tobacco. Comments are requested with respect to whether cigar-filler and binder tobaccos (types 54, 55 and 42–44) should be considered as one or three kinds of tobacco.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of March 1987, with respect to kinds of tobacco specified in this notice of proposed determination, the amount of the national marketing quota which will be in effect for the 1987–88 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of such 1987–88 national marketing quota may, not later than March 1, 1987, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The aggregate reserve supply level for the 1986–87 marketing year for the 5 kinds of tobacco discussed in this notice was determined to be 264 million pounds (51 FR 21004). The proposed reserve supply level for the 1987–88 marketing year will range between 230 million and 290 million pounds. The aggregate total supply for the 1986–87 marketing year is 281 million pounds based on carryover of 220 million and production of 61 million pounds.

Section 312(c) of the Act (7 U.S.C. 1312(c)) provides that, within 30 days after a national marketing quota is proclaimed in accordance with section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kinds of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect, but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of a national marketing quota as otherwise authorized in section 312.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion through county committees the national acreage allotment to tobacco producing farms (less a reserve not to exceed 1 percent thereof for new farms, and for making corrections and adjusting inequities in old farm allotments) among old farms.

Proposed Determinations

Accordingly, comments are requested on the following proposed determinations for the kinds of tobacco listed for the 1987–88 marketing year:

1. With respect to fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured, and cigar-filler and binder (types 42–44; 53–55) tobaccos:

a. The amount of the reserve supply level, within the aggregate range of 230 and 290 million pounds;

b. The amount of the national marketing quota for each kind of tobacco for the 1987–88 marketing year, within a aggregate range of 60 million-90 million pounds; and

c. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments, within the aggregate range of 100 and 500 acres.

2. With respect to cigar filler and binder tobacco:

a. The date(s) or period(s) of the referenda for determining whether quotas will be in effect for the 1987–88, 1988–89, and 1989–90 marketing years for such kinds of tobacco; and

b. Whether the referenda should be conducted at polling places rather than by mail ballot (See 7 CFR Part 717).

Authority: Secs. 301, 312 and 313, 52 Stat. 38, as amended, 46, as amended, and 47, as amended (7 U.S.C. 1301, 1312 and 1313).

Signed at Washington, DC, on January 23, 1987.

Vern Neppl,

Acting Administrator, Agricultural Stabilization, and Conservation Service.

[FR Doc. 87–1865 Filed 1–29–87; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

1986 Minor Kinds of Tobacco Price Support Levels

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Notice of Determination of 1986 Tobacco Price Support Levels.

SUMMARY: The purpose of this Notice of Determination is to announce the levels of price support for all eligible kinds of tobacco (except flue-cured and burley) for the 1986 marketing year. The levels of price support for these six kinds of tobacco are made in accordance with section 106 of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT: Robert H. Miller, (202) 447–8839 or Kenneth M. Robinson, (202) 447–5188. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Mr. Robinson.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." The provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title-Commodity Loans and Purchases; Number-10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this notice.

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

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The determinations set forth in this notice have been made on the basis of the latest available statistics of the Federal Government and after due consideration of data, views, and recommendations received from tobacco producers and other interested persons pursuant to a Notice of Proposed Determination which was published on June 18, 1986 (50 FR 22095).

Discussion

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect or for which marketing quotas have not been disapproved by producers. With respect to the 1986 crop of Virginia fire-cured (type 21), Kentucky-Tennessee fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), cigar filler and binder (types 42–44; 54–55) and Puerto Rican filler (type 46) tobaccos, the respective maxium level of support is determined in accordance with section 106 of the Agricultural Act of 1949, as amended (the "Act").

Section 106(f)(6)(A) of the Act provides that the level of support for the 1986 crop of a kind of tobacco shall be the level in cents per pound at which the 1985 crop of such kind of tobacco was supported, plus or minus, respectively, the amount by which (i) the support level for the 1986 crop, as determined under section 106(b) of the Act is greater or less than (ii) the support level for the 1985 crop, as determined under section 106(b) of the Act, as that difference may be adjusted by the Secretary under section 106(d) of the Act if the support level under clause (i) is greater than the support level under clause (ii). Accordingly, under section 106(f)(6)(A) of the Act, the support level for the 1986 crop of such kind of tobacco will be the 1985 level, adjusted by the difference between (plus or minus) the 1986 "basic support level" and the 1985 "basic support level".

Under section 106 of the 1949 Act, the increase in the price support level for these six kinds of tobacco may be limited to 65 percent of the increase between the "basic support levels" for the 1985 and 1986 crops of these six kinds of tobacco. See calculations published at 51 FR 22095. In addition, section 106(f)(6)(B) provides that to the extent requested by the Board of Directors of an association through which price support is made available to producers (producer association) the Secretary may reduce the support level determined under section 106(f)(6)(A) for any kind of tobacco (except flue-cured and burley) to more accurately reflect the market value of a kind of tobacco and improve the marketability of such tobacco.

During the comment period, which ended August 18, 1986, a total of 17 comments were received from producer associations, State ASC Committee, members of the trade and farm groups relating to the level of support for the six kinds of tobacco. There were nine comments recommending the price support levels be set at the proposed levels (a one percent increase from the 1985 support level). Three comments recommended setting the price support level at the 1985 level. One comment recommended setting the dark air-cured price support level at 101.0 cents per pound (a five percent reduction from proposed level). One comment recommended setting the price support level for dark air-cured tobacco at 106.0

cents per pound. Three comments recommended adjusting grade loan rates.

The 1986 production of these six kinds of tobacco is expected to be lower than in 1985 due to a combination of reduced acreage allotments and less favorable growing conditions. Use of these kinds of tobacco is expected to decline 4 or 5 percent below 1985, largely due to the declining demand for cigars, chewing tobacco, and snuff. Supplies of Kentucky-Tennessee fire-cured, dark air-cured, and cigar binder and filler tobacco are expected to remain excessive.

An analysis of the key factors used in determining the support level for each kind of tobacco for the 1986 marketing year follows the discussion of comments received.

Comments Received

Virginia Fire-Cured Tobacco (Type-21)—The proposed level of support that was announced for Virginia Fire-Cured tobacco (type 21) was 120.0 cents per pound. Two comments were received, including one from the loan association, recommending that the price support level be set at the proposed level (a one percent increase from the 1985 support level). The supply-use ratio of 1.9 for 1985 is below normal because approximately 2½ million pounds of tobacco stocks were destroyed by a 1985 flood. The acreage allotment factor is unchanged for 1986, but production is expected to be down approximately ⅓ from 1985. The supply-use ratio is 2.4, indicating a tightening supply situation. Due to the declining production, market prices are expected to average more than 11 cents per pound above the support level.

Accordingly, the level of support has been determined to be 120.0 cents per pound.

Kentucky-Tennessee Fire-Cured Tobacco (Types 22–23) The proposed level of support that was announced for Kentucky-Tennessee Fire-Cured tobacco (types 22–23) was 124.2 cents per pound. Three comments were received. One loan association recommended setting the support level at the proposed level (one percent higher than the 1985 level). The other loan association recommended setting the support level at the 1985 level. A dealer recommended lowering the support on the lower quality lugs and the green grades, which would probably require freezing or slightly lowering the support level. The supply-use ratio of 4.2 is excessive. The acreage allotment factor was reduced 12.5 percent this year and production is expected to be down 30 percent from 1985. Market prices are expected to be at least 25 cents per pound above the support level. The inventory of the two Kentucky-Tennessee fire-cured tobacco associations represents approximately one-half year's use.

Accordingly, the level of support has been determined to be 124.2 cents per pound.

Dark Air-Cured Tobacco (Types 35–36)—The proposed level of support that was announced for Dark Air-Cured tobacco (types 35–36) was 105.8 cents per pound. Five comments were received. Two loan associations recommended setting the support level at the proposed level (one percent higher than the 1985 level) and the other loan association recommended setting the support level at 101.0 cents, 3.7 cents per pound below the 1985 support level. One of the loan associations and a dealer also recommended lowering or eliminating support on some of the green and lower quality grades.

The supply-use ratio of 4.9 is excessive. Declining demand has persisted and allotments have been cut in 4 of the last 5 years. For 1986, the acreage allotment factor was reduced 25 percent. Production in 1986 is expected to be down 30 percent from 1985. This reduction should improve the supply-use ratio but it is likely to remain excessive. Loan association inventories of the three dark air-cured (types 35–36) are larger than one year's use. The Eastern Dark Fire-cured Association has 48 percent of the loan stocks and its membership accounts for 55 percent of production; the Western Dark Fire-cured Association has 21 percent of loan stocks and accounts for only 14 percent of the production; and the Stemming District has 31 percent of the loan stocks and accounts for 30 percent of the production.

Accordingly, the leved of support has been determined to be 105.8 cents per pound.

Virginia Sun-Cured (Typed 37)—The proposed level of support that was announced for Virginia sun-cured tobacco (type 37) was 106.0 cents per pound. Two comments were received recommending the support level be set at the proposed level (one percent increase). In addition, after further consideration the producer association recommended setting the support level at 106.0 cents per pound. The supply-use ratio of 2.3 is slightly below normal. The acreage allotment factor was held constant in 1986, but production is expected to be down 25 percent from last year due to low prices the past two years. These conditions suggest a tightening supply situation. Based upon the current supply situation and the recommendation of the producer association, it has been determined that the level of support shall be 106.0 cents per pound. Further, this level of support will maintain the competitive relationship of Virginia sun-cured (type 37) with Virginia sun-cured (type 21) tobacco.

Cigar Filler and Binder Tobacco (Types 42–44, 53–55)—The proposed level of support that was announced for cigar filler and binder tobaccos (types 42–44; 53–55) was 91.6 cents per pound. Four comments were received. One loan association and the Wisconsin Farm Bureau recommended the support level be set at the proposed level (one percent increase). The other two loan associations recommended that the support level remain at the 1985 support level of 90.7 cents per pound. The 1985 supply-use ratio is 4.2 which is considered excessive. This kind of tobacco is largely bought on a straight crop-run basis (the entire crop of a producer is bought at a flat price). The trade purchased virtually all the 1985 Southern Wisconsin tobacco (type 54) production at a premium above the price support. However, 57 percent of the Northern Wisconsin tobacco (type 55) was pledged as collateral for CCC price support loans and 70 percent of the Ohio filler (types 42–44) was pledged as collateral for such loans. Even with a 20 percent reduction in acreage allotments and expected decline in use, the 1986 supply-use ratio still is expected to remain excessive. Inventory for the Southern Wisconsin (type 54) loan association is minimal while the Northern Wisconsin (type 55) association holds an inventory greater than 85 percent of 1986's estimated use for the two types. The Cigar Tobacco Cooperative (Ohio) has stocks equal to 1.9 years use at the 1985 level. Production of types 42–44 has been reduced significantly in recent years but has not declined enough to reduce inventories.

Accordingly, the level of support has been determined to be 91.6 cents per pound.

Puerto Rican Filler Tobacco (Type 46)—The proposed level of support that was announced for Puerto Rican Filler tobacco (type 46) was 75.0 cents per pound. No comments were received. The supply-use ratio is 5.1, which is excessive. There is only one buyer, who usually has purchased the loan tobacco by bid sale at less than the association's costs. In the face of declining demand, poundage production quotas, which are set by the Commonwealth, have not sufficiently restricted production so as to reduce loan stocks.

To discourage production and to ensure no-net-cost to the taxpayer, the level of price support was sharply lowered in 1984 and a no-net-cost assessment of 52 cents per pound was initiated. Also, the cooperative associations through which loans are made deduct 6.2 cents per pound for overhead. However, the Commonwealth subsidizes growers, thus negating the anticipated production response associated with lower grower returns.

Accordingly, the level of support has been determined to be 75 cents per pound.

MINOR KINDS OF TOBACCO: ESTIMATED PRODUCTION, SUPPLY, AND LOAN ACTIVITY, 1986/87

Kind and type	Million pounds				
	Production Total supply	Reserve supply	CCC Loan collateral	Percent	CCC Loans as of production
Virginia fire-cured, type 21	3.0	9.9	12.5	.8	23
Kentucky-Tennessee fire-cure, types 22-23	32.4	131.6	18.0	17.8	9
Dark Air-Cured, types 35-36	10.5	60.5	57.6	1.2	11
Virginia sun-cured, type 37	.15	1.05	1.5	(2)	(2)
Cigar filler and binder, types 42-44, 54-55	15.2	78.2	75.2	1.0	7
Puerto Rican filler, type 46	.3	5.9	2.4 [1]	.3	100

[1] Three times annual disappearance.
[2] Negligible.

As noted in the above table, the supplies of four of these kinds of tobacco (Kentucky-Tennessee fire-cured, dark air-cured, cigar filler and binder, and Puerto Rican filler) are currently in excess of the supply deemed adequate to meet domestic use and export needs. As a result of these excess supplies of tobacco, the quantity of tobacco pledged as collateral for CCC price support loans has also become ample to excessive. Supplies of Virginia fire-cured and sun-cured are not excessive, but price adjustments need to be made to maintain prices of those kinds in line with other competing tobaccos.

Determinations

Accordingly, it has been determined that the following support levels will be applicable for the following kinds of 1986-crop tobacco:

Kind and type	Support (cents per pound)
Virginia fire-cured, type 21	120.0
Kentucky-Tennessee fire-cured, types 22-23	124.2
Dark air-cured, types 35-36	105.8
Virginia sun-cured, type 37	106.0
Cigar filler and binder, types 42-44; 53-55	91.6
Puerto Rican filler, type 46	75.0

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, 15 U.S.C. 714b, 714c; Secs. 101, 106, 401, 403, 406, 63 Stat. 1051, as amended, 74 Stat. 6, as amended, 63 Stat. 1054, as amended, 1055 (7 U.S.C. 1441, 1445, 1421, 1423, 1426).

Signed at Washington, DC, on January 23, 1987.

Vern Neppl,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-1866 Filed 1-29-87; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmostpheric Administration
Title: Grant-in-Aid Performance Reports
Form Number: Agency—NOAA-36-27 (A); OMB—0648-0102
Type of Request: Revision of a currently approved collection
Burden: 120 respondents; 1,320 reporting hours
Needs and Uses: Three Acts direct NOAA to administer fisheries state matching grant-in-aid programs: Anadromous Fish Conservation Act; Fisheries Research and Development Act; and Control of Jellyfish. Progress reports and final reports from recipients of grant-in-aid funds are used to monitor each project's progress and achievement of objectives.
Affected Public: State or local governments; businesses or other for-profit organizations; small businesses or organizations
Respondent's Obligation: Required to obtain or retain a benefit
Frequency: Semi-annually
OMB Desk Officer: Donald Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Donald Arbuckle, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: January 16, 1987.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 87-1825 Filed 1-29-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-469-602 and C-469-601]

Termination of Antidumping and Countervailing Duty Investigations; Porcelain-on-Steel Cooking Ware From Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In letters dated January 12, 1987, petitioners withdrew their antidumping and countervailing duty petitions filed on June 30, 1986 on porcelain-on-steel cooking ware from Spain. Based on the withdrawal, we are terminating these investigations.

EFFECTIVE DATE: January 29, 1987.

FOR FURTHER INFORMATION CONTACT: Alain Letort (Countervailing Duty) or Paul Tambakis (Antidumping), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202/377-0186 (Letort) or 202/377-4136 (Tambakis).

SUPPLEMENTARY INFORMATION:

Case History

On June 30, 1986, we received petitions in proper form from the Porcelain-on-Steel Committee of the Cookware Manufacturers Association, of Walworth, Wisconsin, and the General Housewares Corporation, of Terre Haute, Indiana on behalf of the U.S. industry producing porcelain-on-steel cooking ware. After reviewing the petitions, we found that they contained sufficient grounds upon which to initiate antidumping and countervailing duty investigations. On July 21, 1986, we initiated such investigations (51 FR 26729 and 26730, July 25, 1986) and notified the International Trade Commission (ITC) of our actions.

On August 14, 1986, the ITC preliminarily determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware cause material injury to a U.S. industry (51 FR 29710, August 20, 1986).

On September 23, 1986, we issued our preliminary determination that benefits which constitute subsidies are not being provided to the manufacturers, producers, or exporters in Spain of porcelain-on-steel cooking ware (51 FR 34480, September 29, 1986). On December 8, 1986, we issued our preliminary determination that porcelain-on-steel cooking ware from Spain is being, or is likely to be, sold in the United States at less than fair value (51 FR 44825, December 12, 1986).

Scope of Investigation

The products covered by these investigations are porcelain-on-steel cooking ware, including tea kettles which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824, and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchen ware, currently provided for under item 654.0828 of the TSUSA, is not subject to these investigations.

Withdrawal of Petitions

In letters dated January 12, 1987, petitioners notified the Department that they are withdrawing their petitions of June 30, 1986. Under sections 704(a) and 734(a) of the Tariff Act of 1930 (the Act), the administering authority may, upon withdrawal of a petition, terminate an investigation after giving notice to all parties to the investigation and after assessing whether termination of the investigation is in the public interest. We have determined that termination of these investigations would be in the public interest. We have notified all parties to these investigations of petitioners' withdrawal and our intention to terminate. For these reasons, we are terminating our investigations.

We will instruct the U.S. Customs Service to terminate the suspension of liquidation on entries of the merchandise under investigation. Any cash deposit on entries of porcelain-on-steel cooking ware from Spain pursuant to the preliminary determination of sales at less than fair value shall be refunded and any bond shall be released.

This notice is published pursuant to sections 704(a) and 734(a) of the Act (19 USC 1671c(a) and 1673c(a)).

Joseph A. Spetrini,

Acting Deputy Assistant, Secretary for Import Administration.

January 21, 1987.

[FR Doc. 87-1826 Filed 1-29-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit: National Marine Fisheries Service, Northwest and Alaska Fisheries Center (P77 #21)

On November 5, 1986, notice was published in the **Federal Register** (51 FR 40244) that an application had been filed by the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington, 98115 for a Scientific Research/Scientific Purposes Permit.

Notice is hereby given that on January 16, 1987, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) the National Marine Fisheries Service issued a Permit for the above activity subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC.;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE. BIN C15700, Seattle, Washington 98115; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: January 21, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-1832 Filed 1-29-87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit: Mr. Brent S. Stewart (P278C)

On November 19, 1986, notice was published in the **Federal Register** (15 F.R. 41820) that an application had been filed by Mr. Brent S. Stewart, Hubbs Marine Research Center, 1700 South Shores Road, San Diego, California 92109, to take northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), northern sea lions (Eumetopias jubatus), northern fur seals (*Callorhinus ursinus*), and Guadalupe fur seals (*Arctocephalus townsendi*) for scientify research.

Notice is hereby given that on January 16, 1987 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This

Permit was also issued in accordance with, and is subject to parts 220–222 of Title 50 CFR, The National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 21, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-1833 Filed 1-29-87; 8:45 am]

BILLING CODE 3510-22-M

THE COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, February 18, 1987 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, D.C. including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566–1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC., January 22, 1987.

Charles H. Atherton,

Secretary

[FR Doc. 87-1801 Filed 1-29-87; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

Pursuant to section 9355, Title 10, United States Code, the Air Force Academy Board of Visitors will meet at the Air Force Academy, Colorado Springs, Colorado, March 12–14, 1987. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

A portion of the meeting will be open to the public on March 13, 1987, from 9:15 a.m. to 11:45 a.m. Other portions of this meeting will be closed to the public to discuss matters analogous to those listed in subsections (2), (4), and (6) of section 552b (c), Title 5, United States Code. These closed sessions will include: attendance at cadet classes and panel discussions with groups of cadets and military staff and faculty officers involving personal information and opinions, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. Closed sessions will also include executive sessions involving discussions of personal information, including financial information, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Meeting sessions will be held in the Superintendent's Conference Room, Harmon Hall, USAF Academy.

In addition to the open meeting session, the public is welcome to attend a press conference scheduled for 10:45 a.m. to 11:30 a.m. on March 14, 1987, in the Upperclass Lounge in Arnold Hall.

For further information, contact Major Randall R. Cantrell, Headquarters, US Air Force (DPPA), Washington, DC 20330–5060, at (202) 697–7116.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-1802 Filed 1-29-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command, Directorate of Personal Property; Intrastate Program; Request for Comments

AGENCY: Military Traffic Management Command (MTMC).

ACTION: Notice of invitation to comment on a proposal to automate intrastate rate acquisition for all Department of Defense (DOD) and U.S. Coast Guard (USCG) household goods submissions effective May 1, 1988.

SUMMARY: MTMC is considering automating the current manual rate filing procedures for interstate household goods rate acquistion for DOD and USCG. The automated procedures will simplify rate filing and provide more flexibility by allowing carriers the option to file GBLOC to GBLOC, in addition to GBLOC to state when establishing rates. Comments from industry and other interested persons are being solicited on the following program changes:

a. Carriers or their Automated Data Processing (ADP) representatives will file their rates on magnetic tape instead of manually filing individual rate tenders.

b. The Single Factor Rate Table will be eliminated from the MTMC Rate Solicitation. The Segmented Rate Table will apply for movements by either motor van or by container.

c. A single percentage rate filing procedure will be initiated. Carriers may file only one percentage of the Segmented Baseline Rate Table for a single code of service. Percentages filed will apply on all other charges for a shipment with the following exceptions: destination SIT and related charges subsequent to SIT at destination, valuation charge, third party service, reweigh charge, and bridge, ferry and service charges.

This invitation consists of issues identified by MTMC and applies only in connection with the movements of DOD and USCG household goods shipments.

DATE: Submit written comments by March 6, 1987.

For additional information contact: Ms. Janet Phillips, HQ, Military Traffic Management Command, Attn: MT-PPC-D (Room 408), 5611 Columbia Pike (Room 408), Falls Church, Virginia 22041-5050, Commercial Phone (202) 756-1190.

Address comments to: HQ, Military Traffic Management Command, Attn: MT-PPC-DOM (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

This request for comments and the resulting determinations are being made under the authority of 10 USC 2301-2314 and DOD Directives 4500.9 and 4500.34.

Robert F. Waldman,

Deputy Director of Personal Property.

[FR Doc. 87-1803 Filed 1-29-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

GENERAL SERVICE ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulations (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition and Regulatory Policy (202) 523-3775.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *1,106;* responses per respondent, *3;* total annual responses *3,318;* hours per response, *.094* and total burden hours, *312.*

Obtaining copies of proposals: Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0053, Permits, Authorities, or Franchises Certification.

Dated: January 16, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87-1804 Filed 1-29-87; 8:45 am]

BILLING CODE 6820-61-M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. C.W. Mathews, Office of Federal Acquisition and Regulatory Policy (202) 523-3856.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* "Descriptive literature" means information which shows the characteristics or construction of a product or explains its operation. It is furnished by bidders as a part of their bids to describe the products offered. Bidders are not required to furnish descriptive literature unless the contracting office needs it to determine before award whether the products offered meet the specification and to establish exactly what the bidder proposes to furnish.

The contracting officer evaluates the information received to determine the acceptability of the product in confirming to specification and solicitation requirements, e.g., design, materials, components, and performance characteristics.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *2,663;* responses per respondent, *3;* total annual responses *7,989;* hours per response, *.167;* and total burden hours, *1,334.*

Obtaining copies of proposals: Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0053, Descriptive Literature.

Dated: January 15, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87-1805 Filed 1-29-87; 8:45 am]

BILLING CODE 6820-61-M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. C.W. Mathews, Office of Federal Acquisition and Regulatory Policy (202) 523-3856.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* It is the policy of the Government to assure the integrity of the Sealed Bidding Method of contracting. In order to safeguard the content of sealed bids, offerors must submit sealed bids addressed to the office specified in the solicitation, and showing the time specified for receipt, solicitation number, and the name and address of the offeror.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *18,690;* responses per respondent, *50;* total annual responses *934,500;* hours per response, *.017;* and total burden hours, *15,886.*

Obtaining Copies of proposals: Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0042, Bid Labeling Requirements.

Dated: January 15, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87-1806 Filed 1-29-87; 8:45 am]

BILLING CODE 6820-61-M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition and Regulatory Policy (202) 523-3775.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Military (and, as required, civilian agency) storage and distribution points, depots, and other receiving activities require advance notice of large shipments enroute from contractor's plants. Timely receipt of notices by the consignee transportation office precludes the incurring of demurrage and vehicle detention charges. The information is used to alert the receiving activity of the arrival of a large shipment.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, *250;* responses per respondent, *4;* total annual responses *1,000;* hours per response, *.167;* and total burden hours, *167.*

Obtaining copies of Proposals: Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Contrtol No. 9000-0056, Report of Shipment.

Dated: January 15, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87-1807 Filed 1-29-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards Under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages (Critical Foreign Languages Program) for Fiscal Year 1987 (CFDA No.: 84.168F)

Purpose: To provide assistance to institutions of higher education for projects designed to improve and expand instruction in critical foreign languages.

Deadline for transmittal of applications: 3/31/87.

Applications available: 2/13/87.

Available funds: $1,800,000.

Estimated range of awards: $25,000–$115,000.

Estimated average size of awards: $75,000.

Estimated number of awards: 15–20.

Project period: 12–18 months.

Applicable regulations: (a) The final regulations governing the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages, 34 CFR Part 755, were published on January 26, 1987 (52 FR 2691), (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (c) The List of Critical Foreign Languages published on August 2, 1985 (50 FR 31412).

Invitational Priority

While only public and private institutions of higher education are eligible to apply for assistance under this program, the Secretary believes that the need to improve and expand foreign language instruction is most critical at the elementary, middle, and secondary school levels. As with last year's competition, the Secretary encourages institutions of higher education to propose activities that will benefit directly both students and teachers at the elementary, middle, and secondary school levels.

The Secretary is particularly interested in projects that will:

• Provide opportunities to upgrade and strengthen the knowledge and proficiency of foreign language teachers currently in the classroom;

• Provide opportunities to recruit and train individuals who are proficient in a foreign language, but who lack sufficient pedagogical preparation in that language;

• Increase the opportunities for foreign language instruction at the elementary school level;

• Provide opportunities to extend instruction in foreign languages and cultures to historically underserved and underrepresented populations;

• Strengthen existing foreign language programs to improve and increase language proficiency; or

• Develop new instructional approaches or broaden existing approaches to increase access to and the effectiveness of foreign language study and instruction.

Examples of the types of activities an institution could propose will be included in the application package.

For fiscal year 1987, the Secretary invites applications for projects in the following foreign languages: Arabic, Cambodian, Chinese, French, German, Haitian Creole, Italian, Korean, Japanese, Polish, Portuguese, Russian, Spanish, and Vietnamese.

These languages (chosen from the list of Critical Foreign Languages) and the types of projects suggested above are invitational only and will receive no competitive advantage.

Selection Criteria

The program regulations at § 775.30 (b) and (d) authorize the Secretary to distribute an additional 15 points among the criteria described in § 755.33 to bring the total to a maximum of 100 points. For the purposes of this competition, the Secretary will distribute the additional points as follows:

Improvement or expansion of instruction in critical foreign languages. (§ 755.33(f)) Fifteen (15) additonal points will be added for a possible total of 45 points.

For applications or information contact: Patricia L. Alexander, Secretary's Discretionary Fund, U.S. Department of Education, 400 Maryland Avenue SW., Room 1011, Washington, DC 20202. Telephone: Applications (202)-732-3566; Program information (202)-732-3599.

Program authority: 20 U.S.C. 3972.

Dated: January 27, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-1851 Filed 1-29-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Advanced Coal Research at Colleges and Universities; Restriction of Eligibility for Program Solicitation

AGENCY: Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of Restrictions of Eligibility for the Program Solicitation for Support of Advanced Coal Research at U.S. Colleges and Universities.

SUMMARY: The DOE announces that it intends to conduct a competitive Program Solicitation to award, on a restricted eligibility basis, grants to U.S. colleges, universities and university-affiliated research institutions in support of advanced coal research. The grants will be awarded to a limited number of proposals selected on the basis of scientific merit, subject to the availability of funds.

Since the inception of the University Coal Research Program in FY-80 (by Congressional direction) it has been DOE's intent to maintain and upgrade educational, training and research capabilities of our universities and colleges in the fields of science and technology related to coal. Moreover, the involvement of professors and students to generate fresh research ideas and ensure a future supply of coal scientists and engineers is a key purpose of this program. Therefore, U.S. colleges,

universities and university-affiliated research institutions may submit, in response to this solicitation, application *only if* the Prinicpal Investigator listed on the application is a teaching professor at the university *and* at least one student registered at the university is to recieve compensation for work performed in the conduct of research proposed in the application. So long as these conditions are met, other participants, Co-Principal Investigators or research staff who do not hold teaching or student positions may be included as part of the research team.

All applications must relate to coal research in one of the following eight technical categories:

(1) *Coal Science:* Structure and reactivity of coal; influence of depositional history on the geochemical and geophysical properties of coal, e.g., gas content and permeability; relation of reactivity of coal to weathering during preparation, transportation, and storage; physical and chemical characteristics of coal and coal-derived materials; analytical techniques and instruments applicable to coal, coal mineral matter and coal derived materials; nature of the oxygen-, nitrogen-, and sulfur-bonding in coal.

(2) *Coal Surface Science:* Surface properties of coal and mineral matter pertinent to cleaning conversion and utilization; surface enhanced beneficiation; dewatering and pelletizing of fine coals; stabilization of coal-oil/coal-water slurries.

(3) *Reaction Chemistry:* Fundamental research directed toward an understanding of organic and inorganic chemistry of coal with respect to catalyzed and uncatalyzed conversion and utilization; vaporization of alkalis in pressurized coal gasification; ash fushion behavior under the conditions prevalent in coal gasifiers; chemical coal cleaning; chemistry of microbial coal liquefaction and desulfurization; novel reactions for depolymerizing coal; chemial reactions in supercritical fluids.

(4) *Advanced Process Concepts:* Improvements in practical chemical reactions through novel chemical and/or reactor systems, advanced mechnisms or process concepts for coal pyrolysis, preoxidation, combustion; direct and indirect liquefaction; surface and underground gasification; quantitative investigation of microbial coal conversion.

(5) *Thermodynamics:* Measurement and correlation of thermodynamic and transport properties pertinent to coal conversion and utilization; supercritical phase behavior.

(6) *Engineering Fundamentals:* Transport phenomena at high temperatures and/or high pressures with or without chemical reactions; transport in 3-phase slurry reactors; formation and transport and colligative properties of aerosols.

(7) *Environmental Science:* Chemistry of formation and/or elimination of gaseous and liquid pollutants arising from coal conversion and utilization reactions at high temperature; methods for eliminating COS, CS_2 and marcaptan sulfur from coal gasification products; sulfur, nitrogen, halide, alkali, and heavy metal chemistry related to gas or liquid cleanup; size and composition of particulates in combustion products as a function of the properties of coal or coal-derived fuel and combustion temperature; collection/removal of particulates from aerosols.

(8) *Fuel Cells:* Exploratory research on advanced cell concepts; reactants, electrolytes, catalysts/enzymes, useful coproducts, structural materials for cells, system components, and diagnostics.

Authority: FY 1987 Authorizations and Appropriations Act, Pub. L. 99-500, DOE Organization Act, Pub. L. 95-91 (42 U.S.C. 7101) Federal Non-nuclear Energy Research and Development Act of 1974, Pub. L. 93-577 (42 U.S.C. 5901 *et seq.*) DOE Financial Assistance Regulations, 10 CFR Part 600 Subparts A and B.

Awards

DOE anticipates awarding grants for each project subject to the availability of funds. Approximately $5.61 million is available for the program solicitation, which includes $661.0 thousand for Historically Black Colleges and Universities, and which should provide support for approximately 30 proposals.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 900-33, Pittsburgh, PA 15236, Attn: Keith R. Miles.

Issued in Washington, DC, on January 20, 1987.

Sun W. Chun,

Director.

[FR Doc. 87-1834 Filed 1-29-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP87-134-000 et al.]

Transwestern Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Transwestern Pipeline Company

[Docket No. CP87-134-000]

January 15, 1987.

Take notice that on December 18, 1986, Transwestern Pipeline Company (Transwestern), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP87-134-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for: (1) Permission and approval to abandon certain compressors, dehydrators, meters and other facilities which have been or will be retired, relocated or placed in storage and which were previously certificated by the Commission, (2) blanket authority to abandon minor miscellaneous equipment, such as boilers, valves, and condensate tanks, which it is stated, would otherwise be non-jurisdictional under § 2.55 of the Commission's Regulations, and for which a certificate was granted and which have been or will be retired, relocated or placed in storage, (3) recertification of existing compression facilities in order to allow continued operation of such facilities, and (4) construction and operation authority for facilities which were originally constructed under the auspices of Docket No. CP73-108, but disallowed by the Commission because the cost of these facilities was in excess of Transwestern's then applicable budget-type facilities cost limitations.

Transwestern proposes to abandon 64 compressors and related equipment, 196 dehydration units, and 5 miscellaneous equipment facilities. Transwestern requests recertification 164 compressor facilities and it requests authority to construct and operate 8 compression facilities whose construction exceeded the authorized budget limitations in Docket No. CP73-108-000. It is stated that these facilities are located in Eddy, Chaves, Lea, and Torrance Counties, New Mexico; Beaver, Cimarron, Harper, Ellis, Dewey, and Woodward Counties, Oklahoma; and Lipscomb, Winkler, Sherman, Ochiltree, Pecos, Hansford, Roberts, Hemphill, Reeves, Ward and Hutchinson Counties, Texas. The proposals are more fully set forth in the application which is on file with the Commission and open for public inspection. Further, upon request, a copy of the entire Appendix to the application can be obtained identifying more specifically all of the subject facilities.

Comment date: February 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. Mountain Fuel Resources, Inc.

[Docket No. CP87-143-000]

January 20, 1987.

Take notice that on December 24, 1986, Mountain Fuel Resources, Inc. (MFR), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP87-143-000 a request pursuant to § 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authority to construct and operate pipeline, delivery and appurtenant facilities needed to establish a delivery point to Mountain Fuel Supply Company (MFS), a local distributor and affiliate of MFR in the State of Utah, under its authorization issued in Docket No. CP82-491-000 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.

MFR states that the authority to construct the above described facilities is sought in order to support MFS's expansion of its distribution system into central and southern Utah. It is explained that such expansion was approved by the Public Service Commission of Utah (P.S.C.U.) on October 31, 1986. MFR also advises that the volumes of gas delivered to MFS would be subsequently sold by MFS to various residential, commercial and industrial end use customers pursuant to MFS's firm and interruptible Rate Schedules GSS and IS which are included in MFS's P.S.C.U. Tariff No. 200.

It is stated that the facilities would consist of a 10-inch sales tap, appurtenances including 5,600 feet of 12-inch tap line and two 8-inch turbine meter sets. MFR indicates that the tap would be installed on MFR's Main Line No. 41 in Utah County, Utah, and the meter sets will be constructed in Sanpete County, Utah. The cost to construct such facilities is estimated to be $757,500. Peak day and annual deliveries at the proposed delivery point are expected to be 28,000 Mcf and 4,380,000 Mcf, respectively. MFR states that such deliveries would be made pursuant to existing sales and transportation agreements operating under Rate Schedules CD-1 and X-33, respectively. MFR advises that the proposed deliveries would not cause it to exceed MFS' entitlements or maximum daily quantities under the above mentioned rate schedules and that such schedules do not prohibit the addition of new delivery points.

Comment date: March 6, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP87-129-000]

January 20, 1987.

Take notice that on December 17, 1986, as amended on December 24, 1986, Arkla Energy Resources, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-129-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a new tap and related facilities at an existing town border station for delivery of natural gas to Arkansas Louisiana Gas Company, a division of Arkla, Inc. (ALG), in Ruston, Louisiana, and to abandon facilities and services under the blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 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.

Applicant proposes to construct and operate a new tap and meter station on its Line FM-17 and abandon approximately 2.1 miles of 6-inch pipeline (portions of Applicant's Lines F-4-F and F-5-F, and all of Line FM-37) and the associated authority to deliver gas to ALG from such facilities. In addition, Applicant proposes to construct and operate, pursuant to § 157.208(a) of the Commission's Regulations, a 6-inch pipeline, to be designated as Line FM-53 and to extend approximately 0.8 mile from the proposed tap on Line FM-17 to Applicant's existing Ruston Town Border Station No. 1, and appurtenant facilities at that town border station. Applicant states that the estimated cost of the proposed jurisdictional activities is $84,907.

Applicant explains that Lines F-4-F, F-5-F and FM-37 were installed over fifty years ago and are in poor condition and have experienced some leakage. Applicant indicates that the proposed reconfiguration of facilities would enhance its ability to provide efficient, safe, economical and reliable delivery of natural gas.

Comment date: March 6, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP87-151-000]

January 20, 1987.

Take notice that on January 6, 1987, Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-151-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the delivery of gas for processing in Tenneco Oil Company's R.M. Stephens Processing Plant (Tenneco Plant) located in Claiborne Parish, Louisiana, upon the closing of the processing facilities in AER's Hamilton Gasoline Plant (Hamilton Plant) in Columbia County, Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER states that it will close the processing facilities at its Hamilton Plant in 1987, and is arranging to have the wet gas produced in fields connected to the Hamilton Plant processed in the Tenneco Plant. To effect delivery of these volumes to the Tenneco Plant, AER proposes to construct and operate a tap on its Line LT-3, approximately 2.5 miles of pipeline from Line LT-3 to the Tenneco Plant, and related metering facilities. AER further proposes to install at the Hamilton Plant the piping necessary to deliver the wet gas into Line LT-3. The dry gas remaining after processing would be returned to AER by means of existing facilities connecting the Tenneco Plant to AER's main transmission system. AER estimates that the cost of these facilities would be $463,000.

Comment date: February 10, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP87-142-000]

January 20, 1987.

Take notice that on December 24, 1986, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP87-142-000 a request pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon three injection-withdrawal wells and approximately 125 feet of 6-inch and 3,294 feet of various sized gathering pipeline at Applicant's Sayre storage facility located in Beckham County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant was authorized in Docket No. CP64–150 on November 8, 1965, to lease and operate an underground gas storage reservoir at Sayre, Oklahoma, belonging to Oklahoma Natural Gas Storage Company, a subsidiary of Oklahoma Natural Gas Company. During a recent program of pipe replacement within the gathering system under § 2.55(b) of the Commission's Regulations, Applicant states it disconnected three injection withdrawal wells drilled and connected in 1973 and did not reconnect them to the new pipeline. Applicant also states that the three wells have failed to function as originally contemplated since they are located "off structure" in low permeability areas. Applicant requests authorization to abandon the three wells: Hicks #1, Hicks #2 and O. Shuskey #1 all located in Section 23, Township 9 North, Range 23 West, and 125 feet of 6-inch and 3,294 feet of 10-inch connecting pipeline which includes laterals S–4A, S–4A–1, S–4A–2, S–4B–2 and 1,160 feet of lateral S–4B. Applicant states that the pipe will be retired in place and that the out-of-pocket cost of abandonment of the facilities is estimated at $16,000, which cost would be met from funds on hand. Applicant also states that the three wells would be retained as observation wells, and as such would become "auxiliary installations" under § 2.55(a) of the Regulations.

Comment date: February 10, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP87–153–000]

January 20, 1987.

Take notice that on January 7, 1987, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP87–153–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add two delivery points to an existing transporation service for Mississippi River Transmission Corporation (MRT) in Randolph County, Arkansas, and Clinton County, Illinois, under the certificate issued in Docket No. CP82–402–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Natural states that it was authorized by order issued May 1, 1986, in Docket No. CP86–186–000 to transport, on an interruptible basis, up to 30 billion Btu equivalent of natural gas per day for MRT from receipt points in High Island Blocks 68 and 71, offshore Texas, and West Cameron Block 212, offshore Louisiana, and to redeliver thermally equivalent volumes to MRT in Harrison County, Texas, pursuant to a two-year limited term transportation agreement dated July 22, 1985.

Natural proposes to redeliver gas to MRT at two additional existing interconnections of their facilities, one in Section 5, Township 18 North, Range 2 East, Randolph County, Arkansas, and one in Section 21, Township 2 North, Range 1 West, Clinton County, Illinois, pursuant to an amendment dated October 23, 1986, to the transportation agreement dated July 22, 1985. Natural asserts that the volumes delivered at each of the delivery points would vary from time to time according to the requirements of MRT, but that the total deliveries would not exceed the authorized maximum volume of 30 billion Btu equivalent per day.

Natural proposes to charge MRT the following transportation rates:

[MMBtu equivalent; cents]

Point of receipt	Transportation fee
High Island Block 71, Offshore, TX:	
To Harrison Co., TX	13.9
To Randolph Co., AR	41.7
To Clinton Co., IL	41.7
West Cameron Block 212, Offshore, LA:	
To Harrison Co., TX	21.8
To Randolph Co., AR	49.06
To Clinton Co., IL	49.6
High Island Block 68, Offshore, TX:	
To Harrison Co., TX	13.9
To Randolph Co., AR	41.7
To Clinton Co., IL	41.7

In addition, Natural proposes to redeliver gas to MRT less certain percentage reductions for fuel consumed and lost and unaccounted for gas as provided for in the Agreement, as amended.

Natural states that the proposed action is not prohibited by its existing tariff. Natural further states that it has sufficient capacity to accomplish the addition of the Randolph County, Arkansas, and Clinton County, Illinois, delivery points without detriment or disadvantage to its other customers. There will be no impact on Natural's system-wide peak day and annual deliveries as a result of the addition of the Randolph County, Arkansas, and Clinton County, Illinois delivery points, it is stated.

Comment date: March 6, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1748 Filed 1-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-237-000]

CMS Midland, Inc.; Filing

January 27, 1987

Take notice that on January 23, 1987, CMS Midland, Inc. (Applicant), 212 W. Michigan Avenue, Jackson, Michigan 49201, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Applicant will be a general partner in a limited partnership that will own the facility. The topping-cycle cogeneration facility will be located in Midland, Michigan. The Applicant requests certification of two alternative technical configurations for the facility because engineering design plans have not been finalized. The net electric power production capacity of the facility will be approximately 1,343.2 MW under one alternative design and approximately 865.8 MW under the other alternative design. The primary energy source will be natural gas.

Any person desiring to be heard or objecting to the granting of qualifying status 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 must be filed within 17 days after the date of issuance of this notice and must be served on the Applicant. 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. 87-1936 Filed 1-29-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of December 8 Through December 12, 1986

During the week of December 8 through December 12, 1986, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 21, 1987.

Butler Bros. Oil Company, Inc., Westerly, Rhode Island, KEE-0068, Reporting Requirements

Butler Bros. Oil Company, Inc. filed an Application for Exception from the requirement to submit Form EIA-782B. The exception request, if granted would permit Butler Bros. to be relieved of the requirement to file Form EIA-782B. On December 9, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Magness Oil Company, Cotter, Arizona, KEE-0038, Reporting Requirements

Magness Oil Company filed for relief from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." While Magness presented a number of arguments in support of its request, contradictions in its claims cast doubt on all of the arguments for relief. In addition, the firm to show that it was significantly more burdened by the reporting requirement than other participants. As a result, on December 9, 1986, the OHA issued a Proposed Decision and Order which determined that the exception request be denied.

River Valley Oil Company, Spring Green, Wisconsin, KEE-0083, Reporting Requirements

River Valley Oil Company, filed an Application for Exception from the requirement to submit Form EIA-782B. The exception request, if granted, would permit River Valley to be relieved of the requirement to file Form EIA-782B. On December 11, 1986, the Department of Energy Issued a Proposed Decision and Order which determined that the exception request be denied.

Telzrow oil Company, White Hall Illinois, KEE-0084, Reporting Requirements

Telzrow Oil Company filed an Application for Exception from the requirement to submit Form EIA-782B. The exception request, if granted would permit Telzrow Oil to be relieved of the requirements to file Form EIA-782B. On December 9, 1986, the Department of Energy Issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-1835 Filed 1-29-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 8 Through December 12, 1986

During the week of December 8 through December 12, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Sidney Wanger, 12/12/86, KFA-0064

Mr. Sidney Wanger filed an Appeal from a determination issued by the Albuquerque Operations Office's Classification and Technical Division of a Request for Information which the applicant had submitted under the Privacy Act. In considering the Appeal, the DOE found that documents requested by Mr. Wanger had been destroyed in 1977 and therefore were not available for release.

Remedial Order

Fedco oil Company, 12/12/86 HRO-0202

Fedco Oil Company (Fedco) objected to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) issued to the firm on September 30, 1983. In the Proposed Remedial Order, ERA found that Fedco sold crude oil without providing services traditionally and historically associated with the resale of crude oil in violation of the layering regulation, 10 CFR 212.186. The DOE concluded that the Proposed Remedial Order should be issued as a final Order, requiring Fedco to pay $713,481.59 plus additional accrued interest. The important issues discussed in the Decision and Order include (i) the procedural and substantive validity of the layering regulation, and (ii) the circumstances under which in-line transfers of crude oil are layered transactions.

Request for Exception

Mountain Oil, Inc., 12/11/86, *KEE-0018*

Mountain Oil, Inc. filed an Application for Exception seeking relief from the requirement that the firm file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." The DOE found that Mountain Oil had not shown that the burden which completing the Form placed upon the firm outweighed the benefit to the nation provided by EIA-782B survey results. Accordingly, exception relief was denied.

Interlocutory Order

San Joaquin Oil Company, West Coast Oil Company, 12/12/86, KEZ-0050, KEZ-0051

San Joaquin Oil Company and West Coast Oil Company filed motions requesting that certain of the DOE's Economic Regulatory Administration (ERA) and Office of General Counsel (OGC) officials who participated in remedial order proceedings concerning the two firms be recused from participating in the administrative review of decisions concerning pending Applications for Exception filed by the firms. The firms claimed that because the ERA in the Remedial Order proceedings had assumed a position with respect to certain factual issues that was contrary to the firms' positions, it would be unable to participate impartially in the administrative review process in the exception proceedings.

In considering the motions, the DOE found that the firms had not shown that recusal was appropriate. The DOE found that, because of inherent differences between enforcement proceedings and exception proceedings, ERA's and OGC's participation in the enforcement proceedings did not preclude their impartial participation in the exception proceedings. Accordingly, the motions were denied.

Refund Applications

Gulf Oil Corporation/Holtzman Oil Corporation, et al., 12/9/86, *RF40-937 et al.*

The DOE issued a Decision and Order concerning Applications for Refund filed by Holtzman Oil Corporation and 13 other firms, each of which was both a purchaser and a consignee of Gulf product during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it purchased a certain amount of motor gasoline and/or middle distillates from Gulf, for which it will receive a refund of $0.00122 per gallon (the Gulf volumetric refund amount), plus $0.00028 per gallon in accrued interest. Since none of the applicants demonstrated injury in connection with consignments of either product from Gulf, no refunds were appropriate for those volumes. The total amount of refunds approved in this Decision is $40,719 principal and $9,346 interest.

Gulf Oil Corporation/Jenkins Oil Company, 12/12/86, RF40-2028

The DOE issued a Decision and Order concerning an Application for Refund filed by Jenkins Oil Company in connection with the Gulf Oil special refund proceeding. The applicant, a reseller of Gulf refined petroleum products, contended that its sales volumes had declined after 1973 due to Gulf's alleged pricing practices. In support of its contention, Jenkins submitted data regarding its purchases of Gulf product during the August 1973 through January 1976 consent order period. This information indicated that Jenkins' sales volume had declined in several months following 1973. The DOE determined that in those months, Jenkins would not have been required to pass through to customers a cost reduction equal to the refund claimed. Accordingly, Jenkins was granted $17,396, its volumetric share for the Gulf product it purchased during months in which its sales declined, plus $3,993 in interest, or $21,389 total.

Gulf Oil Corporation/John D. Glover & Sons, Inc., et. al, 12/11/86, RF40-936 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by John D. Glover & Sons, Inc. and 18 other firms, each of which was both a purchaser and a consignee of Gulf product during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it purchased a certain amount of motor gasoline and/or middle distillates from Gulf, for which it will receive principal of $0.00122 per gallon (the Gulf volumetric refund amount), plus $0.00028 per gallon in accrued interest. Each applicant also used a method outlined in *Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 (1986) to demonstrate that it had lost potential sales and therefore had been injured in its role as a consignee of motor gasoline. The total amount of refunds approved in this Decision is $72,095 principal and $16,546 interest.

Gulf Oil Corporation/Wenham, Inc. Kossman, Inc., 12/9/86, RF40-0788, RF40-297

The DOE issued a Decision and Order concerning Applications for Refund filed by a reseller and a retailer of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. Each applicant failed to demonstrate that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed, a showing that is required of all successful claimants under the *Gulf* procedures. Accordingly, the Applications for Refund were denied.

Good Hope Refineries, Kerr-McGee Corporation, 12/10/86, RF189-1

The DOE issued a Decision and Order concerning an Application for Refund filed by Kerr-McGee Corporation on the basis of the procedures outlined in *Good Hope Refineries*, 13 DOE ¶ 85,105 (1985). Kerr-McGee, a reseller of proplyene and butylene, requested that its refund application be based on the information available in DOE's Good Hope audit file. The audit file revealed, however, that Kerr-McGee was a spot purchaser of Good Hope product. Therefore, in accordance with the presumptions set forth in *Good Hope*, Kerr-McGee's refund application was denied.

Malco Industries, Inc./Morgan Service, Inc., O'Brien Cut Stone Company, Inc., 12/9/86, RF231-1, RF231-2

The DOE issued a Decision and Order concerning two Applications for Refund filed by purchasers of motor gasoline from Malco Industries, Inc. (Malco). Each firm applied for a refund based on the procedures outlined in *Malco Industries, Inc.*, 13 DOE ¶ 85,362 (1986), governing the disbursement of settlement funds received from Malco pursuant to a November 10, 1981 consent order. Since both of the applicants claimed refunds less than $5,000, they were presumed to have been injured by Malco's alleged overcharges. After examining the application and supporting documentation submitted by the applicants, the DOE concluded that they should receive refunds totaling $441, representing $227 in principal and $164 in accrued interest.

MAPCO, Inc./Steensen Gas & Electric, 12/9/86, RF108-22

The Doe issued a Decision and Order concerning an Application for Refund filed by Steensen Gas & Electric (Steensen), a retailer of MAPCO propane. Although the firm's purchase of propane from MAPCO during the consent order period exceeded the threshold refund level established in *Peoples Energy Corp.*, Steensen elected to file its refund application in accordance with the procedures for filing small claims outlined in the *Peoples* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Steensen should receive a refund of $7,520.11, representing $5,000 in principal and $2,520.11 in accrued interest.

Marathon Petroleum Company/Jerry's Marathon Leader Oil Company, 12/9/86, RF250-390, RF250-391, RF250-1034

The DOE issued a Decision and Order concerning Applications for Refund filed on behalf of Jerry's Marathon and Leader Oil Company. Both firms were purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Leader demonstrated the volume of its purchases from Marathon, and Jerry's demonstrated that it made purchases of Marathon product from Leader. Both firms were granted refunds under the small claims presumption of injury. Jerry's was granted a refund of $788 in principal and $47 in interest, and Leader was granted a refund of $5,000 in principal and $310 in interest.

Mobil Oil Corporation/A.W. Kinne, et al., 12/11/86, RF225-5198 et al.

The DOE issued a Decision granting 106 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $36,607.

Mobil Oil Corporation/Annadale, et al., 12/11/86, RF225-5965 et al.

The DOE issued a Decision granting 91 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $65,093, representing $54,064 in principal and $11,029 in interest.

Mobil Oil Corporation/B.D. White Co., Inc., et al., 12/10/86, RF225-7462 et al.

The DOE granted 26 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $4,255, representing $3,537 in principal plus $718 in interest.

Mobil Oil Corporation Hamilton-Wilber Oil Co., Inc., 12/11/86, RF225-614 et al.

The DOE approved Applications for Refund filed by Hamilton-Wilber Oil Co., Inc., a reseller of Mobil motor gasoline, middle distillates and lubricants. The firm chose to limit its claim to the $5,000 threshold for small claims set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), rather than submit additional proof of injury. In considering this application the DOE concluded that Hamilton-Wilber should receive a total refund of $5,994, including principal and accrued interest.

Mobil Oil Corporation/Marcum Distributing Company, 12/9/86, RF225-2867, RF225-2868

The DOE issued a Decision and Order granting in part an Application for Refund from the Mobil Oil Corporation escrow account filed by Marcum Distributing Company (Marcum), a reseller/retailer of Mobil refined petroleum products. In its refund application, Marcum elected to submit documentation that it was injured by Mobil's pricing practices rather than to rely on the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). Applying a multiple-supplier analysis to the data submitted by Marcum, the DOE determined that the firm purchased 484,725 gallons of Mobil motor gasoline at prices higher than the market average price and 7,841,035 gallons of Mobil motor gasoline at prices lower than the market average price. The DOE concluded that Marcum was therefore eligible to receive the full volumetric amount for the gallons of Mobil motor gasoline it purchased at above market average prices as well as for its purchases of Mobil diesel fuel. The total refund granted to Marcum was $332, representing $276 in principal and $56 in interest.

Petrolane-Lomita Gasoline Company/Wade Sales & Service, Inc., 12/9/86, RF208-9

Wade Sales & Service, Inc. filed a refund application in the Petrolane-Lomita Gasoline Company refund proceeding, pursuant to special refund procedures established in *Thompson Oil Co.*, 12 DOE ¶ 85,126 (1985). Wade claimed a purchase of 517,350 gallons of propane from Petrolane. Since the firm's claim did not exceed the threshold level of $5,000, the DOE granted a refund to Wade on the volumetric allocation basis without requiring a detailed showing of injury. Wade was granted $237.98 in principal and $81.63 in accrued interest.

Petrolane-Lomita Gasoline Company/Wm. Schauss & Son, Inc., 12/9/86, RF208-10

Wm. Schauss & Son, Inc. (Schauss) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Petrolane-Lomita Gasoline Company (Petrolane). Schauss demonstrated that it purchased 424,250 gallons of covered products from Petrolane during the consent order period. Using a volumetric methodology, the DOE determined that Schauss' claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Schauss a total refund of $263.94, representing $195.16 in principal and $68.78 in accrued interest.

Point Landing, Inc./Riverway Barge Company, 12/10,86, RF122-10

The DOE issued a Decision and Order concerning an Application for Refund filed by Riverway Barge Company (Riverway), a purchaser of No. 2 diesel fuel from Point Landing, Inc. (Point Landing). Riverway applied for a refund based on the procedures outlined in *Point Landing, Inc.*, 12 DOE ¶ 85,199 (1985), governing the disbursement of settlement fund received from Point Landing pursuant to a September 9, 1980 consent order. Since Riverway was an end user, it was presumed to have been injured by Point Landing's alleged overcharges. After examining the application and supporting documentation submitted by the Riverway, the DOE concluded that it should receive a refund totaling $3,431, representing $1,825 in principal and $1,606 in accrued interest.

Quaker State Oil Refining Corporation/E.W. Bisett & Son, 12/12/86, RF213-144

The DOE issued a Decision and Order concerning an Application for Refund filed by a firm which purchased a company which was a reseller of Quaker State Oil Refining Corporation refined petroleum products during the period 1973 through 1976. The applicant was requested to provide documentation or an explanation of how estimates were derived for the firm's purchases for the period 1973 through 1975. Since the applicant was unable to provide such documentation, only the purchase made in 1976 for which it has records were considered as a basis for a refund. The level of refined petroleum products purchased from Quaker State during this period would result in a refund under the threshold amount. According to the methodology established in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 (1985), the applicant was granted a refund based on the total eligible volume of its Quaker State purchases times the volumetric refund amount. The refund approved in this Decision totaled $122.

Sid Richardson Carbon and Gasoline Company and Richardson Products Company/Brodersen Oil Company, Graversen, Inc., 12/11/86, RF26-48, RF26-53

The DOE issued a Decision and Order granting refunds from the Sid Richardson Carbon and Gasoline Company and Richardson Products Company deposit fund escrow account to Brodersen Oil Company and to Graversen, Inc., two reseller-retailers of Sid Richardson NGLs. Because the applicants claimed purchases below the small claims threshold level of 720,000 gallons of annual purchases, the DOE did not require the firms to submit detailed showings of injury. The refunds granted to the applicants totalled $37,964, representing $19,730 in principal and $18,234 in accrued interest.

Standard Oil Co. (INDIANA)/KANSAS, Belridge Oil Co./Kansas, Palo Pinto Oil & Gas/Kansas, 12/10/86, RM21-52, RM8-53, RM5-54

The DOE issued a Decision approving the Motions for Modification submitted by the State of Kansas in the Standard Oil Co. (Indiana), Belridge, and Palo Pinto second-stage refund proceedings. The state will decrease the funding level for its comfort zone program and use $77,203, plus accrued interest, for the Kansas Conservation Bank Program.

Dismissals

The following submissions were dismissed.

Company name	Case No.
A.O. Smith Corporation	RF225-4231.
A.P. Green Refractories Company	RF225-7652.
Abex Corporation	RF225-6249.
American Home Foods	RF225-4197.
Anhueser-Busch, Inc	RF225-6225.
Bates Fabrics, Inc	RF225-6243.
Bellville Quick Stop	RF241-2.
Black Clawson, Inc	RF225-9424.
	RF225-9425.
	RF225-9426.
Black Hawk Foods	RF40-2736.
Bob Manchester	RF225-4171.
Bradley Industries, Inc	RF225-6332.
Buncombe Grade School	RF225-4181.
City of Harlan, Iowa	RF225-4914.
	RF225-4915.
	RF225-4916.
Clarke Bottling Company	RF241-1.
Clauss Heating Oils, Inc	RF225-5204.
	RF225-5205.
Combustion Engineering, Inc	RF225-4214.
Dixie Equipment Company	RF225-5516.
East Greenwich Township	RF225-6260.
Ekco Products, Inc	RF225-6224.

Company name	Case No.
Energy Cooperative, Inc	RF204-3.
General Electric	RF225-6228.
Genstar Roofing Products Company	RF225-6247.
Grant Oil Tool Company	RF225-4993.
	RF225-4994.
Greif Borthers Corporation	RF225-4732.
	RF225-4733.
H & M Food Mart	RF241-3.
Hamilton Materials, Inc	RF225-6245.
Harden Furniture, Inc	RF225-6237.
Harnischfeger Corporation	RF225-6257.
Hickey Energy Management Company	KEE-0093.
Homestake Mining Company	RF225-4208.
Hupp Company	RF225-5458.
International Paper Box Machine Company, Inc.	RF225-4239.
Intertec Publishing Corporation	RF225-4227.
King & Pilgram	RF153-27.
	RF154-24.
Magee Industrial Enterprises, Inc	RF225-6170.
	RF225-6171.
Mayer Tool & Die, Inc	RF225-4215.
McBee Systems	RF225-4179.
Medusa Corporation	RF225-6275.
Milan Tool Corporation	RF225-6271.
Monsanto Company	RF225-8535.
National Marine Service	RF225-6241.
Nederland Foods	RF40-2737.
Oblate Service Center	RF225-3644.
Ohmite Manufacturing Company	RF225-4984.
	RF225-4985.
Owens-Corning Fiberglass Corporation	RF225-6252.
Pennzoil Company	KRO-0310.
Peterson Machine Tool, Inc	RF225-6273.
Phifer Wire Products, Inc	RF225-4237.
Pickens-Bond Construction	RF154-25.
Port Huron Area School District	RF270-95.
PPG Industries, Inc	RF225-2716.
	RF225-2717.
PPG Industries, Inc	RF225-2864.
Public Service Company of New Hampshire	RF225-6258.
Robco Manufacturing Company, Inc	RF225-4195.
Rockefeller University	RF225-6226.
Seaman Fuel Oil Company	RF225-356.
Sonoco Products Company	RF225-4196.
Southeastern Michigan Gas Company	RF225-6230.
Standard Rewashed Wipers Company	RF225-5466.
Taylor & Anderson Towing and Lighterage Company.	RF225-5506.
Terry's Service	RF225-5229.
	RF225-5230.
Testek, Inc	RF225-6233.
The Bullard Company	RF225-4091.
Titanus Cement Wall Company, Inc	RF225-6252.
United Grinding Company	RF225-4975.
	RF225-4976.
Varco International	RF225-6262.
W.J. Runyon & Son, Inc	RF191-7.
Webb's Grocery	RF241-5.
Wehring Goss Equipment Corporation	RF225-4930.
Wolverine Pipe Line Company	RF225-6229.
Young & Franklin Inc	RF225-6248.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 21, 1987.

[FR Doc. 87-1836 Filed 1-29-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 15 Through December 19, 1986

During the week of December 15 through December 19, 1986, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Requests for Exception

Mitchell Fuel Oil Company, Inc., 12/17/86, KEE-0075

Mitchell Fuel Company, Inc. filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Products Sales Report." Mitchell argued that it lacks the personnel to complete the Form, and that its records are stored in a manner that makes it difficult to compile the necessary data. However, the DOE found that Mitchell had not shown that it was more burdened by the reporting requirement than other reporting firms. Accordingly, exception relief was denied.

Ultra Power Corporation, 12/17/86, KEE-0076

Ultra Power Corporation filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." Ultra Power argued that it lacks the personnel to complete the Form, and that its records are stored in manner that makes it difficult to compile the necessary data. However, the DOE found that Ultra Power had not shown that it was more burdened by the reporting requirement than other reporting firms. Accordingly, exception relief was denied.

Implementation of Special Refund Procedures

Winston Refining Company, 12/17/86, HEF-0589

The DOE issued a Decision and Order which established procedures to be used in evaluating claims for refunds from the $100,000 settlement fund obtained through a consent order entered into by Winston Refining Company and the DOE. The settlement fund was provided by Winston to settle alleged pricing violations which occurred in the sales of covered products by Winston during the consent order period August 19, 1973 through January 27, 1981. Applicants who can demonstrate that they were injured as a result of Winston's pricing practices during the consent order period may apply for a refund. However, reseller applicants whose claim is for $5,000 or less and end-users of Winston's covered products need only document their purchase claims in order to receive a refund. Spot purchasers will have to demonstrate injury in order to receive a refund regardless of the size of their claim. Specific information to be included in applications is set forth in the Decision.

Refund Applications

Aminoil U.S.A., Inc./WM. Schauss & Son, Inc., 12/16/86, RF139-162

Wm. Schauss & Son, Inc. (Schauss) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Aminoil U.S.A, Inc. (Aminoil). Schauss demonstrated that it purchased 46,814 gallons of refined petroleum covered products from Aminoil during the consent order period. Using a volumetric methodology, the DOE determined that Schauss' claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Schauss a total refund of $1,047.05, representing $695.23 in principal and $351.82 in accrued interest.

Conoco Inc./Lakeland Petroleum Co., et al., 12/15/86, RF220-191 et al.

The DOE issued a Decision and Order concerning 29 Applications for refund filed by purchasers of Conoco refined products. Each customer filed for a refund based upon the small claims procedures outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the claims, the DOE concluded that all 29 customers should receive refunds based upon the volumetric refund amount established in *Conoco*. The total amount of refunds granted was $43,226.

Earth Resources Company/The Coastal Corporation, 12/15/86, RF239-14

The DOE issued a Decision and Order concerning an Application for Refund filed by The Coastal Corporation (Coastal), a spot purchaser of Earth Resources Company (ERC) petroleum products. Coastal applied for a refund based on the procedures outlined in *Earth Resources Co.*, 13 DOE ¶ 85,384 (1986), governing the disbursement of settlement funds received from ERC pursuant to a January 27, 1981 Consent Order. According to those procedures, spot purchasers are not eligible to receive refunds unless they rebut the presumption that they were not injured. In order to accomplish this task a spot purchaser must demonstrate that (i) the purchases were necessary to maintain supplies to base period customers; and (ii) it was forced by market conditions to resell the product at a loss that was not subsequently recouped. Since Coastal did not make these showings, its Application for Refund was denied.

Farstad Oil Company, Don Moe Motors, Inc., et al., 12/17/86, RF261-1 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by nine purchasers of petroleum products from Farstad Oil Company (Farstad). Each firm applied for a refund based on the procedures outlined in *Farstad Oil Co.*, 14 DOE ¶ 85,392 (1986), governing the disbursement of settlement funds received from Farstad pursuant to a September 1, 1981 consent order. Since all of the applicants claimed refunds less than $5,000, they were presumed to have been injured by Farstad's alleged overcharges. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling $3,966, representing $3,141 in principal and $825 in accrued interest.

Gary Energy Corporation/Westport Energy Corporation, 12/15/86, RF47-20

The DOE issued a Decision and Order concerning an Application for Refund filed in connection with the Gary Energy Corporation refund proceeding by Westport Energy Corporation. In that Decision, based upon new information, the DOE determined that the volumetric refund amount upon which an applicant's allocable shares are based would be reduced from $0.010775 to $0.00326 per gallon of Gary product purchased. Based upon its documented purchases from Gary and the revised volumetric, the DOE granted Westport a refund of $1,357 in principal and $364 in interest. However, the DOE also concluded that it would not be appropriate to immediately issue the refund to Westport, since the firm is a respondent in an enforcement proceeding currently before the Office of Hearings and Appeals. Pending the outcome of the enforcement proceeding, the DOE determined that the refund should be deposited in a separate interest-bearing account on behalf of Westport.

Gulf Oil Corporation/Randolph Oil Company, Inc., et al., 12/16/86, RF40-944 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by Randolph Oil Company, Inc. and 15 other firms, each of which was both a purchaser and a consignee of Gulf product during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it purchased a certain volume of motor gasoline, middle distillates, and/or lubricant from Gulf, for which it will receive principal of $0.00122 per gallon (the Gulf volumetric refund amount), plus $0.00028 per gallon in accrued interest. Each applicant also used the methodology developed in *Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 (1986), to demonstrate that it has lost potential sales and therefore had been injured in its role as a consignee of motor gasoline. The total amount of refund approved in this Decision is $96,106 principal and $22,054 interest.

Gulf Oil Corporation/S&L Oil Company, 12/18/86, RF40-874

The DOE issued a Decision and Order concerning an Application for Refund filed by S & L Oil Company in connection with the Gulf Oil Corporation special refund proceeding. The applicant, a reseller of Gulf refined petroleum products, contended that its sales volume had declined due to Gulf's alleged pricing practices. In support of its contention, S & L submitted data regarding its purchases of Gulf product during the August 1973 through January 1976 consent order period. This information indicated that S & L's sales volume had declined beginning in 1975. The DOE therefore determined that in those months, S & L would not have been required to pass through to customers a cost reduction equal to the refund claimed. Accordingly, the refund granted S & L was $10,303, its volumetric share for the Gulf product it purchased beginning in 1975, plus $2,364 in interest, for a total refund of $12,667.

Gulf Oil Corporation/Sturdy Oil Company, 12/15/86, RF40-929

The DOE issued a Decision and Order concerning an Application for Refund filed by Sturdy Oil Company in connection with the Gulf Oil Corporation special refund proceeding. The applicant, a reseller of Gulf refined petroleum products, submitted data regarding its profit margins on Gulf product sales during the August 1973 through January 1976 consent order period. Based on this information, the DOE determined that Sturdy would not have been required to pass through to customers a cost reduction equal to the refund claimed. Therefore, Sturdy was granted $35,568, its volumetric share of the Gulf funds, plus $8,163 in interest, for a total refund of $43,731.

King & King Enterprises, Inc./United Oil D & D Oil Company, 12/16/86, RF256-1, RF256-2

The DOE issued a Decision and Order concerning two Applications for Refund filed by purchasers of motor gasoline from King and King Enterprises, Inc. (K & K). Each firm applied for a refund based upon the procedures outlined in *King and King Enterprises, Inc.*, 14 DOE ¶ 85,305 (1986), governing the disbursement of settlement funds received from K & K pursuant to an August 31, 1981 consent order. Since both of the applicants claimed refunds less than $5,000, they were presumed to have been injured by K & K's alleged overcharges. After examining the applications and supporting documentation submitted by the applicants, the DOE concluded that they should receive refunds totaling $4,299, representing $2,944 in principal and $1,355 in accrued interest.

Mapco, Inc./Gehrig's Store Company, 12/18/86, RF108-23

The DOE issued a Decision and Order concerning an Application for Refund filed by Gehrig's Store Company (Gehrig), a retailer of MAPCO propane. Although the firm's purchases of propane from MAPCO during the consent order period exceeded the threshold refund level established in *Peoples Energy Corp.*, Gehrig elected to file its refund application in accordance with procedures for filing small claims outlined in the *Peoples* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Gehrig should receive a total refund of $7,520.11, representing $5,000 in principal and $2,520.11 in accrued interest.

Marathon Petroleum Company/Bunnell's Marathon, 12/16/86, RF250-1696

The DOE issued a Decision and Order concerning an Application for Refund filed by Bunnel's Marathon, an indirect purchaser and retailer of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The applicant demonstrated the volume of its purchases of Marathon product, and was granted a refund of $728 in principal and $47 in interest under the small claims presumption of injury.

Marathon Petroleum Company/Laverne's Oil Co., 12/16/86, RF250-1473, RF250-1474

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of Laverne's Oil Co., an indirect purchaser and reseller of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The applicant demonstrated the volume of its purchases of Marathon product, and was granted a refund of $312 in principal and $20 in interest under the small claims presumption of injury.

Marathon Petroleum Company/Vanguard Petroleum Corporation, 12/17/86, RF250-1

Vanguard Petroleum Corporation filed a Motion for Reconsideration of a Decision and Order graning in part its Application for Refund from a consent order fund made available by Marathon Petroleum Company. Vanguard requested that the DOE reconsider its determination to deny the firm a refund for Marathon products that it received through exchange rather than purchase. In denying Vanguard's request, the DOE found that it was not proper to apply the same presumptions to both purchases and exchanges of product. To be eligible for a refund through an exchange transaction, Vanguard was required to establish the level of its alleged overcharge and injury in order to receive a refund for exchanged Marathon products. Since Vanguard did not provide this type of information, the Motion for Reconsideration was denied.

Mobil Oil Corporation/A One Oil, Inc., et al., 12/18/86, RF225-6975 et al.

The DOE issued a Decision granting 57 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $30,559, representing $25,339 in principal and $5,220 in interest.

Mobil Oil Corporation/Barbier Oil Company, Seddon-Lathrop Oil Corporation, 12/16/86, RF225-4405 et al.

The DOE issued a Decision concerning Applications for Refund from the Mobil Oil Corporation escrow account filed by Barbier Oil Company and Seddon-Lathrop Oil Corporation. Each of the two firms was a reseller of Mobil refined petroleum products whose total volume of purchases of Mobil products corresponded to a volumetric refund amount that exceeded the $5,000 small claims threshold amount established in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). Rather than submit the cost bank and pricing data needed to demonstrate that they were injured in excess of $5,000 by Mobil's alleged overcharges, the two firms elected to limit their claims to the $5,000 small claims threshold. Accordingly, the DOE granted a refund totalling $6,020, representing $5,000 in principal and $1,020 in interest, to each of the two firms.

Petrolane-Lomita Gasoline Company/Gehrig's Store Company, 12/18/86, RF208-11

Gehrig's Store Company (Gehrig) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Petrolane-Lomita Gasoline Company (Petrolane). Gehrig demonstrated that it purchased 2,440,453 gallons of refined petroleum covered products from Petrolane during the consent order period. Using a volumetric methodology, the DOE determined that Gehrig's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Gehrig a total refund of $1,518.38, representing $1,122.61 in principal and $395.77 in accrued interest.

Quaker State Oil Refining Corporation/Mid-Penn Refining Company, 12/18/86, RF213-312

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Quaker State Oil Refining Corporation refined petroleum products. The applicant's level of refined petroleum products purchased from Quaker State during the consent order period would result in a refund over the $5,000 threshold amount. Although the applicant submitted the prices which it paid for the Quaker State product, it was unable to provide information which would demonstrate that its was unable to recoup Quaker State's alleged overcharges. The DOE determined, therefore, that it was appropriate to approve a refund at the small claims threshold level of $5,000, according to the methodology established in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 (1985). With interest, the refund approved in this Decision totals $7,060.

Quaker State Oil Refining Corporation/the Guttman Group, 12/18/86, RF213-207

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Quaker State Oil Refining Corporation motor gasoline and middle distillates. Although the applicant infrequently purchased Quaker State motor gasoline, its level of middle distillates purchases from Quaker State during the consent order period would result in a refund over the $5,000 small claims threshold amount. Since the applicant was unable to provide documentation that would rebut the spot purchaser presumption with respect to its motor gasoline purchases, that portion of its claim was denied. The applicant also failed to provide information which would demonstrate that it was unable to recoup Quaker State's alleged overcharges with respect to its middle distillate purchases. The DOE determined, therefore, that it was appropriate to approve a middle distillate refund at the small claims threshold level of $5,000, according to the methodology established in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85.211 (1985). With interest, the refund approved in this Decision totals $7,060.

Dismissals

The following submissions were dismissed.

Company name	Case No.
Ed's Standard	RF21-12588.
Edwards Transfer & Storage Co., Inc	RF250-2222.
Koch Industries, Inc	RF49-2.
Post Petroleum Company	RF229-4.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 21, 1987.

[FR Doc. 87-1837 Filed 1-29-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3147-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 (FTS 382-2712) or Jackie Rivers, (202) 382-2740 (FTS 382-2740).

SUPPLEMENTARY INFORMATION:

Office or Air and Radiation

Title: Survey of Network for Applied Modeling of Air Pollution (UNAMAP) Users (EPA ICR #1354). (This is a new survey.)

Abstract: Individuals who work with air quality simulation models will complete a one-time questionnaire about their experiences with UNAMAP and related models. EPA will use the information to improve the delivery of services to users and to help remain within budgetary restraints.

Respondents: Users of UNAMAP.

Office of Water

Title: State Drinking Water Supply Program Information (EPA ICR #0270). (This amends existing requirements pursuant to the final rule on fluoride, promulgated on 2 April 1986 [51 FR 11397].)

Abstract: Public water systems monitor and report results to state agencies or EPA. States maintain an inventory of systems and records on monitoring results and compliance with standards. The data are used to ensure that the public is protected from naturally-occurring fluoride in drinking water.

Respondents: Public water systems.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0161, Acknowledgment Statement by Foreign Purchasers of Unregistered Pesticides, was approved 12/24/86 (OMB #2070-0027; expires 12/31/89).

EPA ICR #0947, RCRA Financial Requirements, was approved 12/27/86 (OMB #2050-0036; expires 12/31/89).

EPA ICR #977, Steam Electric Plant Operation and Design Report, was approved 12/22/86 (OMB #2080-0018; expires 12/31/89).

EPA ICR #1288, Potential NSPS Development of Ethylene Oxide Emission Sources, was approved 1/7/87 (OMB #2060-0134; expires 1/31/88).

EPA ICR #1325, TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR), was approved 12/5/86 (OMB #2070-0089; expires 12/31/89).

EPA ICR #1348, FIFRA Sec. 24(c) Questionnaire for State/ Special Local Needs Registration, was approved 12/24/86 (OMB #2070-0088; expires 12/31/89).

EPA ICR #1353, Land Disposal Restriction Variances, was approved 11/786 (OMB 2050-0062; expires 11/30/89).

* * * * *

Comments on the abstracts in this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460.

and

Rick Otis (#0270) or Wayne Leiss, (#1354), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503.

Dated: January 27, 1987.

Daniel J. Fiorino, Director,

Information and Regulatory Systems.

[FR Doc. 87-1888 Filed 1-29-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3147-5]

Availability of Environmental Impact Statements Filed January 20, 1987 Through January 23, 1987

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 870008, Draft, AFS, CA, Highway 88 Future Recreation Use Determination, Eldorado National Forest, Due: April 29, 1987, Contact: Glenn Gottschall (209) 295-4251.

EIS No. 870013, Draft, AFS, CA, Six Rivers National Forest, Land and Resource Management Plan, Due: May 25, 1987, Contact: Owen Peck (707) 442-1721.

EIS No. 870022, DSuppl, EPA, NY, Hudson River PCB Reclamation Demonstration Project, New Information, Thompson Island Pool, Grant, Due: March 16, 1987, Contact: Robert Witte (212) 264-5396.

EIS No. 870023, Draft, COE, OH, Blanchard River Flood Protection Plan, Ottawa Village, Putnam County, Due: March 16, 1987, Contact: William Butler (716) 876-5454 ext. 2175.

EIS No. 870024, draft, BLM, ID, Pocatello Resource Area, Resource Management Plan, Due: April 30, 1987, Contact: Lloyd Ferguson (208) 529-1020.

EIS No. 870025, Final, AFS, VT, NY, Green Mountain and Finger Lakes National Forests, Land and Resource Management Plan, Due: March 2, 1987, Contact: Stephen Harper (802) 773-0300.

EIS No. 870026, Final, USN, NM, White Sands Missile Range Ground Based Free Electron Laser Technology Integration Experiment Facility, Construction and Operation, Due: March 2, 1987, Contact: Rebecca Griffith (817) 334-2095.

EIS No. 870027, Draft, USCG, NY, Davids Island Residential Development, Marina and Bridge Access, Construction, Westchester County, Due: March 16, 1987, Contact: Gary Kassof (212) 668-7994.

EIS No. 870028, Final, COE, CA, Pamo Dam and Reservoir Emergency Water Supply Project, Construction, Santa Ysabel Creek, San Diego County, Due: March 2, 1987, Contact: Joan Drake (213) 894-3395.

EIS No. 870029, DSuppl, BLM, CA, TX, All American Crude Oil Pipeline Project, Texas Extension, McCamey to Webster and Texas City, Construction and Operation, Due: March 31, 1987, Contact: William Haigh (714) 351-6428.

EIS No. 870030, Draft, COE, AK, Chignik Small Boat Harbor Facility Development, Anchorage Bay, Due: March 16, 1987, Contact: William Lloyd (907) 753-2640.

EIS No. 870031, Draft, USMC, NC, Cherry 1 Military Operation Area (MOA) and Core MOA Establishment, Due: March 16, 1987, Contact: P. J. Lowery (919) 466-2343.

EIS No. 870032, Final, FHW, KY, KY-44 Reconstruction KY-55 to KY-44 Relocated, Spencer County, Due: March 2, 1987, Contact: Robert Johnson (502) 227-7321.

Amended Notices

EIS No. 860457, Draft, AFS, OR, Siuslaw National Forest, Land and Resource Management Plan, Due: March 16, 1987, Published FR 11-14-86—Review period extended.

EIS No. 860486, Legislative, Draft, FWS, AK, Arctic National Wildlife Refuge Coastal Plain Resource Management, Oil and Gas Exploration, Development and Production, Due: February 6, 1987, Published FR 11-28-86—Review period extended.

EIS No. 870021, Draft, EPA, OH, Andrew W. Breidenbach Environmental Reserve Center, Full Containment Facility, Construction, Hamilton County, Due: March 10, 1987, Published FR 1-23-87—Review period extended.

Dated: January 28, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-1896 Filed 1-29-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3147-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments Prepared January 12, 1987 Through January 16, 1987, Pursuant to the Environmental Review Process (ERP)

Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. DR-AFS-K65049-CA, Rating EC2, Sierra Nat'l Forest, Land and Resource Mgmt. Plan, CA. SUMMARY: EPA expressed concerns that multiple-use activities may result in degradation of water quality, beneficial uses, and riparian areas. EPA requested that the final EIS more fully discuss how conflicts between proposed activities and the protection of forest resources will be resolved.

ERP No. D-AFS-K69006-AZ, Rating LO, Mount Graham Astrophysical Area Development, Approval and Mgmt., Pinaleno Mtns., Coronado Nat'l Forest, AZ. SUMMARY: EPA noted a lack of objections to the proposed action as described, but requested that the final EIS still provide more information on septic tanks, water quality data, toxic waste chemicals, and pesticides usage.

ERP No. D-APH-A82116-00, Rating EC2, 1987 Rangeland Grasshopper Cooperative Mgmt. Program, WA, OR, CA, NV, ID, UT, AZ, NM, CO, WY, MT, ND, SD, NB, KS, OK, TX, and AK. SUMMARY: EPA supports the integrated pest management alternative; however, concerns remain on multiple pesticide treatments, endangered species, mitigation, and the site-specific analyses that will be tiered to the programmatic EIS.

ERP No. D-BPA-L09800-00, Rating EC1, Pacific Northwest—Pacific Southwest Intertie, Capacity Increase and Long-Term Interties Access Policy Development, WA, OR, ID, MT, WY, CA, NV, UT, NM, and AZ. SUMMARY: EPA has reviewed the draft EIS and believes increasing the capacity of the intertie would adversely affect anadromous and resident fish survival.

ERP No. D-COE-D05121-PA, Rating EO2, Lehigh River Basin Hydroelectric Power Study, Development, PA. SUMMARY: EPA has identified significant environmental impacts to water quality and biota habitat if the proposed project is implemented, as described.

ERP No. DS-COE-E61064-GA, Rating EU2, Lake Alma Project, Reservoir Construction and Development, Outdoor Recreation Opportunities, 404 Permit, GA. SUMMARY: Since construction of the Lake will result in the loss of approximately 1400 acres of valuable wetlands and the proposed mitigation plan compensates for only 13 percent of the habitat lost, EPA finds the proposed project to be environmentally unsatisfactory. If no environmentally acceptable alternative is selected in the final supplement EIS, EPA may elevate this matter for higher-level review and consider the project a candidate for referral to the Council on Environmental Quality, and action under Section 404(c) of the Clean Water Act.

ERP No. D-FHW-D40220-MD, Rating EC2, Warren Road Extension, MD-45/York Road to I-83/Harrisburg Expressway, Possible 404 Permit, MD. SUMMARY: EPA is concerned with the proximity of the project to a landfill which if disturbed could present serious problems. There are also concerns regarding impact on wetlands, stream crossings, and stream relocations.

ERP No. D-FHW-E40697-KY, Rating EC2, Georgetown Bypass Construction, US 460 West/Frankforth Road to US 460/62 East/Paris-Cynthiana Roads Intersection, 404 Permit, KY. SUMMARY: EPA's main concern is the potential contamination of the raw drinking water supply for the City of Georgetown. EPA recommended diversion of surface runoff from the sinkholes and the use of structural precautions to contain possible toxic spills and bridge runoff.

ERP No. D-SCS-H36097-KS, Rating LO, Wolf River Watershed Protection and Flood Prevention Plan, KS. SUMMARY: EPA has no objections to the project as proposed.

ERP No. LD-UAF-A10056-00; Rating: Random Movement Alter. = E02, Hard Silo and Existing Minuteman Facilities Alters. = EC2; Small Intercontinental Ballistic Missile Program, Development, Basing Mode and Deployment Areas, AZ, NV, FL, WA, NM, TX, CA, SD, MO, ND, WY, MT, MO, NB, and CO. SUMMARY: EPA has concerns over air and water impacts from the proposal, especially the Hard Mobile Launcher in Random Movement option. It is not clear for that option whether air and water standards can be met. EPA also requested additional information for the mitigation of impacts from the project.

Final EIS's

ERP No. F-COE-C28000-NJ, Manasquan Reservoir System, Oak Glen Reservoir Construction, Sect. 10 and 404 Permits, Timber Swamp Lake and Manasquan River, NJ. SUMMARY: EPA believes the project, as proposed, will not result in significant adverse environmental impacts. However, EPA recommended that wetlands conservation easements be considered to offset unavoidable deficiencies in the proposed mitigation plan.

ERP No. FS-FHW-A42123-WA, Pasco-Kennewick Intercity Steel Truss Bridge Removal, Columbia River, WA. SUMMARY: EPA made no formal comments. EPA has reviewed the final EIS and found the project to be satisfactory.

ERP No. F-FHW-L40150-OR, Cornell Rd. Improvements, 185th Ave. to NW 242nd Ave., 404 Permit, Right-of-Way Acquisition, OR. SUMMARY: EPA made no formal comments. EPA has reviewed the final EIS and the project was found to be satisfactory.

ERP No. FS-USN-K11027-CA, Treasure Island Naval Station, Hunters, Pt. Naval Shipyard, San Francisco Bay Region Ship Homeporting, Basing Additional Ships and Constructing Support Facilities, CA. SUMMARY: EPA commended the Navy's decision not to dredge at Hunters Point until there has been full public review of environmental documents and sediment toxicity analyses. EPA continues to be concerned about the disturbance of potential hazardous waste sites during construction of onshore support facilities and that construction work not hinder Navy remedial activities at old hazardous waste sites. EPA also recommends that all feasible alternatives for future San Francisco Bay Homeporting actions have full and early public and inter-agency review.

Amended Notice

The following review was completed during the week of December 26, 1986 and should have appeared in the FR Notice published on January 9, 1987.

ERP No. D-FHW-D40222-WV; Rating: Alter. A, B, E, and F = LO; Alter. C = EO2; Alter. D = EC2; E. Huntington Bridge Extension to US 60, Connection, Possible 404 Permit, WV. SUMMARY: EPA has no objections to alignments A, B, E, or F, but has concerns about alignment D, and objects to alignments C due to their potential landfall disturbance.

Dated: January 28, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-1897 Filed 1-29-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

January 22, 1987.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW, Suite 140, Washington, DC 20037. For further information on this submission contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC. 20503, (202) 395-4814.

OMB Number: 3060-0150

Title: Part 22, Public Mobile Radio Service (§§ 22.201, 22.307, and 22.406)

Action: Revision

Respondents: Communication common carriers

Frequency of Response: Annually and semi-annually

Estimated Annual Burden: 125 Respondents; 1,200 Recordkeepers; 67,300 Hours

Needs and Uses: Section 22.201 of the Rules requires the posting of station authorizations to demonstrate to the public, station owners, and FCC field inspectors that the station is properly licensed. Section 22.307 requires licensees to retain certain equal employment opportunity data to ensure nondiscrimination in recruting, hiring, promoting, and other areas of employment practice. Section 22.406 requires licensees holding developmental authorizations to submit reports upon completion of developmental projects to ensure complicance with the authorization and to help the Commission determine the feasibility of the project for rendering telecommunication services.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-1890 Filed 1-29-87; 8:45am]

BILLING CODE 6712-01-M

Second and Third Meetings of the National Public Safety Planning Advisory Committee

The second and third meetings of the National Public Safety Planning Advisory Committee will be held on February 26, 1987, and March 26, 1987, respectively, in Room 856 (the Commission Meeting Room), 1919 M Street NW., Washington, DC. The meetings will start at 9:30 a.m.

All interested parties are invited to attend these meetings. Since this is a technical advisory committee, attendees should be prepared for technical discussions.

The agenda for the second and third meetings will consist of:

1. Approval of minutes of last meeting;
2. Status reports from the Chairman and from the Task Group Facilitators;
3. Discussion of additional work for Task Groups or deletion of work from Task Groups; and
4. Discussion of appropriate date and tentative agenda for future meetings.

Any questions regarding these meetings should be directed to Mr. William R. Torak at (202) 632–7025.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87–1891 Filed 1–29–87; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1639]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

January 21, 1987.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed February 18, 1987. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Detariffing the Installation and the Maintenance of Inside Wiring. (CC Docket No. 79–105) Number of petitions received: 2.

Subject: Amendment of Part 76 of the Commission's Rules Concerning Carriage of Television Broadcast Signals By Cable Television Systems. (MM Docket No. 85–349) Number of petitions received: 31.

Subject: Petition for Notice of Inquiry to Consider Requirements for Shielding and Bypassing Civilian Communications Systems from Electromagnetic Pulse Effects. (RM–5528) Number of petitions received: 1.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87–1892 Filed 1–29–87; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

Magic Valley Savings and Loan Association, Weslaco, TX; Notice of Appointment of Receiver

Notice is hereby given that the Commissioner, Texas Savings and Loan Department, Financial Division, for the State of Texas ("Texas") appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as receiver for Magic Valley Savings and Loan Association, Weslaco, Texas ("Magic Valley"), and that pursuant to the authority contained in Section 406(c)(1) of the National Housing Act, as amended (12 U.S.C. 1729(c)(1) (1982)), the FSLIC accepted the tender of the commissioner of the appointment as receiver for Magic Valley, for the purpose of liquidation, effective January 16, 1987.

Dated: January 27, 1987.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87–1868 Filed 1–29–87; 8:45 am]

BILLING CODE 6720–01–M

Magic Valley Savings and Loan Association, Weslaco, TX; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Magic Valley Savings and Loan Association, Weslaco, Texas, on January 16, 1987.

Dated: January 27, 1987.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87–1869 Filed 1–29–87; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, February 24–25, 1987. The meeting will be held in Conference Room 4 (A Wing), Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on February 24 from 9 a.m. to recess and from 8:30 to adjournment on February 25 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Millicent Higgins, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, phone (301) 496–2533, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1885 Filed 1–29–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on February 26–27, 1987, in Conference Room 4, Building 31C, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 8:45 a.m. on February 26, and from 8:30 a.m. to 9:10 a.m. on February 27 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 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 Allergy and Clinical Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 8:45 a.m. until recess on February 26, and from 9:10 a.m. until adjournment on February 27. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301-496-7966), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-1878 Filed 1-29-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of the Microbiology and Infectious Diseases Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on February 26 and 27, 1987, in Building 31C, Conference Room 7, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 9 a.m. to 10:30 a.m. on February 26, to discuss administrative details relating to committee business and for program review. 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 Microbiology and Infectious Diseases Research Committee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:30 a.m. until recess on February 26, and from 9 a.m. until adjournment on February 27. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. M. Quraishi, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301-496-7465), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-1879 Filed 1-29-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee (AMS) of the National Institute of Arthritis and Musculoskeletal and Skin Diseases on March 2 and 3, 1987, Linden Hill Hotel, 5400 Pooks Hills Road, Bethesda, Maryland. The meeting will be open to the public March 2 from 7 p.m. to 8 p.m. to discuss administrative details or other issues relating to the committee activities as indicated in the notice. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

The meeting will be closed to the public on March 2 from 8 p.m. to 11 p.m. and again on March 3 from 8 a.m. to adjournment 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 research 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.

Further information concerning this meeting may be obtained from Dr. Tommy Broadwater, Executive Secretary, Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee, NIAMS, Westwood Building, Room 404, Bethesda, Maryland 20892, (301) 496-7531.

Mrs. Carole Frank, Acting Committee Management Officer, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301-496-6917, will provide summaries of the meeting and roster of the committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-1880 Filed 1-29-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases on February 18 and 19, 1987, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public February 18 from 8:30 a.m. to 12 noon and again on February 19 from 1 p.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on February 18 from 1 p.m. to adjournment and again on February 19 from 8:30 a.m. to approximately 12 noon in accordance with 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 grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, NIAMS, Westwood Building, Room 657, Bethesda, Maryland 20892, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIAMS, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.846, Arthritis, Bone and Skin Diseases, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 87–1881 Filed 1–29–87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Certain Subcommittees of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the following subcommittees of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee (DDK) of the National Institute of Diabetes and Digestive and Kidney Diseases.

These meetings will be open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notices. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings 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. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual research 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.

Mrs. Carole Frank, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of subcommittee: DDK–B
Executive Secretary: Dr. Michael K. May, Westwood Building, Room 419, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–7697
Date of meeting: February 24–25, 1987
Place of meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: February 24, 6:30 p.m.–7:30 p.m.
Agenda: Review of administrative details
Closed: February 24, 7:30 p.m. to 11:00 p.m., February 25, 8:00 a.m. to adjournment
Closure reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.847, project grants in diabetes, endocrinology and metabolic research, National Institutes of Health)

Name of subcommittee: DDK–C
Executive Secretary: Ms. Tommie Sue Tralka, Westwood Building, Room 406, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–8830
Date of meeting: February 18–19, 1987
Place of meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: February 18, 3:30 p.m.–4:30 p.m.
Agenda: Review of administrative details
Closed: February 18, 4:30 p.m. to 11:00 p.m., February 19, 8:30 a.m. to adjournment
Closure reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.848, project grants in digestive diseases and nutrition research, National Institutes of Health)

Subcommittee name: DDK–D
Executive Secretary: Dr. William Elzinga, Westwood Building, Room 421, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–7546
Dates of meeting: February 18, 1987
Place of meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: February 18, 7:00 p.m.–7:30 p.m.
Agenda: Review of administrative details
Closed: February 18, 7:30 p.m. to adjournment
Closure reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.849, project grants in kidney diseases, urology and hematology research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1883 Filed 1–29–87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, to provide advice to the National Institute of Diabetes and Digestive and Kidney Diseases, on February 11 and 12, 1987, Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public February 11 from 8:30 a.m. to 12 noon and again on February 12 from 1 p.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The following subcommittees will be closed to the public on February 11 from 1 p.m. to recess: Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; Kidney, Urology and Hematology. The full Council meeting will be closed to the public on February 12 from 8:30 a.m. to approximately 12 noon 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 grant applications. These deliberations could reveal confidential trade secrets of commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building Room 657, Bethesda, Maryland 20892, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-6917.

(Catalog of Federal Domestic Assistance Program No. 13.847-849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 87-1882 Filed 1-29-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for March 1987.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research training grant and research center 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.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee
Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301-496-7125
Date of meeting: March 2, 1987
Place of meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland
Open: March 2, 1987, 8:30 a.m.-10:30 a.m.
Closed: March 2, 1987, 10:30 a.m.-adjournment

Name of Committee: Pharmacological Sciences Review Committee
Executive Secretary: Dr. Rodney Ulane, Room 952 Westwood Building Telephone: 301-496-4772
Date of meeting: March 9, 1987
Place of meeting: Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland
Open: March 9, 1987, 8:30 a.m.-10:30 a.m.
Closed: March 9, 1987, 10:30 a.m.-adjournment

Name of committee: Minority Access to Research Careers Review Committee
Executive Secretary: Dr. Agnes Donahue, Room 949 Westwood Building, Telephone: 301-496-7585
Dates of meeting: March 12-13, 1987
Place of meeting: Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland
Open: March 12, 1987, 8:30 a.m.-10:30 a.m.
Closed: March 12, 1987, 10:30 a.m.-5:00 p.m., March 13, 1987, 8:30 a.m.-adjournment

(Catalog of Federal Domestic Assistance Program No. 13-859, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-1884 Filed 1-29-87; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 11-12, 1987, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 12, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 10 from 3 p.m. to 4 p.m. in the 5th-Floor Conference Room of the Lister Hill Center Building.

The meeting on March 11 will be open to the public from 8:30 to 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(b)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications as follows: The regular meeting on March 11 from 11 a.m. to 5 p.m., and on March 12, from 8:30 a.m. to adjournment; and the subcommittee meeting on March 10 from 3 p.m. to 4 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301-496-4221, will provide summaries of the meeting, rosters of the committee 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: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-188 Filed 12-09-87; 8:45 am]

BILLING CODE 4140-01-M

Office of Human Development Services

Administration for Children, Youth and Families; Allotment Percentages; Child Welfare Services State Grants

AGENCY: Office of Human Development Services, HHS.

ACTION: Biennial publication of allotment percentages for States under the title IV-B Child Welfare Services State Grants Program.

SUMMARY: As required by section 421(c) of the Social Security Act (42 U.S.C. 621(c)), the Department is publishing the biennial allotment percentage for each State under the title IV-B Child Welfare Services State Grants Program. Under section 421(a), the allotment percentages are one of the factors used in the computation of the Federal grants awarded under the Program.

DATES: The table indicates the allotment percentages to be used for fiscal years 1988 and 1989.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Fagins, Formula Grants Branch, Management Support Division, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 755–7480.

SUPPLEMENTARY INFORMATION: The allotment percentage for each State is determined on the basis of the complement of the three year average per capita income in each State compared to the national three year average per capita income. The allotment percentage for each State is as follows:

State	Allotment percentage
Alabama	61.48
Alaska	37.27
Arizona	60.94
Arkansas	67.46
California	51.40
Colorado	53.35
Connecticut	46.60
Delaware	54.39
District of Columbia	43.51
Florida	57.89
Georgia	62.94
Hawaii	55.48
Idaho	64.79
Illinois	53.90
Indiana	61.22
Iowa	59.23
Kansas	54.89
Kentucky	65.30
Louisiana	61.74
Maine	64.51
Maryland	52.89
Massachusetts	52.86
Michigan	58.19
Minnesota	56.59
Mississippi	70.45
Missouri	60.09
Montana	63.12
Nebraska	58.35
Nevada	53.75
New Hampshire	57.30
New Jersey	49.47
New Mexico	64.56
New York	53.24
North Carolina	64.69
North Dakota	57.39
Ohio	58.93
Oklahoma	58.59
Oregon	60.56
Pennsylvania	58.16
Rhode Island	57.97
South Carolina	66.77
South Dakota	63.92
Tennessee	65.28
Texas	56.66
Utah	66.72
Vermont	63.50
Virginia	56.46
Washington	55.05
West Virginia	66.06
Wisconsin	58.56
Wyoming	53.62
Guam	70.00
Northern Marianas	70.00
Puerto Rico	70.00
Virgin Islands	70.00

Dated: January 8, 1987.

Dodie Livingston,

Commissioner, Administration for Children, Youth and Families.

Approved: January 20, 1987.

Jean K. Elder,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 87-1797 Filed 1-29-87; 8:45 am]

BILLING CODE 4130-01-M

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration on Aging, Office of Human Development Services.

ACTION: Notice of Amendment to Statement of Organization, Functions, and Delegations of Authority.

SUMMARY: This notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS), Administration on Aging, to: (1) Revise the description of functions to reflect transfer of the Information and Referral Service function and update the office title references used in the Office of Program Development; (2) Transfer the Information and Referral Service function from the Division of Training and Development, OPD/AOA, to the Division of Community Based Systems Implementation, OSTP/AOA; (3) Establish the Immediate Office of the Associate Commissioner, Office of State and Tribal Programs, and move the supervisory direction functions for the ten Regional Offices from the Office of Program Management and Regional Operations; (4) Delete the Division of Operations and Fiscal Analysis and move the functions to the Division of Program Management and Analysis; (5) Delete the Division of Program Management and Regional Operations and move the functions to the Division of Program Management and Analysis; (6) Establish a new Division of Community Based Systems Implementation and describe the functions; and (7) revise DG.10. Organization to update the organizational listing of the Administration on Aging.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT: Donald Smith, Administration on Aging, Room 4654, HHS Building, 330 Independence Avenue SW., Washington, DC 20201. Telephone: 202–245–0351.

Amendment to Part D, Chapter DG, Administration on Aging (AOA), DG.10. Organization; (DGD) Office of Program Development; Division of Training and Development, Office of Program Development; and (DGN) the Office of State and Tribal Programs.

The Office of Program Development as published in the **Federal Register** on December 3, 1982 (47 FR 54555); the Division of Training and Development, Office of Program Development, as published in the **Federal Register** on October 8, 1985 (50 FR 41027); the Office of State and Tribal Programs as published in the **Federal Register** on December 3, 1982 (47 FR 54554); and DG.10. Organization, as published in the **Federal Register** on May 21, 1986 (51 FR 18664) are deleted in their entirety and replaced by the following:

DG.10. *Organization.* The Administration on Aging is headed by the Commissioner on Aging and consists of:

Office of the Commissioner (DGA)
Office of Program Development (DGD)
  Division of Research and Demonstrations (DGD1)
  Division of Training and Development (DGD2)
Office of State and Tribal Programs (DGN)
  Immediate Office of the Associate Commissioner (DGN3)
  Division of Program Management and Analysis (DGN4)
  Division of Community Based Systems Implementation (DGN5)
  Office of Management and Policy (DGR) Division of Policy, Planning, and Administration (DGR1)
  Division of Technical Information and Dissemination (DGR2)

Office of Program Development (DGD) assesses the need for, develops strategies and priorities about, and conducts activities for the development of adequate knowledge for improving the circumstances of older people. Develops a knowledge base for policy decisions and program development and coordination through support of a wide range of research, demonstration, training and long term care activities.

Develops personnel resources for the delivery of demonstrations, geriatric fellowships, and training programs. In response to guidance from the Office of Management and Policy, provides technical input to long range planning and proposes operational plans and subject matter input to the budget process.

Promotes coordination of research, demonstration, and long term care activities. Oversees the grant and contract activities designed to carry out research, demonstration, and long term care activities, and develops AoA policies and criteria for monitoring grants and contracts supported through the Office. Assesses results of these activities to recommend utilization strategies to the Division of Technical Information and Dissemination of the Office of Management and Policy.

Implements strategies for improving the quality of facilities, programs, and services for the nation's older population. Maintains information on programs in other Federal agencies and national voluntary agencies which have potential for relating to these strategies.

Administers programs to increase the supply of trained personnel in the field of aging, to increase knowledge in other professional fields of the processes of aging and the circumstances and requirements of older people, and to increase the availability, accessibility, and adequacy of training and educational programs on aging within educational institutions throughout the country. Within overall AoA strategy and long range plans, conducts continuing studies and periodic reviews of manpower needs and resources in the field of aging, develops and monitors a national plan for increasing these resources, and prepares reports thereon for the Administration on Aging, the Federal Council on Aging, the Office of the Secretary, the President and the Congress.

Encourages, and provides partial support for, university-based gerontology programs. Works in collaboration with the Office of Policy, Planning, and Legislation, Office of Human Development Services (HDS) in the coordination of education and manpower development activities of AoA with other HDS training programs and with similar activities of other Federal Agencies and of professional and voluntary organizations in the field of aging.

Division of Training and Development (DCD2) plans, manages and assesses AoA's activities to assure trained staff for programs serving older Americans; develops services and systems guidelines and implements strategies for improving services and developing new services.

Administers a program through grants and contracts for developing curricula and providing training related to preparation for professional, teaching, research, and paraprofessional careers in the field of aging.

Makes grants for planning, developing, and operating multidisciplinary centers of gerontology designed to serve the purposes set forth under Title IV of the OAA, including the monitoring of such grants on a continuing basis.

Provides technical assistance and consultation on education and training needs and programs to States and educational institutions and organizations at all levels. Develops criteria for evaluating the project results and performance effectiveness of education and career training grantees and contractors, and, upon request by the Office of State and Tribal Programs, gives technical assistance to the Regional Officers in their guidance and monitoring of training grants and contracts.

Develops and administers a program in staff development and continuing education for personnel in the field of aging and for established professional and paraprofessional personnel in related fields who seek to develop competencies for work in the field of aging. Proposes strategies for the program; develops the Operational Plan; develops material for Congressional and budget presentations; and promotes coordination of the program with other national, regional and local programs related to aging.

In consultation with the Office of State and Tribal Programs, allocates manpower development funds to State Agencies in conducting and supporting short term training for aging network personnel and personnel of provider agencies, including lay volunteers, to improve their compentencies for serving older people. Develops material on personnel needs and job requirements in the field of aging. Develops criteria, techniques and instruments for evaluating continuing education programs.

Develops standards, optional models, and "best practice" suggestions on services to the elderly for use by the Regional Offices, and State and Area Agencies on Aging. Contributes subject matter expertise to the development of technical assistance material and in-service training curricula concerning these standards, models, and best practice suggestions.

Develops and implements new initiatives in a wide range of program and management areas. Provides subject matter expertise in negotiation of agreements with other Federal and non-Federal public agencies and organizations to implement the interagency agreements within the Division's subject matter area.

Provides technical imput to the AoA planning and policy development activities, legislative activities and the annual budget development cycle on a wide range of program matters and develops and implements the Long Term Care Operational Plan. Implements approved strategies for improving the quality of facilities, programs and services related to long term care for the nation's older population. Maintains information on programs in other Federal agencies and national voluntary agencies which have potential for relating to these straegies. Participates in Departmental and interdepartmental activities which concern health and social services related to long care; reviews and comments of Departmental regulations and policies regarding health programs and institutional and non-institutional long term care services.

Office of State and Tribal Programs (DGN). Serves as the focal point within the Administration on Aging (AoA) for the operation and assessment of the programs authorized under Titles III and VI of the Older Americans Act (OAA) (45 CFR Parts 1321 and 1328) and is responsible for supervising and directing the activities of the ten Regional Offices of AoA in the execution of their responsibilities.

Implements the AOA mission in the field through provisions to Regional Office staff of guidance and information concerning AOA programs, and interpretation of regulations and policy implementing Titles III and VI of the OAA. Fosters, oversees, assists, and assesses the development of State administered community based systems of social services to the elderly as authorized under Titles III and VI of the OAA.

In response to guidance from the Office of Management and Policy, provides technical input to long range planning and proposes operational plans and subject matter imput to the budget process. Responsible for the implementation of regulations and policy on Titles III and VI of the OAA. Develops program plans and instructions for AoA Regional Offices and State and Area Agencies to improve the service programs funded under the OAA. Operational contracts between AoA Central and Regional Offices are through the Office of State and Tribal Programs.

Provides guidance to AoA Regional Staff on the processing, approval, or recommendation for disapproval of State Plans under the OAA. Issues substantive operating procedures to guide Regional staff of AoA in the conduct of their responsibilities; establishes standards for PMRS and EPMS plans in the Regional Offices; regularly assesses the performance of AoA Regional Office staff against the established standards.

Is responsible for collection, analysis and distribution of program performance data on State and Area Agency and tribal organization implementation of OAA programs. Implements the formula for distribution of Title III funds to the States and controls accounting and reprogramming of funds under that Title.

In consultation with the Division of Policy, Planning and Administration, AoA, and the Office of Equal Opportunity and Civil Rights, OHDS, provides guidance to AoA Regional staff on a variety of management issues relating to such areas as civil rights, minority contracting, age discrimination and regulations about the handicapped.

Maintains information on the professional development and technical capacity of Regional staff, and identifies training needs and recommends training courses to assure an AoA Regional staff capacity for responding to emerging program and management demands.

Immediate Office of the Associate Commissioner (DGN3). Provides direct supervision of the 10 Regional Program Directors on Aging, and provides day-to-day direction on all program and management activities for which the 10 AoA Regional Offices are responsible. Decides central and Regional staff training needs; issues program and administrative guidelines to the National Network on Aging; determines support and resource levels of Regional AoA staff; personally coordinates with senior executives in other DHHS and other Departmental agencies to assure execution of the OSTP missions; and, in event of conflicting demands on Regional staff, decides priorities and coordinates, as necessary, with other senior AoA, OHDS and Departmental executives.

Division of Program Management and Analysis (DGN4). Provides guidance and technical assistance to AoA Regional staff in the effective implementation of programs under Titles III and IV of the OAA.

Provides assistance relative to Merit System Standards and their implementation by State agencies. Provides timely and accurate responses to requests for policy interpretation and technical assistance from State agencies and Title VI grantees.

Manages program of services for older Indians authorized under Title VI of the OAA, and develops and executes the Ombudsman provisions of the OAA throughout the aging network.

Develops and operates a management information system focused on the effectiveness and efficiency with which services are delivered. Coordinates and conducts operational studies, program analyses, and evaluations on special issues of concern to the Commissioner, Regional Offices, and State and Area Agencies on Aging. Prepares reports on program operations under Title III for the Commissioner, other AoA offices, Office of the Secretary, the Congress and the public.

For formula grant activities, develops financial management standards for State and Area Agencies and provides guidance on and interpretation of 45 CFR Part 74 to AoA staff, in coordination with the Division of Grants and Contracts, OMS. Based on formula grants management policies and procedures approved by HDS, controls administrative accounting and reprogramming of formula grant funds under the OAA.

Responds to audit issues raised by Department and General Accounting Office audit reviews and assures the proper analysis and resolution of audit findings by Regional Offices for final action by the Commissioner and the Assistant Secretary for HDS.

Develops Title III performance profiles of State and Area Agencies on Aging. Through the analysis of State Plans, evaluation findings, audit reports, and progress reports, prepares early warnings of program and management issues.

Division of Community Based Systems Implementation (DGN5). All functions listed below are conducted through the Regional Offices, and the State and Area Agencies, i.e., the aging network.

Implements national program and management initiatives designed to expand the capacity of State, Area and community agencies in the organization and effective delivery of comprehensive service systems for older persons. Coordinates these activities with other Federal and private organizations which impact on the aging.

Directs and assesses the development of State administered, community based systems of opportunities, social services and long-term care for the elderly. Initiates and encourages expansion of the capacities of community based social service and health care systems to deliver comprehensive services to the elderly. Strengthens and extends the development of the continuum of care principle in local community based social services systems for the elderly.

Directs, guides and monitors the improvement and expansion of community based information and referral systems, and other developments in accessibility, for social services to the elderly.

Through extensive formal and informal contacts with a variety of agencies and organizations, identifies and disseminates through the State and Area Agency network, concepts, systems and devices to improve care for the elderly.

Promotes and coordinates information and education campaigns at the local level to improve the quality of life of the elderly, e.g., health promotion activities. Assists local agencies in other specialized social service areas by means of technically expert staff in the Division.

Assists State and Area Agencies and local service delivery agencies to analyze future program trends and needs of the aging population, and to develop strategies and specific implementation plans to enable all levels of the aging network to anticipate and adapt to community program needs at given intervals in the future.

Acts as a national representative and advocate of the State and Area Agency network with other Departmental agencies, private industry and the general public.

Dated: January 21, 1987.

Approved:

Jean K. Elder,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 87-1798 Filed 1-29-87; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Minerals Mangement Service. Except as noted below, all changes being published are editorial in nature, and reflect minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register** on December 30, 1985 (50 FR 53200). The revised notice, published in its entirety below, is titled: "Minerals Management Service (MMS) Personnel Security System—Interior, MMS-4" (formerly titled "Security").

The part of the notice describing the categories of records in the system has been revised to clarify the types of records being maintained. A new compatible routine use disclosure to the Office of Personnel Management has been added to permit that office to carry out its oversight functions as authorized by law.

The statements describing the storage and retrievability of the records are revised to reflect the conversion of information in the records to micro-computer media, and the ability to retrieve records by the individual's social security number.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before March 2, 1987, will be considered. The notice shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: January 15, 1987.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Interior/MMS-4

SYSTEM NAME:

Minerals Management Service (MMS) Personnel Security System—Interior, MMS-4

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service (MMS), Office of Administration, Procurement and General Services Division, Security Office, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Minerals Management Service (MMS) employees, and contract employees working for the MMS who have been subject to personnel security investigations to determine suitability for placement in sensitive positions, require access to national security information, and/or require ADP access authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, sensitivity type, date of birth, place of birth, social security number, organization code, position title, grade, duty station, Office of Personnel file folder location (OPF), clearance, clearance date, access, clearance termination date, ADP type, grant date, ADP termination date, briefing information, suitability date, investigation basis, Agency conducting investigation, investigation completion date, investigation update and upgrade information, MMS termination date, pending code, remarks. The automated portion of this system is only a compilation of records manually maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary use of the records is to ensure that investigative requirements of Federal Personnel Manual 731 are satisfied and to provide a current record of MMS employees with clearance and ADP access authorizations. Disclosure outside of the Department may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation; and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Congressional office from the record of an individual in response to an inquiry the individual has made to the Congressional office; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant or other benefit; and, (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance license, contract, grant or other benefit; (6) to the Office of Personnel Management for matters concerned with oversight activities necessary for the Office to carry out its legally authorized Governmentwide personnel management programs and functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual systems are maintained in locked GSA approved security containers. Automated data base system maintained on hard disk with pass word entry required. Backup disks maintained and stored in locked GSA approved security containers.

RETRIEVABILITY:

Indexed by individual name or social security number.

SAFEGUARDS:

Maintained within the Security Office meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

These records are maintained in accordance with the General Records Schedule Number 18, Item Number 23.

SYSTEM MANAGER AND ADDRESS:

Security Officer, Procurement and General Services Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the Security Officer. A signed request is required if an individual would like information concerning his/her records. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the Security Officer. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the Security Officer and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

[FR Doc. 87-1808 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed 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 information collection requirements and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made to the Office of Management and Budget Interior Desk Officer at (202) 395–7340.

Title: Higher Education Information Collection from §§ 40.22, 40.25, and 40.26 of the Rule, 25 U.S.C. 13, and 25 CFR Part 40.

Abstract: The Office of Indian Education Programs needs and uses this information for program integrity while performing its mission of educating Native American Indian College students.

Frequency: Semi-annually/Annually

Description of Respondents: Indian/Alaskan Native students applying for admission to postsecondary schools.

Annual Response: 11,000

Annual Burden Hours: 3,250 Hours

Bureau Clearance Officer: Cathie Martin (202) 343–3577

Nancy C. Garrett,

Acting Deputy to the Assistant Secretary/Director Indian Affairs (Indian Education Programs).

January 13, 1987.

[FR Doc. 87–1809 Filed 1–29–87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[U–51266]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–51266 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from October 1, 1986, the date of termination, have been paid.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U–51266 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 1986 subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–1794 Filed 1–29–87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-940-07-4212-13; A-20637]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

January 16, 1987.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), the following described land was transferred out of Federal ownership in exchange for privately-owned land. The land transferred into private ownership is described as follows:

Gila and Salt River Meridian, Arizona

T. 25 N., R. 19 W.,
Sec. 6, lot, 7, SE¼SW¼, SE¼;
Sec. 8, all;
Sec. 18, lots 1–4, incl., E½W½.

The area described aggregates 1,197.17 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Management.

The land acquired by the United States is described as follows:

Gila and Salt River Meridian, Arizona

T. 28 N., R. 16 W.,
Sec. 5, lot, 1–4 incl., S½N½, S½;
Sec. 7, lots 1–4, incl., E½, E½W½.
T. 29 N., R. 16 W.,
Sec. 31, lots 1 and 2, NE¼, E½NW¼;
Sec. 33, all;

The area described aggregates 2,238.32 acres, according to the official plats of surveys of said land, on file in the Bureau of Land Management.

The real estate value of both the selected and offered lands in the exchange were appraised at approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The surface of the land acquired by the Federal Government in this exchange will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 9:00 a.m., thirty days from publication of this notice. The mineral estate is owned by the Santa Fe Pacific Railroad Company and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing Laws.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–1810 Filed 1–29–87; 8:45 am]

BILLING CODE 4310-32-M

[ID-010-07-4212-12; I-12640]

Realty Action, Exchange of Public and State Lands in Owyhee County, ID

SUMMARY: The following selected lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Mangement Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 12 S., R. 2 E.,
Sec. 31;
Sec. 32, lots 3 and 4, NW¼, N½SW¼.
T. 13 S., R. 1 E.,
Sec. 2, W½SW¼;
Sec. 12, E½, N½NW¼, SW¼NW¼, SW¼;
Sec. 13, S½NE¼, W½W½, E½SW¼.
T. 13 S., R. 2 E.,
Sec. 5, lots 3 and 4, S½NW¼, SW¼;
Sec. 8, E½NE¼, NW¼NW¼, S½NW¼, N½SW¼, NE¼SE¼;
Sec. 9.
T. 13 S., R. 3 E.,
Sec. 1, lots 1 and 4, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 2, lots 1 to 4, inclusive, S½N½;
Sec. 3, lots 1 to 4, inclusive, S½N½;
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼;
Sec. 9, W½;
Sec. 10, E½NE¼;
Sec. 11, W½NE¼; NW¼;
Sec. 12, E½;
Sec. 13, E½, SW¼;
Sec. 14, E½SE¼;
Sec. 15, SE¼NW¼; S½;
Sec. 20, SE¼NE¼;
Sec. 21, N½, NE¼SE¼;
Secs. 22 to 24, inclusive;
Sec. 25, N½N½;
Sec. 26, S½N½;
Sec. 28, N½N½, S½;
Sec. 29, NE¼, N½SE¼, SE¼SE¼;
Sec. 32, E½NE¼;
Sec. 33.
T. 13 S., R. 4 E.,
Sec. 19;
Sec. 20, SW¼; W½SE¼;
Sec. 29, W½NE¼, NW¼; E½SW¼, NW¼SE¼;
Sec. 30, lots 1 and 4, E½, E½W½;
Sec. 31, lot 1, NW¼NE¼, NE¼NW¼.
T. 14 S., R. 1 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½.
T. 14 S., R. 3 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½;
Sec. 2, lots 1, 3, and 4, S½N½;
Sec. 3, lots 1 to 3, inclusive, S½NW¼, W½SW¼;
Sec. 4, lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, SE¼SE¼;
Sec. 9, E½;
Secs. 13 and 14;
Sec. 15, N½ E½SW¼, SE¼.
T. 14 S., R. 4 E.,
Secs. 6 and 7;
Sec. 18, lots 1 to 4, inclusive, E½, E½NW¼, SE¼SW¼.

Comprising 18,245.89 acres of public land.

In exchange for these lands, the United States proposes to acquire the following offered lands from the State of Idaho:

Boise Meridian, Idaho

T. 11 S., R. 2 E.,
Sec. 36.
T. 12 S., R. 2 E.,
Sec. 9, SE¼SE¼;
Sec. 14;
Sec. 15, W½W½;
Sec. 16;
Sec. 22, NW¼SW¼;
Sec. 27 SW¼NE¼, SE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 32, NE¼NE¼;
Sec. 34 NE¼, NE¼SE¼;
Sec. 35, lots 3 and 4, NW¼SW¼;
Sec. 36.
T. 12 S., R. 3 E.,
Sec. 16;
Sec. 17, NW¼NW¼;
Sec. 23, NE¼SE¼;
Sec. 35, lots 1 and 2, NE¼SW¼; NW¼SE¼;
Sec. 36.
T. 13 S., R. 1 W.,
Sec. 16;
Sec. 36.
T. 13 S., R. 1 E.,
Sec. 3, S½N½, N½S½;
Sec. 4, S½N½, N½S½;
Sec. 5, S½NE¼, SW¼, N½SE¼;
Sec. 16.
T. 13 S., R. 2 E.,
Sec. 3, lots 3 and 4;
Sec. 36.
T. 14 S., R. 1 W.,
Sec. 16;
Sec. 36.
T. 14 S., R. 1 E.,
Sec. 16;
Sec. 36.
T. 14 S., R. 2 E.,
Sec. 16.
T. 14 S., R. 3 E.,
Sec. 25, E½NE¼, S½SE¼;
Sec. 36.
T. 14 S., R. 4 E.,
Sec. 16;
Sec. 28, SW¼NW¼, W½SW¼;
Sec. 29, S½NE¼, SE¼NW¼, SE¼SW¼, NW¼SW¼, SE¼;
Sec. 30, lots 1, 2, and 4, NE¼, E½NW¼; SE¼SW¼, NE¼SE¼;
Sec. 31, lot 1, NE¼NW¼.

Offered Lands of the Bruneau River:

T. 10 S., R. 7 E.,
Sec. 16;
Sec. 36.
T. 11 S., R. 7 E.,
Sec. 16.
T. 12 S., R. 7 E.,
Sec. 16.
T. 13 S., R. 6 E.,
Sec. 36.
T. 16 S., R. 7 E.,
Sec. 16.

Comprising 17,983.40 acres of State lands.

DATES: Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws, including the mining laws, except exchange under Section 206 of the Federal Land Policy and Management Act of 1976, for a period of two years from the date of publication.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit written comments to the District Manager, Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Further information concerning the exchange, including the environmental assessment, is available for review at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Please direct any questions to Peter Cizmich, Realty Specialist, 334–1582.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire State of Idaho endowment lands which have high public values for multiple uses.

Six sections of offered State land are inholdings in the Bruneau River-Sheep Creek Wilderness Study Area (WSA 111–17) and are within the area currently being recommended for wilderness designation by the BLM's Boise District. Portions of two of these sections are within the proposed Bruneau River Wild and Scenic River segment. This part of the Bruneau River has been studied by an interagency team whose recommendation to Congress was to designate it a component of the National Wild and Scenic River System.

Another significant public benefit of the exchange would be improved management efficiency. By converting scattered State sections to Federal ownership, the potential for unauthorized use would be reduced. Livestock management and wildlife habitat projects would be more readily implemented in single ownership management units.

The value of the lands to be exchanged are approximately equal; equalization of values will be by deletion of State or Federal lands. The public interest will be served by completing this exchange.

Dated: January 15, 1987.

J. David Brunner,

District Manager.

[FR Doc. 87–1478 Filed 1–29–87; 8:45 am]

BILLING CODE 4310-GG-M

[CA-060-07-5101-09-FB15]

All American Crude Oil Pipeline, Texas Extension; Draft Supplemental Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to section 102(2)(c), of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Draft Supplemental Environmental Impact Statement (DSEIS) concerning the Texas extension of the All American crude oil pipeline.

DATE: Comments on the DSEIS are being accepted until March 31, 1987.

ADDRESS: For further information contact: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The All American pipeline is a proposal of the All American Pipeline Company, a subsidiary of Goodyear Tire and Rubber Company. The All American Pipeline begins near Santa Barbara, California; passes near Bakersfield and Blythe, California, Phoenix and Tuscon, Arizona, and El Paso, Texas; and crosses West Texas to McCamey. The portion of the pipeline between Santa Barbara and McCamey was considered by an Environmental Impact Statement prepared by the Bureau of Land Management two years ago (Draft EIS in August, 1984; Final EIS in January 1985). Since that time, All American has proposed to extend the line to Webster, Texas (on Galveston Bay). The extension would roughly parallel Interstate 10, then would cross the Texas Hill county near Fredericksburg; then would pass between Austin and San Antonio. Continuing east-southeast, it would pass south of Houston, branching near Galveston Bay to end at Webster and Texas City.

The pipeline would transport approximately 300,000 barrels per day of heated outer continental shelf (OCS) crude through an insulated, 30-inch pipe. The pipeline could also receive San Joaquin crude at Emidio, California; Alaskan crude via the Four Corners pipeline at Cadiz, California; and West Texas crude.

The Draft SEIS describes the implications of constructing and operating the McCamey to Webster extension. The document also assesses two alternative routes of the extension, including a northern route (which would pass near San Angelo, Waco, and College Station) and a southern route (which would pass near Del Rio, San Antonio, and Victoria). The analysis is focused on impacts related to significant areas of concern identified by agencies and by the public during eleven public scoping meetings held in August, 1986.

These include the possible effects of an oil spill on the Edwards aquifer and at river crossings, impacts on wildlife, archaeological resources, air quality, existing land uses, and an assessment of the safety of the pipeline system.

Ten public hearings will be held during the public review. The location and dates of the hearings will be announced shortly.

Comments on the Draft SEIS should be submitted to the following address; use of any other address may result in comments not being processed:

William S. Haigh, California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, CA 92507

A limited number of copies of the Draft SEIS are available upon request at the same address.

Dated: January 26, 1986.

Hugh Riecken,

Associate District Manager.

[FR Doc. 87-1985 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

January 14, 1987.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., January 14, 1987.

The supplemental plat, showing the subdivision of Tract 37, T. 5 S., R. 100 W., Sixth Principal Meridian, Colorado, was accepted January 7, 1987.

The preparation of this supplemental plat was requested by Lands and Minerals Operations for the purpose of issuance of a patent to oil shale placer claims.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-1811 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-JB-M

Filing of Plat of Survey; Utah

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 25 S., R. 4 W.

This plat represents the dependent resurvey of portions of T. 25 S., R. 4 W., Salt Lake Meridian, Utah, for Group 669 accepted October 29, 1986.

Salt Lake Meridian, Utah

T. 28 S., R. 6 W.

This plat represents the dependent resurvey of portions of T. 28 S., R. 6 W., Salt Lake Meridian, Utah, for Group 675 accepted October 29, 1986.

Salt Lake Meridian, Utah

T. 10 S., R. 1 E.

This plat represents the dependent resurvey of portions of T. 10 S., R. 1 E., Salt Lake Meridian, Utah, for Group 654 accepted November 7, 1986.

Salt Lake Meridian, Utah

T. 10 S., R. 2 E.

This plat represents the dependent resurvey of a portion of T. 10 S., R. 2 E., Salt Lake Meridian, Utah, for Group 654 accepted November 7, 1986.

Uintah Meridian, Utah

T. 2 S., R. 10 W.

This plat represents the dependent resurvey of a portion of T. 2 S., R. 10 W., Uintah Meridian, Utah, for Group 657 accepted November 14, 1986.

Salt Lake Meridian, Utah

T. 40 S., R. 16 W.

This supplemental plat shows a portion of T. 40 S., R. 16 W., Salt Lake Meridian, Utah, was accepted November 24, 1986.

Salt Lake Meridian, Utah

T. 40 S., R. 23 E.

This supplemental plat shows a portion of T. 40 S., R. 23 E., Salt Lake Meridian, Utah, was accepted July 28, 1986.

Salt Lake Meridian, Utah

T. 13 S., R. 3 E.

This plat represents the dependent resurvey of a portion of T. 13 S., R. 3 E., Salt Lake Meridian, Utah, for Group 658 accepted November 24, 1986.

Salt Lake Meridian, Utah

T. 25 S., R. 1 W.

This plat represents the dependent resurvey of a portion of T. 25 S., R. 1 W., Salt Lake Meridian, Utah, for Group 664 accepted November 24, 1986.

Salt Lake Meridian, Utah

T. 25 S., R. 1 E.

This plat represents the dependent resurvey of a portion of T. 25 S., R. 1 E., Salt Lake Meridian, Utah, for Group 664 accepted November 24, 1986.

Salt Lake Meridian, Utah

T. 6 N., R. 5 W.

This plat represents the dependent resurvey of a portion of T. 6 N., R. 5 W., Salt Lake Meridian, Utah, for Group 698 accepted December 10, 1986.

Glen B. Hatch,

Chief, Branch of Cadastral Survey.

[FR Doc. 87-1795 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has 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 infomation collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Product Valuation and Associated Allowances—Oil

Abstract

The Government collects royalties resulting from the sale of Federal and Indian Oil. In some cases an allowance may be granted to compensate lessees for the reasonable costs of transporting the royalty portion of the oil to a delivery point remote from the lease. Transportation allowances are taken as a deduction from royalty. The product valuation procedure is essential to ensure that the public and the Indians receive royalty payment on the full value of the minerals being removed. Failure to collect the data described in this information collection could result in undervaluation of oil and make it impossible to ensure that royalty rates computed and paid are appropiate.

Bureau Form Number: MMS-4110

Frequency: On occasion, annually, or when circumstances cause changes

Description of Respondents: Oil companies

Annual Response: FY-1988—1,285

Annual Burden Hours: FY-1988—6,625

Bureau Clearance Office: Dorothy Christopher, 703-435-6213

Dated: January 5, 1987.

Jimmy W. Mayberry,

Acting Associate Director for Royalty Management.

[FR Doc. 87-1812 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

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 information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Product Valuation and Associated Allowances—Coal.

Abstract

The Government collects royalties resulting from the sale of Federal and Indian coal. Coal sales contracts are required to be submitted upon request by MMS to ensure that the Federal or Indian lessor receives royalties that are based on product values representing fair market value. In some cases an allowance may be granted from royalties to compensate the lessee for the reasonable actual cost of washing the royalty portion of the coal. An allowance may also be granted for transporting the royalty portion of coal to a sales point not on the lease or in the mine area. Failure to collect the data described in this information collection could result in the undervaluation of coal and render it impossible to assure that the public and/or the Indians receive payment on the full value of the minerals being removed.

Bureau Form Numbers: MMS-4292 and MMS-4293.

Frequency: Annually, whenever new contracts are executed, or when circumstances cause changes.

Description of Respondents: Solid minerals mining companies.

Annual Responses: In year of implementation, FY-1987—30. After FY-1987—27.

Annual Burden Hours: FY-1987—1,490. After FY-1987—769.

Bureau Clearance Officer: Dorothy Christopher 703-435-6213.

Dated: January 5, 1987.

Jimmy W. Mayberry,

Acting Associate Director for Royalty Management.

[FR Doc. 87-1813 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that CNG Producing Company, Unit Operator of the Ship Shoal Block 271 Federal Unit Agreement No. 14-08-0001-8784, has submitted a DOCD describing the activities it proposes to conduct on the Ship Shoal Block 271 Federal unit. 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 Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on January 13, 1987.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Parkway, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Ron Brignac; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Phone (504) 736-2664.

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.

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: January 22, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-1814 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct of Lease OCS 0130, Block 229, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on January 20, 1987.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OSC 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).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert, 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.

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: January 22, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-1815 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Cape Cod National Seashore; Supplement to The Analysis of Management Alternatives for Three Sisters Lighthouses Relocation With Environmental Assessment

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of a supplement to the analysis of management alternatives for Three Sisters Lighthouses Relocation with environmental assessment.

SUMMARY: The National Park Service has prepared a Supplement to the Analysis of Management Alternatives for the Three Sisters Lighthouses relocation at Cape Cod National Seashore. The Environmental Assessment includes a detailed description of each supplemental alternative, and describes the mitigating actions for the proposed relocation. These additional sites are being considered in response to comments received on the initial alternatives evaluated for relocation of the Three Sisters Lighthouses.

With this Notice of Availability, the National Park Service is seeking comments on the Supplement to the Analysis of Management Alternatives. These comments will supplement those received on the initial alternatives to assist the National Park Service in selecting an alternative for future relocation of the Three Sisters Lighthouses.

DATES: Written comments will be accepted until March 2, 1987.

ADDRESSES: Comments should be directed to: Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Copies of the Supplement to the Analysis of Management Alternatives are available at the Cape Cod National Seashore Headquarters office in South Wellfleet, Massachusetts 02663.

January 15, 1987.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 87-1844 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committe Act that a meeting of the National Capital Memorial Commission (formerly the National Capital Memorial Advisory Committee) will be held on Thursday, February 12, 1987, at 8:30 a.m., in the Conference Room at the National Park Service, National Capital Regional Headquarters Building, 1100 Ohio Drive, SW., Room 234, Washington, DC 20242.

The Commission was established by Pub. L. 99-652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on which agency has jurisdiction over the lands involved in the matter, on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC, or its environs.

The members of the Commission are as follows:

William Penn Mott, Chairman, Director, National Park Service, Washington, DC
George M. White, Architect of the Capitol, Washington, DC
Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC
J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC
Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC
Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC
William Sullivan, Commissioner, Public Buildings Service, Washington, DC
Caspar W. Weinberger, Secretary, Department of Defense, Washington, DC

The purpose of the meeting will be to review and take action on the following:

I. Legislative Proposals—Comments to the Secretary of the Interior.
  a. S. 261—To establish a Peace Garden.
  b. S. 232—To establish a memorial to Hyam Solomon.
II. Site Selection of authorized memorials.
  a. Francis Scott Key—Pub. L. 99-531
  b. Kahlil Gibran—Pub. L. 98-537
  American Armored Force—Pub. L. 99-620
  d. Black Revoluntionary War Patriots—Pub. L. 99-558
III. Discussion of Pub. L. 99-652—"An act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes."
  a. Map of Areas I and II.
  b. Commission Meeting Schedule
  c. Commision Procedures
  d. Regulations
  e. Temporary site designation
IV General Business.

The meeting will be open to the public. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordinaton, National Capital Region, at 202-426-7750. A transcript of the meeting will be available for public inspection four weeks after the meeting at the Office of Land Use Coordination, National Capital Region, Room 202, 1100 Ohio Drive SW., Washington, DC 20242.

Dated: January 23, 1987.

John Parsons,

Acting Regional Director, National Capital Region.

[FR Doc. 87-1843 Filed 1-29-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency of International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Eightieth Meeting of The Board for International Food and Agricultural Development (BIFAD) on February 13, 1987.

The purposes of the Meeting are to discuss a Collaborative Research Support Program Study Report, the Zambia Agricultural and Extension (ZAMARE) Project, and the African Plan for Agricultural Research and Faculties of Agriculture and to receive various BIFAD Committee reports.

The Meeting will be held at 8:30 a.m. and adjourn at 12:00 on February 13, 1987. The meeting will be held in the Loy Henderson Conference Room, Rm. 1315, State Department, 2201 C Street, Washington, DC 20523. Any interested person may attend, and may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Marshall D. Brown, Counselor to the Administrator, C/AID, Agency for International Development, is designated as AID Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Mr. Charles Ward, Deputy Executive Director BIFAD Staff, in care of the Agency for International development, Washington, DC, 20523, or telephone him on (202) 647-8976.

Dated: January 21, 1987.

Marshall D. Brown,

A.I.D. Advisory Committee, Representative Board for International Food and Agricultural Development.

[FR Doc. 87-1850 Filed 1-29-87; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[No. 29886 (Sub-1)]

Official—Southwestern Divisions; Joint Rates Between Official and Southwestern Territories

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The orders prescribing joint rate divisions in *Official-Southwestern Divisions*, 287 I.C.C. 553 (1953), are modified, effective immediately, to permit carriers to depart from prescribed divisions, without notice to or action by the Commission, when a voluntary agreement is reached among participating carriers. The prescription will be vacated upon approval and implementation of a transition plan the carriers are directed to develop.

DATES: This action is effective on January 29, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Bldg., Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1847 Filed 1-29-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30961]

Indiana & Ohio Rail Corp.; Filing of Continuance in Control Exemption

Indiana and Ohio Rail Corporation (IORC), a non-carrier, has filed a notice of exemption to continue in control of Indiana and Ohio Railway Company (IORy), after it becomes a rail carrier, and Indiana and Ohio Railroad Company (IOR), a Class III railroad.

IORC is the parent corporation of both IORy and IOR. IORy is a corporation organized for the purpose of acquiring two lines owned and operated in Ohio by IOR. The two lines total approximately 26 miles in length and run as follows: (1) Between Mason, OH, and Middletown, OH, where it connects with the Consolidated Rail Corporation (Conrail); and (2) between Brecon, OH, and Norwood, OH, connecting with Conrail near Cincinnati, OH. The transaction by which IOR seeks to acquire these two lines is the subject of a notice of exemption in Finance Docket No. 39060, filed concurrently with this notice. IOR will continue to own and operate a third line that runs approximately 26 miles from Brookville, IN, to Valley Junction, OH, where it connects with Conrail.

IORC states that the three lines do not connect, although they are managed and operated as one entity. IORC also states that the continuance in control of IOR and IORy is not part of a series of anticipated transactions that would lead to a connection between them or any railroad in their corporate family. This is a transaction involving the acquisition or continuance in control of a nonconnecting carrier that is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the requirements of 49 U.S.C. 10505(g)(2).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 21, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1845 Filed 1-29-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30960]

Indiana & Ohio Railway Co.; Filing of Acquisition and Operation Exemption

Indiana and Ohio Railway Company (IORy) has filed a notice of exemption to acquire and operate two rail lines in Ohio owned and operated by the Indiana and Ohio Railroad Company (IOR), a corporate affiliate and a Class III railroad, as follows: (1) The 16.6-mile Middletown/Mason Secondary Track, extending from milepost 0 at Middletown, where it connects with the Consolidated Rail Corporation (Conrail), to milepost 12.2 at Mason, OH, and including a 4.4-mile branch line from Hageman Junction to Lebanon, OH; and (2) the 9.4-mile Blue Ash Secondary Track, extending from milepost 39.76 at Brecom to milepost 49.60 at the McCullough Yard, where it connects with Conrail, near Cincinnati, OH.

Comments must be filed with the Commission and served on Robert L. Calhoun, Sullivan and Worcester, 1025 Connecticut Avenue NW., Suite 806, Washington, DC, 20036. (202) 775-8190.[1]

This notice is related to Finance Docket No. 30961, where the Indiana and Ohio Rail Corporation, the parent of IORy and IOR, has concurrently filed a notice of exemption to continue in control of IORy and IOR.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 21, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1846 Filed 1-29-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket Nos. AB-6 (Sub-No. 290) and (Ab-57 (Sub-24)]

Burlington Northern and Soo Line Railroad Co.; Findings on Abandonment in Crow Wing County, MN

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company and the Soo Line Railroad Company to abandon their jointly-owned 16.91-mile line of railroad in Crow Wing County, MN as follows:

(1) Between Deerwood (Station 1-2081.2) and Trommald (Station 111+67.1), including the stations of Ironton (Station 181+72.4) and Trommald (Station 105+02.1), a distance of 9.83 miles;

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[1] The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since this transaction involves an exemption from 49 U.S.C. 10901, RLEA's request is rejected. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985).

(2) Between Huntington Junction (Station 209+63.8) and Riverton (Station 313+62.6), including the station of Riverton (Station 278+39.7), a distance of 2.31 miles; and

(3) Between Ironton (Station 75+54.5) and Cuyuna (Station 6+59.5), including the station of Cuyuna (Station 62+84.5), a distance of 4.77 miles.

In addition, the Commission authorized the Soo Line Railroad Company to abandon its solely-owned .98-mile line of railroad in Crow Wing County, MN as follows: Between Crosby Junction and Crosby, from Station 32+82 to Station 1+25 and from Station 188+58 to Station 208+95, including Station 32+82, Station 1+25, Station 188+58, and Station 208+95.

The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1848 Filed 1-29-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30800, et al.; Decision No. 9]

Union Pacific Corp. et al.; Pre-Hearing Conference on Proposed Procedural Schedule

AGENCY: Interstate Commerce Commission.

ACTION: Pre-hearing conference.

SUMMARY: The Commission is ordering a pre-hearing conference to seek further comment on the procedural schedule in this proceeding. Any interested party may attend. An Administrative Law Judge will conduct the conference, and the Commission then will issue the decision on the schedule.

DATES: The conference will be held February 10, 1987 at 10:30 a.m.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

or

Alan Greenbaum, (202) 275-7322.

ADDRESS: The conference will be held at: Hearing Room A, Interstate Commerce Commission, 12th Street and Constitution Avenue, NW., Washington, DC 20423.

SUPPLEMENTARY INFORMATION:

By decision served October 29, 1986, notice published at 51 FR 39718, October 30, 1986, we requested public comment concerning applicants' proposed expedited procedural schedule. Under that schedule the record would be completed within approximately nine months after the filing of the application, which occurred on November 14, 1986.

We received comments from the Chicago, Central & Pacific Railroad Company (CCP), The Kansas City Southern Railway Company and Louisiana, Arkansas Railway Company (collectively KCS), Noel G. Jones, Jr., Oklahoma, Kansas and Texas Rail Users Association (OKTRUA), and the United States Department of Justice (DOJ). Applicants replied. CCP, Mr. Jones, and OKTRUA are in favor of applicants' schedule. KCS opposes the schedule. DOJ is not opposed to a more rapid schedule but requests that a pre-hearing conference be held to discuss the details of the procedural schedule.

We will hold a pre-hearing conference to accommodate DOJ's request. Interested parties have now had the opportunity to review the application and may raise issues that might require adjustments to applicants' proposed schedule.

Preliminarily, we note that, in response to DOJ's comments, applicants have agreed to delay for two weeks their proposed dates for the filing of opening and reply briefs. We also believe that the date proposed for oral argument, approximately 1 month after the filing of reply briefs, might properly be delayed another month to allow us sufficient time to analyze the record. Finally, we note that applicants' schedule does not provide sufficient time for the publication of our decision(s) accepting (or rejecting) responsive applications as well as notice of the filing of applicants' merger related abandonment requests.

We have assigned Chief Administrative Law Judge Paul S. Cross to conduct the conference. He shall make a recommendation concerning the proposed schedule. The decision on the procedural schedule will then be made by us, upon consideration of the comments already received, his recommendation, and the conference record.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. A pre-hearing conference concerning the procedural schedule in this proceeding will be held at the time and placed stated above.

2. This decision is effective on the date served.

Decided: January 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary

[FR Doc. 87-1894 Filed 1-29-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 48X), et al.]

The Atchinson, Topeka and Santa Fe Railway Co.; Exemption for Abandonments in Fresno County, CA, Alameda County, CA, and Matagorda County, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by The Atchison, Topeka and Sante Fe Railway Company of (a) 2.0 miles of track in Fresno County, CA; (b) 0.87 mile of track in Alameda County, CA; and (c) 7.21 miles of track in Matagorda County, TX, subject to standard labor protection conditions, and in part (a) a public use condition.

DATES: These exemptions are effective on March 2, 1987. Petitions to stay must be filed by February 9, 1987, and petitions for reconsideration must be filed by February 19, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-52 (Sub-Nos. 48X, 50X or 51X) as applicable to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate

Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–1893 Filed 1–29–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276 (a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Supersedeas Decisions to General Wage Determination Decisions

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Illinois:
- IL87-12 (Jan. 2, 1987) .... p. 174.
- IL87-13 (Jan. 2, 1987) .... pp. 175–184.

Indiana:
- IN87-6 (Jan. 2, 1987) .... p.304.

Wisconsin:
- WI87-8 (Jan. 2, 1987) .... pp. 1105–1122.
- WI87-9 (Jan. 2, 1987) .... pp. 1123–1126.
- WI87-10 (Jan. 2, 1987) .... pp. 1127–1138.
- WI87-11 (Jan. 2, 1987) .... pp. 1139–1142.
- WI87-12 (Jan. 2, 1987) .... pp. 1143–1146.
- WI87-13 (Jan. 2, 1987) .... pp. 1147–1150.
- WI87-14 (Jan. 2, 1987) .... pp. 1151–1154.
- WI87-15 (Jan. 2, 1987) .... pp. 1155–1158.
- WI87-16 (Jan. 2, 1987) .... pp. 1159–1162.

Listing by Location (index) ...... pp. lvi, lxiii.

Volume III

Nevada:
- NV87-1 (Jan. 2, 1987) .... pp. 235–256.
- NV87-2 (Jan. 2, 1987) .... pp. 257–260b.

North Dakota:
- ND87-2 (Jan. 2, 1987) .... p. 228.
- ND87-3 (Jan. 2, 1987) .... pp. 229–230.
- ND87-4 (Jan. 2, 1987) .... pp. 231–234.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Dispository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 23 day of January 1987.

James L. Valin,

Assistant Administrator.

[FR Doc. 87–1827 Filed 1–29–87; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-09]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committe, Informal Executive Advisory Subcommittee.

DATE AND TIME: February 13, 1987, 9 a.m.–5 p.m.

ADDRESS: Bell Telephone Laboratories, 600 Mountain Avenue, Conference Room 1E449, Murray Hill, NJ 07974.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1410).

SUPPLEMENTARY INFORMATION: The Space and Earth Science Advisory Committee's Executive Subcommittee will meet to consider possible future study activities and to plan the remainder of the year's activities for the Space and Earth Science Advisory Committee. The Committee is chaired by Dr. Louis Lanzerotti and is composed of 4 members. The meeting will be open to the public up to the seating capacity of the room (approximately 10 persons, including committee members and other participants).

Type of Meeting: Open.

Agenda: No formal Committee agenda.

Richard L. Daniels,

Advisory Committee Management Officer National Aeronautics and Space Administration.

[FR Doc. 87-1828 Filed 1-29-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Opening of the Nixon White House Special Files

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of files.

SUMMARY: Opening of the Nixon White House Special Files. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (88 Stat. 1695; 44 U.S.C. 2111 note) and section 1275.42(b) of the Public Access Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access an integral file segment of material among the Nixon Presidential materials in the custody of the National Archives and Records Administration.

DATES: The National Archives intends to make the integral file segment described in the notice available to the public beginning May 4, 1987.

Any person who believes it necessary to file a claim of privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before May 1, 1987.

ADDRESSES: The file segment will be made available to the public at the National Archives' Alexandria facility, located at 845 South Pickett Street, Alexandria, Virginia.

Petitions concerning access must be sent to the Archivst of the United States, National Archives and Records Administration (N), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: James J. Hastings, Deputy Director, Nixon Presidential Materials Project Staff, 703-756-6498.

SUPPLEMENTARY INFORMATION: The file segment that has been prepared for public access, known as the White House Special Files, consists of 628.3 cubic feet of textual materials that were placed under the protective custody and control of the Special Files Unit during the presidency of Richard M. Nixon. The Special Files Unit was a unique filing organization within the White House that was established in 1972 to provide a central storage location for materials that were to be given special care and handling. The selection of materials by the Special Files Unit focused mainly on political matters. The Special Files document many aspects of the Nixon administration from January 20, 1969, to August 9, 1974.

This file segment includes portions of two major bodies of Presidential materials: Staff Member and Office Files; and selected subjects from the Confidential Files of the White House Central Files. In addition, the President's Office Files and the President's Personal Files are included in their entirety. Listed below are the file groups that constitute the Special Files.

File group	Volume (cubic feet)
Desmond J. Barker, Jr.	1
John R. Brown III	1
Patrick J. Buchanan	9
Stephen B. Bull	2
Alexander P. Butterfield	3
J. Fred Buzhardt	2
Dwight L. Chapin	14
Charles. W. Colson	43
John W. Dean III	39
Harry S. Dent	4
John D. Ehrlichman	23
Michael J. Farrel	1
Perter J. Flanigan	5
David R. Gergen	1
Alexander M. Haig	16
H.R. Haldeman	136
Edwin L. Harper	.3
David C. Hoopes	10
W. Richard Howard	2
Kenneth L. Khachigian	10
Herbert G. Klein	2
Tom C. Korologos	1
Egil Krogh, Jr.	28
Frederic V. Malek	1
Peter E. Millspaugh	1
Terrence O'Donnell	1
Peter G. Peterson	1
John A. Scali	2
Geoffrey Shepard	1
Hugh W. Sloan, Jr.	1
Gordon C. Strachan	7
Richard C. Tufaro	2
Gerald L. Warren	1
J. Bruce Whelihan	4
David G. Wilson	1
David R. Young	9
Ronald L. Ziegler (includes the files of the Press Office and Agnes Waldron)	17
Special Staff Files (materials from staff members and other than those listed above)	3
Staff Secretary	73
White House Special Files Administrative Files	2
White House Special Files: Subject Categories (from Central Files)	41
President's Office Files	38
President's Personal Files (materials considered by the President personally)	69

Public access to some of the items in this integral file segment will be restricted as outlined in 36 CFR 1275.50 or 36 CFR 1275.52, Public Access Regulations.

Dated: January 16, 1987.

Frank G. Burke, *Acting Archivist of the United States.*

[FR Doc. 87-1688 Filed 1-29-87; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

Low-Level Radioactive Waste Disposal Facility; Availability of Publications Concerning License Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of two publications concerning license applications for a Low-Level Radioactive Waste Disposal Facility. These publications specify the information needed by NRC to perform its safety review and explain the technical review process.

ADDRESS: Copies of NUREG-1199 and NUREG-1200 may be purchased by calling the U.S. Government Printing Office, (202) 275-2060 or 2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082.

FOR FURTHER INFORMATION CONTACT: Clayton L. Pittiglio, Jr., Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 427-4793.

SUPPLEMENTARY INFORMATION: Section 61.10 of Title 10 of the Code of Federal Regulations (10 CFR Part 61.10) specifies the general contents of a license application for a Low-Level Radioactive Waste Disposal Facility. The Nuclear Regulatory Commission's safety review is primarily based on the information provided by the applicant in the license application. The Standard Format and Content, NUREG-1199, specifies the information which should be provided to perform the review and defines an efficient format for presenting that information. The Standard Review Plan, NUREG-1200, defines the technical review process. These documents provide a definition of a complete license application and review procedures to assure that NRC can review and process that application within 15 months in order to meet the requirements of Pub. L. 99-240, the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA) of 1985.

The Standard Format and Content, NUREG-1199, specifies the information which should be provided in the license application and also establishes a uniform format for presenting that information. To aid the applicant and to promote efficient review of the application by NRC staff, the format parallels the organization of the Standard Review Plan. The use of the Standard Format will: (1) Help ensure that the license application contains the information required by 10 CFR 61, (2) aid the applicant in ensuring that the information is complete, (3) help persons reading the application to locate information, and (4) contribute to shortening the time required for the review of a license application. By defining the contents of a complete application, this document provides the basis for making findings pursuant to sections 5(e)(1) (C) and (D) of the LLRWPAA of 1985.

The Standard Review Plan (SRP), NUREG-1200, is prepared for the guidance of staff reviewers in performing safety reviews of applications to construct and operate a low-level waste disposal facility. The principal purpose of the SRP is to assure the quality and uniformity of staff reviews and to present a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. It is also a purpose of the SRP to make information about regulatory matters widely available and to improve communication and understanding of the staff review process by States, Compacts, interested members of the public and the industry.

The SRP consists of 11 Chapters containing approximately 60 individual SRP sections. The SRP sections identify who performs the review, the matters that are reviewed, the basis for review, how the review is performed, and the conclusions that are sought. This provides assurance that NRC can review and process a license application within 15 months and meet the requirements of sections 9(1) and 9(2) of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA) of 1985.

Dated at Silver Spring, Maryland, this 23rd day of January, 1987.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Chief, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 87-1764 Filed 1-29-87; 8:45 am]

BILLING CODE 7590-01-M

Iowa Electric Light and Power Co., Central Iowa Power Cooperative and Corn Belt Power Cooperative; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain testing requirements of Appendix J to 10 CFR Part 50 to the Iowa Electric Light and Power Company (IELP/the licensee) for the Duane Arnold Energy Center located at the licensee's site in Linn County, Iowa.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from certain requirements of Appendix J to 10 CFR Part 50 for Type B and C testing of certain valves, vents, drains, sumps and penetrations which maintain containment integrity at design basis accident conditions. The exemption is strictly schedular in that it would allow a 75-day extension of the 2-year test interval required by Appendix J for the above components.

The Need for the Proposed Action

The licensee shut down for its Cycle 8 refueling outage on February 2, 1985 and was scheduled to shut down for its Cycle 9 refueling outage on February 1, 1987. However, because of an unanticipated 11-week outage extension in 1985, the shutdown for Cycle 9 refueling and other modifications has been extended to mid-March, 1987 if the unit operates continuously. This will cause IELP to exceed the 2-year test interval required by Appendix J for Type B and C testing of certain components.

Environmental Impact of the Proposed Action

The proposed exemption affects only the interval between the test of certain components required to assure containment integrity. Because the operational period of these components will be shortened due to the aforementioned 11 week Cycle 8 refueling outage extension, there is no anticipated decrease in the reliability of these components to operate as designed in the event of an accident. Post-accident radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affected facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radioligical or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the 2-year test interval for Type B and C components required in Appendix J. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Duane Arnold Energy Center.

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 environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letters dated October 31, 1986 and January 2, 1987. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Cedar Rapids Public Library, 500 First Street SE., Cedar Rapids, Iowa 52401.

Dated at Bethesda, Maryland this 27th day of January 1987.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Director, BWR Project Directorate #2, Division of BWR Licensing

[FR Doc. 87-1876 Filed 1-29-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-254 and 50-265]

Denial of Amendment to Facility Operating License and Opportunity for Hearing; Commonwealth Edison Co.

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for an amendment to Facility Operating License Nos. DPR-29 and DPR-30 issued to the Commonwealth Edison Company for operation of the Quad Cities Nuclear Power Station, Units 1 and 2 in Rock Island County, Illinois. Notice of consideration of issuance of these amendments was published in the **Federal Register** on August 14, 1985 (50 FR 32790).

The amendments, as proposed by the licensee, would change Technical Specification 3.9.E.1, for both Units 1 and 2, deleting the requirement for testing the operable Emergency Diesel Generator (EDG) immediately and daily therafter when it is determined that either unit EDG or the shared EDG is inoperable. Standard Technical Specifications require, as a minimum, testing the operable EDG within 24 hours and 72 hours thereafter when the other unit diesel is inoperable.

Although NRC staff has determined that reducing EDG cold fast starts would improve EDG reliability and therefore, the risk of core damage from station blackout events, it was not NRC staff's intent to eliminate completely the testing of the remaining EDG when an EDG is declared inoperable. NRC staff intent was only to reduce testing. Therefore, the Commonwealth Edison Company proposed changes were denied.

All other proposed changes to the Technical Specifications, for both Units 1 and 2, have been approved by Amendment Nos. 99, and 96. Notice of issuance of Amendment Nos. 99 and 96, will be published in the Commission's biweekly **Federal Register** Notices.

The licensee was notified of the Commission's denial of the proposed technical specification changes by letter dated January 21, 1987.

By March 2, 1987 the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to M. I. Miller; Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1985, and (2) the Commission's Safety Evaluation issued with Amendment No. 99 to DPR-29 and Amendment No. 96 to DPR-30, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Moline Public Library, 504 17th Street, Moline, Illinois 61265. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing.

Dated at Bethesda, Maryland, this 21st day of January, 1987.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate #1, Division of BWR Licensing.

[FR Doc. 87-1877 Filed 1-29-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24016; File No. SR-Amex-86-27]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc., Relating to a System Modification to the Amex/Toronto Trading Linkage

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 16, 1986, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, in connection with its trading linkage with the Toronto Stock Exchange, has developed a system modification allowing for the display on the Amex floor of a composite quote, showing the TSE Canadian dollar quote as converted to U.S. dollars.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

When the Amex/Toronto linkage was initiated in September, 1985, Toronto Stock Exchange quotations were displayed on the Amex floor in Canadian dollars along with the current conversion rate. In order to compare market prices, it was necessary for the Amex specialist to manually convert the

Canadian price into U.S. dollars using the conversion rate.

The Exchange has since developed a mechanism for displaying on the Amex floor a composite quote showing the TSE price similtaneously in both U.S. and Canadian dollars. The Canadian price is reflected in this manner on Bridge Data terminals on the floor.

(b) Basis

This system modification is consistent with section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is intended to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The system modification will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1838 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24017; File No. SR-CBOE-86-37]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Committees of the Exchange

Pursuant the section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Chicago Board Options Exchange has proposed a change to its rule respecting the appointment of committees to shift appointive power for any committee from the Chairman of the Executive Committee if he is, or believes he may become, a party to a proceeding before that committee. In such a situation, the Chairman of the Board would have the appointive power.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change amends the rule relating to appointment of Exchange committees. These amendents provide for the nomination of the members and chairman of an Exchange committee by the Chairman of the Exchange when the Chairman of the Executive Committee is, or has reason to believe he may become, a party to a proceeding of that committee.

The Exchange believes that the provisions will strengthen its administrative process. The proposed change to Rule 2.1 provides that the Chairman of the Board would substitute for the Chairman of the Executive Committee in the appointment and removal of committee members in the event the Chairman of the Executive Committee is, or has reason to believe he may become, a party to a proceeding of that committee. This change will eliminate any appearance of impropriety which might arise from the Chairman of the Executive Committee appointing a panel of members which is to render a decision in a matter in which he is personally interested.

The proposed rule change is consistent with the Securities Exchange Act of 1934 and, in particular, Sections 6(b)(1), (5) and (6) thereof, in that the proposed rule change enhances the Exchange's administrative and disciplinary processes.

(B Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A By order approve such proposed rule change, or

(B Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submissions all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Date: January 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1839 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24008; File No. CBOE-85-44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

On May 19, 1986, the Chicago Board Options Exchange, Incorporated, submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to implement a two year Trading Crowd Performance Evaluation pilot program.[1]

The proposed rule change was noticed in Securities Exchange Act Release No. 23326 (June 16, 1986), 51 FR 23295 (June 26, 1986). No comments were received on the proposal.

The Exchange proposes to adopt a new Rule 8.12 ("Evaluation of Trading Crowd Performance") to provide for a two year pilot program during which the Market Performance Committee ("MPC") periodically will conduct evaluations of members, individually and/or collectively as participants in a trading crowd, to determine whether they have fulfilled performance standards relating to quality of markets, competition among market-makers, ethics, compliance with Exchange rules and other administrative factors.[2] The MPC may consider any information as relevant, but in particular the Rule provides that a trading crowd evaluation will be conducted every six months. Floor brokers, selected by CBOE staff on the basis of activity in more than one crowd, will complete questionnaires to evaluate crowds.[3] The questionnaires to be used will have a series of questions with numerical totals, to be totaled on a raw and a weighted basis. Trading crowds rated in the bottom 10% of the aggregate results of the survey will be presumptively deemed to have failed to meet minimum performance standards.[4] Members of a trading crowd will be presumptively deemed to be responsible for the aggregate trading crowd evaluation.

The MPC may call an informal meeting for a failure to meet minimum performance standards, for the purpose of encouraging improved market maker performance. To ensure that such informal meetings encourage free and open discussion, and to avoid a technical or adversarial contest, the Rule specifies that such meetings will not be transcribed and that, ordinarily counsel will not participate.

The MPC also may conduct formal meetings, at which rights of confrontation and rights to counsel will apply. This review process by the MPC incorporates appropriate procedural safeguards. When a trading crowd is found not to meet minimum standards of performance, members of the crowd will provide notice and an opportunity to be heard at one or more meetings. The presentation made by a member can be on his own behalf, on behalf of the trading crowd, or both. Based on the information adduced at the hearing, the MPC will have the authority to suspend, terminate or restrict a market-maker's registration and appointment to one or more options classes, relocate option classes, and prohibit a member from trading at a particular trading station.[5]

If any remedial measures are taken, the MPC will issue findings supporting its determination, and affected members may seek review by the CBOE Board of Directors ("Board"). The Boards review, however, will be limited to matters presented to the MPC.[6] This limitation is designed to encourage members to present all pertinet information to the MPC, enabling it to provide an informed decision and ensuring that the Board will not be unduly and inappropriately burdened by de novo hearings. The Board will affirm the MPC's decision

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[1] The current filing is Amendment No. 1 to File No. SR-CBOE-85-44, which was originally submitted to the Commission on November 4, 1985.

[2] This proposal provides a procedure for evaluation of individual market-makers as part of an Exchange trading crowd as well as evaluation of the trading crowd as a whole. Trading crowds are located at various trading stations on the Exchange floor at which listed options classes are grouped. A trading station is a physically discrete portion of a trading post, where the display screens for the group of options classes are located, and all transactions in such options classes are effected.

In the CBOE's competitive market-maker system, market-makers are appointed to make markets in classes of options contracts, and generally become regular participants in particular trading crowds where certain groups of their appointed options classes are located. In the CBOE's view differentiation among individual members of a crowd is usually neither practical nor useful. Therefore, the Exchange believes it is appropriate to evaluate the performance of trading crowds as a whole and to take remedial measures if performance of a particular trading crowd does not meet minimum standards.

[3] The questionnaire also may be completed by Post Directors, also selected by CBOE staff. Post Directors supervise trading crowds in the various options classes.

[4] As discussed below, these persons will have the opportunity to rebut the presumption.

[5] Currently, CBOE Rules 8.2 and 8.3 permit the Floor Procedure ("FPC") or MPC to suspend or terminate a member's registration as a market-maker and to suspend or terminate a member's appointment to a paticular options classes. The Exchange also selects the location where options classes are to be traded. Under the proposed rule change, all of these powers will be available to the MPC, as appropriate, to remedy deficient trading crowd performance. The MPC also will have the authority to take other related remedial measures in appropriate cases, including restricting a marketmaker's registration and appointments, and prohibiting trading at a particular trading station. The authority to prohibit trading at a particular station would flow from the CBOE's general authority under Rule 8.7 to prohibit congregating at a trading station. In this regard, the Commission notes that it previously has stated that it does not believe that similar programs to improve market-maker performance would constitute disciplinary proceedings against a member or limitation on access to services offered by the Midwest Stock Exchange ("MSE") under section 19(d) of the Act. *See* Securities Exchange Act Release No. 15827 (May 15, 1979), 44 FR 29778 at 29781 nn. 21 and 22; and *In re* James H. Niehoff & Co. SEC Order Denying Request to Stay Action of the Midwest Stock Exchange, File No. 3-6757 (November 20, 1986).

[6] For the purpose, the term "matters" includes the issues, arguments and evidence presented to the MPC as reflected in the record of the MPC proceedings.

unless the MPC is found to have acted without basis, clearly erroneously, or arbitrarily and capriciously.

The Commission believes that the rule change should further the CBOE's ability to ensure liquid and continuous markets for options traded on its floor by permitting it to more effectively enforce the affirmative and negative obligations imposed on CBOE market-makers.[7] Moreover, the Commission believes that the MPC review and Board appeal procedures discussed above should ensure that any action taken against a market-maker will be procedurally fair.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regualtions thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved for a two year pilot period.[8]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 16, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1855 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-M

[7] See CBOE Rule 8.7.

[8] The Commission expects that at the conclusion of the two year pilot, the CBOE should be able to evaluate the pilot and submit a rule change for final approval with any appropriate modificaitons.

[Release No. 34-24009; Filed No. SR-NYSE-86-38]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Restructuring of NYSE Bond Data Fees.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1986, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rate structure for the receipt of NYSE bond data to conform it to the recent restructuring of Network A market data fees by the CTA and CQ Participants.[1] The new fee includes both last sale prices and bid-asked quotations in NYSE bonds. The only variable in determining the fee will be the number of ticker and interrogation devices employed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose. The purpose of the proposed rule change is to conform NYSE bond data fees to the single fee for Network A market data that the CTA and CQ Participants recently created. (Release No. 34-23779 (November 6, 1986) (the "CTA/CQ Release").) The cumulative effect of the proposed rule change and the CTA/CQ fee changes is to create a single fee that includes last sale prices and bid-asked quotations in NYSE bond securities as well as in NYSE-listed stocks, and without regard to the manner of receipt (interrogation or ticker). The only variable to the fee charged professional subscribers will be the total number of ticker or interrogation devices employed.

Under the new rate structure, which follows the same approach as the existing fee policy as to interrogation devices, devices that display NYSE bond data will be subject to the Network A CTA/CQ fees. Thus, a device that displays both Network A data and NYSE bond data will incur a single charge. Stand-alone devices that display NYSE bond data only will be added to the total count of devices displaying Network A data to arrive at the total number of devices used by a firm.

[1] The Exchange requested that the Commission approve its proposed bond data service fee changes to become effective as of the date on which the proposed CTA/CQ Network A fee restructuring takes effect. The Commission anticipates that it will take final action on the CTA/CQ proposal in the near future. *See* Securities Exchange Act Release No. 34-23779 (November 6, 1986) 51 FR 41553 (November 17, 1986).

As is currently the case, the now-combined CTA/CQ fee for nonprofessional subscribers entitles them to receipt of NYSE bond data as well. As is also currently the case, payment of any of the CTA Plan or CQ Plan program classification charges (including the new ones applicable to "Other Services" described in the CTA/CQ Releases) entitles a recipient to make the appropriate use of bond last sale prices or bond bid-asked quotations, respectively.

The fee change is intended to be revenue neutral to the NYSE. The proposed fee will apply equally to all members, non-member broker-dealers and others who subscribe to bond services in accordance with their professional or nonprofessional classification.

(b) Statutory Basis. The basis under the 1934 Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The proposed rule change also relates to section 6(b)(5) of the 1934 Act in that the Exchange's recovery of its costs with respect to its electronic dissemination of bond last sale prices and bond quotations enables the Exchange to make those prices available. This serves to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition. Please see the CTA/CQ Release's "Professional Fee Consolidation" discussion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 20, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1840 Filed 1-29-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1040]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on February 19, 1987 at 1:30 p.m. in Room 1406, Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting will be consideration of contributions and issues related to upcoming CCITT Study Group and/or working parties of Study Group VII and XVII, and any other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Mr. Fereno in the office of Mr. Earl Barbely, State Department, Washington, DC.; telephone (202) 647-5832. All attendees must use the C Street entrance to the building.

Dated: January 9, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development and Chairman of U.S. CCITT National Committee.

[FR Doc. 87-1816 Filed 1-29-87; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice CM-8/1039]

Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS); Meeting

The SOLAS Subcommittee of the Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 am on April 16, 1987, in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

The purpose of the meeting is to finalize preparations for the 54th Session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) which is scheduled for 27 April–May 1987 in London. In particular, the SOLAS Subcommittee will discuss the development of U.S. positions dealing with, inter alia, the following topics:

—Reports of the various subcommittees
—Safety of towed ships and crafts
—Investigations into serious casualties
—Work program

Interested persons may seek information by writing: Mr. G.P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, SW., Washington, DC 20593, or by calling: 202-267-2280.

Dated: January 13, 1987.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87-1817 Filed 1-29-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S-798]

Lykes Bros. Steamship Co., Inc.; Application to Perform Subsidized Service

Lykes Bros. Steamship Co., Inc. (Lykes) by application dated January 9, 1987, has requested an amendment to the Appendix A of Operating-Differential Subsidy Agreement, Contract MA/MSB-451, to provide service on TRs 15-A and 20 (U.S. Atlantic/South and East Africa) and (U.S., Gulf/East Coast South America), respectively.

Lykes states that United States Lines (S.A.) Inc. (USL(S.A.)) currently holds contractual rights on TRs 15-A and 20, but provides no direct service on the routes. Lykes wishes to serve TR 15-A (U.S. Atlantic/South and East Africa) as a privilege on the Line E-Africa Line, TR 15-B service (U.S. Gulf of Mexico/South and East Africa). Lykes indicates that the TR 15-A privilege calls would not exceed the contractual maximum in USL(S.A.)'s MA/MSB-338 for the service, which is 36 sailings per year.

Lykes wishes to serve TR 20 (U.S. Gulf of Mexico/east coast South America) as a privilege on both Line E service and Line F, TR 31/2 service (U.S. Atlantic and Gulf/west coast South America). Lykes indicates that the total number of TR 20 privilege calls for both Line E and Line F would not exceed the contractual maximum in USL(S.A.)'s MA/MSB-353 for the service, which is 53 sailings per year.

Lykes will provide the additional privilege calls with existing vessels and within the existing service maximums for Line E—24 sailings per year and Line F—48 sailings per year.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on February 13, 1987. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Subsidy Board.

Dated: January 27, 1987.

James E. Saari,

Secretary.

[FR Doc. 87-1887 Filed 1-29-87; 8:45 am]

BILLING CODE 4910-81-M

Federal Highway Administration

Environmental Impact Statement; Clackamas and Washington Counties, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Clackamas and Washington Counties, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE., Salem, Oregon 97301, Telephone: (503) 300-5749.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposed project to reconstruct two interchanges on Interstate 5 in Wilsonville. The project would revise and reconstruct the Stafford and Wilsonville interchanges. The project crosses the county line of Clackamas and Washington counties in the City of Wilsonville. The proposed improvement is considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include different interchange designs at both locations and taking no action one or both locations. A possible additional interchange at Boeckman Road will also be investigated.

Information describing the proposed action and soliciting comments will be sent to the appropriate Federal, State and local agencies. Public meetings will be held during project development, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action, and the EIS, should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program)

Issued on: January 13, 1987.

Elton H. Chang,

Environment Coordinator-Safety Prgm Engineer, Oregon Division, Salem, OR.

[FR Doc. 87-1819 Filed 1-29-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Customs Service

Application for Recordation of Trade Name; "Aspen Laboratories, Inc."

ACTION: Notice of application of recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "ASPEN LABORATORIES, INC." used by the Aspen Laboratories, Inc., a corporation organized under the laws of the State of Colorado, located at 181 Inverness Drive West, Englewood, Colorado 80155.

The application states that the trade name is used in connection with the developing and marketing of products for medical electronic equipment, such as electrosurgical electrodes, electro power supply and adapter for power supply to supply electricity to electrosurgical electrodes, manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

Dated: January 21, 1987.

Steven Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87-1859 Filed 1-29-87; 8:45 am]

BILLING CODE 4820-02-M

Application for Recordation of Trade Name; "Medical Engineering Corporation"

AGENCY: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "MEDICAL ENGINEERING CORPORATION" used by the Medical Engineering Corporation, a corporation organized under the laws of the State of Delaware, located at 3037 Mount Pleasant, Racine, Wisconsin 53401.

The application states that the trade name is used in connection with medical prostheses, catheters, drains and tracheal tubes, manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before March 31, 1987.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229. (202-566-5765).

Dated: January 21, 1987.

Steven Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87-1858 Filed 1-29-87; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

A Grants Program for Private Not-For-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

The Marshall Plan: Forty Years Later: The Office of Private Sector Programs Initiative Grants/Bilateral Accords Division will develop a five-day intensive workshop to commemorate the 40th anniversary of the Marshall Plan. The program will focus on the success of the Plan in rejuvenating post-war Europe, and on current concerns and parallel coordinated efforts among members of the Atlantic community. This program is scheduled for either the summer or fall of 1987. Ideally, it will take place in Italy. The participants, who will mainly represent the successor generation, will include members of parliament, political party leaders, governmental officials, and scholars from the United States and Western Europe.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost-effective programming; and with organizations that have potential for obtaining third-party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street, SW, Washington, DC 20547.

Dated: January 23, 1987.

Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 87-1820 Filed 1-29-87; 8:45 am]

BILLING CODE 8230-01-M

Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities

The Office of Private Sector Programs of the United States Information Agency (USIA) announces a program of limited grant support for non-profit U.S. institutions and organizations in the private sector which fosters long-term communications and understanding between the United States and other countries through educational and cultural exchange.

Projects proposed for grant support should be designed to increase mutual understanding between the people of the U.S. and other countries and to strengthen the ties which unite our societies. Projects must include an international people-to-people component and demonstrate a substantial contribution to long-term communication and understanding between the United States and other countries on subjects consistent with Agency themes and priorities. Programs must have an educational or cultural focus of significant long-term interest.

The Office of Private Sector Programs works with not-for-profit organizations on cooperative international group projects which introduce foreign participants to American traditions, values, social and political structures, and international concerns, and Americans to foreign cultures, traditions, and policies. Each private sector activitiy meets the highest professional standards, is non-partisan, and addresses substantive areas of mutual interest.

USIA grant assistance will constitute only a portion of total project funding. Proposals should list other anticipated sources of support—both financial and in-kind. The project should be completed during the duration of the grant, which does not normally exceed one year. Most funding assistance is limited to participant travel and per diem requirements with only modest contributions to cover administrative costs. Grants are not ordinarily given to support research projects or to fund publications. Priority consideration is normally given to projects where United States Information Service posts overseas are directly involved in the process.

The Office of Private Sector Programs is now considering projects whose activities will begin after May 1, 1987. Grant proposals are reviewed on a regular basis and should be submitted in written form a minimum of four months prior to the commencement of proposed program to be eligible for consideration. Inquiries are welcome prior to submission of formal applications.

For further information, organizations interested in participating in this process should contact Dr. Raymond H. Harvey, Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, or call (202) 485-7319.

Dated: January 22 1987.

Dr. Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 87-1821 Filed 1-29-87; 8:45 am]

BILLING CODE 8230-01-M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held February 11, 1987, in Room 600, 301 4th Street, SW., Washington, DC, from 11:00 a.m. to 12 noon.

The Commission will meet with USIA's Counselor and five geographic Area Directors to discuss the Agency's field programs.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: January 22, 1987.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 87-1822 Filed 1-29-87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 20
Friday, January 30, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, February 3, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Roslindale Co-operative Bank of Boston, an operating noninsured co-operative bank located at 40 Belgrade Avenue, Boston (Roslindale), Massachusetts.

Applications for consent to purchase assets and assume liabilities and to establish branches:

Barnett Bank of Polk County, Lakeland, Florida, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in five branches of Barnett Bank of Southwest Florida, Sarasota, Florida, those branches being located at 124 South Florida Avenue, 2600 South Florida Avenue, 4330 U.S. Highway 98 North, 105 Miriam Drive, and 2017 George Jenkins Boulevard, all located in Lakeland, Florida, upon completion of the merger of Barnett Bank of Southwest Florida, National Association, Englewood, Florida, and for consent to establish the foregoing branches of Barnett Bank of Southwest Florida as branches of Barnett Bank of Polk County.

The Quincy State Bank, Quincy, Florida, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Havana Branch, Havana, Florida, and the Chattahoochee Branch, Chattahoochee, Florida, or Pioneer Savings Bank, Clearwater, Florida, a non-FDIC-insured institution, and for consent to establish the Havana Branch as a branch of The Quincy State Bank.

Application for consent to transfer assets in consideration of the assumption of liabilities:

American Bank, National Association, Sandoval County (P.O. Rio Rancho), New Mexico, for consent to transfer certain assets to Albuquerque Federal Savings and Loan Association, Albuquerque, New Mexico, a non-FDIC-insured institution, in consideration of the assumption of certain liabilities of American Bank, National Association.

Recommendations regarding the liquidation of bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,865–L
First Bank & Trust of Idaho, Malad City, Idaho
Case No. 46,866–L
First State Bank, Cache, Oklahoma
Case No. 46,867–L
First City Bank, National Association, Oklahoma City, Oklahoma
Case No. 46,873–L
The First National Bank of Midland, Midland, Texas
Case No. 46,880–L
Girod Trust Company, San Juan, Puerto Rico
Case No. 46,884–L
First National Bank at Douglas, Douglas, Wyoming
Case No. 46,889–L
South Coast Bank, Costa Mesa, California

Reports of committee and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: January 27, 1987.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 87-1971 Filed 1-28-87; 3:10 pm]
BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, February 3, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of these matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Recommendations regarding the Corporation's corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: January 27, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-1972 Filed 1-28-87; 3:10 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

January 22, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE:

January 29, 1987

10:00 a.m. to approximately 12:00 noon.
1:30 p.m. to approximately 3:30 p.m.

PLACE: 825 North Capitol Street, NE., Hearing Room A, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: In the morning session, the Commission will hear comments from the Gas Committee of the National Association of Regulatory Utility Commissioners (NARUC) on the outstanding regulatory issues affecting gas. In the afternoon session, the Commission will hear comments from NARUC's Electric Committee on regulatory issues affecting cogeneration.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-1956 Filed 1-28-87; 1:24 pm]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on January 16, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, January 26, 1987.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs, on H.R. 28, the "Expedited Funds Availability Act."

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 27, 1987.

James McAfee,

Associate Secretary of the Board.

[FR. Doc. 87-1870 Filed 1-27-87; 5:00 pm]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, February 4, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 27, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-1871 Filed 1-27-87; 5:00 pm]

BILLING CODE 6210-01-M

PAROLE COMMISSION

Record of Vote of meeting closure Pursuant to the Government in the Sunshine Act (Pub. L. 94-409) (5 U.S.C. Section 552b)

I, BENJAMIN F. BAER, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at one o'clock on Tuesday, January 20, 1987, at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 6:30 p.m. The purpose of the meeting was to decide approximately 21 appeals from National Commissioners' decisions pursuant to 28 CFR 2.27. Nine Commissioners were present, constituting a quorum, when the vote to close the meeting was submitted.

Public announcements further described the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Saundra Brown Armstrong, Cameron M. Batjer, Jasper Clay, Jr., Vincent J. Fechtel, Carol P. Getty, Daniel R. Lopez, G. Mackenzie Rast, and Victor M.F. Reyes. The Commissioners and a Parole Analyst attended.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: January 21, 1987.

Benjamin F. Baer,

Chairman, United States Parole Commission.

[FR Doc. 87-1977 Filed 1-28-87; 3:28 pm]

BILLING CODE 4410-01-M

Corrections

Federal Register

Vol. 52, No. 20

Friday, January 30, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents. 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.

THE PRESIDENT

3 CFR

Radiation Protection Guidance to Federal Agencies for Occupational Exposure; Approval of Environmental Protection Agency Recommendations

Correction

In Presidential document 87–1716 beginning on page 2822 in the issue of Tuesday, January 27, 1987, make the following correction:

On page 2831, in the first paragraph, the footnote reference number "3" should follow the word "Remainder" in the tabular material and not the word "corresponding" in the text above.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 685

[Docket No. 60964-6226]

Foreign Fishing Pelagic Fisheries of the Western Pacific Region

Correction

In proposed rule document 86–28240 beginning on page on page 45141, in the issue of Wednesday, December 17, 1986, make the following corrections:

§ 611.81 [Corrected]

1. On page 45144, in § 611.81(b), in the second column, in the definition of "Mahimahi", in the second line, "Corypaena" should read "Coryphaena".

2. On page 45145, in § 611.81(j)(2), in Table 1, in the second column, the second reference "(2)" should read "(1)" and the following reference "(1)" should read "(2)".

§ 685.8 [Corrected]

3. On page 45149, in § 685.8, in the third column, in the twenty-second line from the bottom, the paragraph designation "(3)" should read "(e)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-21; Amendment 39-5473]

Airworthiness Directives; General Electric (GE) CT7-5A,-5A1, and -5A2 Turbopropeller Engines as Installed in Saab-Fairchild SF340A Aircraft

Correction

In rule document 86–27640 beginning on page 44439 in the issue of Tuesday, December 9, 1986, make the following corrections:

1. On page 44439,"GT7–5A" should read "CT7–5A" in the first column, in the second line of the heading; under **SUMMARY** in the seventh line; and in the third column, in the first complete paragraph, in the ninth line.

2. On page 44440, in the second column, in the second paragraph, in the first line, "Telex" was misspelled.

3. On the same page, in the same column, in the third line from the bottom, "and" should read "an".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-19]

Alteration and Revocation of VOR Federal Airways

Correction

In rule document 86–28850, beginning on page 46605 in the issue of Wednesday, December 24, 1986, make the following corrections:

§ 71.123 [Corrected]

On page 46606, in the first column, in § 71.123 [Amended], "V–710" should read "V–170".

2. On the same page, in the second column, in the eighteenth line, "removing" should read "adding".

3. On the same page, in the second column, in the thirteenth line from the bottom of the document, "Boilers" should read "Boiler".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWP-13]

Alteration of VOR Federal Airways, Hawaii

Correction

In rule document 86–28851 beginning on page 46604, in the issue of Wednesday, December 24, 1986, make the following correction:

On page 46605, in the second column, in the fourteenth line, "AMolokai" should read "Molokai".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-AWP-27]

Proposed Alteration of Restricted Areas and Associated Military Operation Areas, Nevada

Correction

In proposed rule document 86–29369 beginning on page 47257 in the issue of Wednesday, December 31, 1987, make the following corrections:

1. On page 47259, in the second column, under the heading **R–4816N Dixie Valley, NV [Amended]**, in the first and second lines, "designated altitudes and " should read "time of designation and".

2. On the same page , in the same column, in the next heading, "R–4816N" should read "R–4816S", and in the eighth line below the heading, "118°" should read "117°".

BILLING CODE 1505-01-D

federal register

Friday
January 30, 1987

Part II

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for August 1986

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53088; FRL-3127-6]

Premanufacture Notices Monthly Status Report for August 1986

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publicaton of the last monthly summary. This is the report for August 1986.

Nonconfidential portions of the PMNs may be seen in the Public Reading Room NE-G004 at the address below between 8:00 am. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53088]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substance, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August and (e) PMNs for which the review period has been suspended. Therefore, the August 1986 PMN Status Report is being published.

Dated: December 5, 1986.

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, August 1986

I. 172 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1461	Generic name: Anthranilic acid/methyl ester, N-heteropolycyclic alkenyl substituted.	51 FR 29695 (8-20-86)	Nov. 3, 1986.
P 86-1462	Generic name: Metal (II), borate 2-ethylhexanoate complex	51 FR 29695(29696) (8-20-86)	Do.
P 86-1463	Generic name: Epoxy functional urethane	51 FR 29695(29696) (8-20-86)	Do.
P 86-1464	Generic name: Aliphatic polyurethane polyester	51 FR 29695(29696) (8-20-86)	Do.
P 86-1465	Generic name: Dithiophophate amine salt	51 FR 29695(29696) (8-20-86)	Do.
P 86-1466	Generic name: Substituted benzenesulfonyl chloride	51 FR 29695(29696) (8-20-86)	Do.
P 86-1467	Generic name: Substituted benzenesulfonamide	51 FR 29695(29696) (8-20-86)	Do.
P 86-1468	Generic name: Substituted phenyldiethanolamine	51 FR 29695(29696) (8-20-86)	Do.
P 86-1469	Generic name: Substituted phenylethanolamine	51 FR 29695(29696) (8-20-86)	Do.
P 86-1470	Generic name: (Substituted phenyl)-di-(polyoxyethylenepolyoxy-propylene)amine.	51 FR 29695(29696) (8-20-86)	Do.
P 86-1471	Generic name: Chlorocarboheterocycleazo substituted phenyl-amino(hydroxyalkyl polyoxy alkylene).	51 FR 29695(29696) (8-20-86)	Do.
P 86-1472	Generic name: Reaction product of an aromatic acid and an amine.	51 FR 29695(29696) (8-20-86)	Do.
P 86-1473	Generic name: Phosphoric acid, mono alkyl ester, compound with alkyl amine.	51 FR 29695(29696) (8-20-86)	Do.
P 86-1474	Generic name: Phosphoric acid, dialkyl ester, compound with alkyl amine..	51 FR 29695(29696) (8-20-86)	Do.
P 86-1475	Generic name: Phosphoric acid, mono alkyl ester, compound with alkyl amine.	51 FR 29695(29696) (8-20-86)	Do.
P 86-1476	Generic name: Phosphoric acid, dialkyl ester, compound with alkyl amine..	51 FR 29695(29696) (8-20-86)	Do.
P 86-1477	Generic name: Hydroxypropyl acrylate, acrylic acid polymer, sodium salt....	51 FR 29695(29697) (8-20-86)	Do.
P 86-1478	Generic name: Soya protein-styrene-butadiene terpolymer	51 FR 29695(29697) (8-20-86)	Do.
P 86-1479	Generic name: Aliphatic esters	51 FR 29695(29697) (8-20-86)	Do.
P 86-1480	Generic name: Halogenated substituted ethylene copolymer	51 FR 29695(29697) (8-20-86)	Do.
P 86-1481	Generic name: Polyoxoalkenyldiene	51 FR 29695(29697) (8-20-86)	Do.
P 86-1482	Generic name: Polyurethane	51 FR 29695(29697) (8-20-86)	Do.
P 86-1483	Generic name: Polyalkylene oxide, aromatic diisocyanate prepolymer	51 FR 29695(29697) (8-20-86)	Do.
P 86-1484	Generic name: Substituted heterocyclic diazonium sulfate	51 FR 29695(29697) (8-20-86)	Do.
P 86-1485	Generic name: Alkylphenylpolyetheramine, 2-substituted carboxylic acid salt.	51 FR 29695(29697) (8-20-86)	Do.
P 86-1486	Generic name: Alkylphenylpolyetheramine, carboxylic acid salt	51 FR 29695(29697) (8-20-86)	Do.
P 86-1487	Generic name: Alkylphenylpolyetheramine, polycarboxylic acid salt	51 FR 29695(29697) (8-20-86)	Do.
P 86-1488	Generic name: Alkylphenylpolyetheramine, alkylphenylpolyether phosphate salt.	51 FR 29695(29697) (8-20-86)	Do.
P 86-1489	Poly(oxy-1,2-ethanediyl), alpha-(nonylphenyl)-omega-[(2-amino-2-methylethoxy)-poly[oxy(methyl-1,2-ethanediyl)]]-.	51 FR 29695(29697) (8-20-86)	Do.
P 86-1490	Generic name: Polyester of carbomono-cyclic carbomonocyclic anhydrides, lkanedioic acid, neopentyl glycol and an alkyl diol.	51 FR 29695(29698) (8-20-86)	Do.
P 86-1491	Generic name: 3-hydroxy-1,1-dimethyl butyl derivative	51 FR 29695(29698) (8-20-86)	Do.
P 86-1492	Generic name: Substituted alkyl peroxy-2-ethyl hexanoate	51 FR 29695(29698) (8-20-86)	Do.

I. 172 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1493	Generic name: Substituted alkyl peroxy hexane carboxylates (mixed isomers).	51 FR 29695(29698) (8-20-86)	Do.
P 86-1494	Generic name: Acrylic solid grade polymer	51 FR 29695(29698) (8-20-86)	Nov. 4, 1986.
P 86-1495	Generic name: Unsaturated organic substituted siloxane	51 FR 29695(29698) (8-20-86)	Do.
P 86-1496	Generic name: Lithium alkoxide	51 FR 29695(29698) (8-20-86)	Do.
P 86 1497	1,3 phenylenebis (methylphenyl) methanone	51 FR 29695(29698) (8-20-86)	Do.
P 86-1498	Generic name: B-stage organo-silicone polymer	51 FR 29695(29698) (8-20-86)	Do.
P 86-1499	Generic name: Branched fatty alcohols	51 FR 29695(29698) (8-20-86)	Nov. 5, 1986.
P 86-1500	Generic name: Dihydroxyalkyl alkanoic acid, polymer with alkane diisocyanate, 1,6 hexanediol, and 2-hydroxyethyl ester of 2-propenoic acid.	51 FR 29695(29698) (8-20-86)	Do.
P 86-1501	Generic name: Modified maleated metal resinate	51 FR 29695(29698) (8-20-86)	Do.
P 86-1502	Generic name: Polyester-imide resin.	51 FR 29695(29698) (8-20-86)	Nov. 6, 1986.
P 86-1503	Generic name: Unsaturated polyesterurethane resin	51 FR 29695(29698) (8-20-86)	Do.
P 86-1504	Generic name: Water reducible epoxy ester copolymer resin	51 FR 29695(29698) (8-20-86)	Do.
P 86-1505	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1506	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1507	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1508	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1509	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1510	Generic name: Carboxymethylated nonionic surfactant	51 FR 30426 (8-26-86)	Do.
P 86-1511	Generic name: Oil modified polyurethane	51 FR 30426 (8-26-86)	Do.
P 86-1512	Generic name: Oil modified polyurethane	51 FR 30426 (8-26-86)	Do.
P 86-1513	Generic name: Amphoteric surface active polymer solution	51 FR 30426(30427) (8-26-86)	Nov. 9, 1986.
P 86-1514	Generic name: Alkylalkoxysilane	51 FR 30426(30427) (8-26-86)	Do.
P 86-1515	Generic name: Alkyl imine	51 FR 30426(30427) (8-26-86)	Do.
P 86-1516	Generic name: Alkyl quaternary ammonium salt	51 FR 30426(30427) (8-26-86)	Do.
P 86-1517	Generic name: Salt of heteropolycycle compound and organic acid	51 FR 30426(30427) (8-26-86)	Do.
P 86-1518	Generic name: Styrene acrylic latex	51 FR 30426(30427) (8-26-86)	Do.
P 86-1519	Generic name: Half-blocked aromatic isocyanate	51 FR 30426(30427) (8-26-86)	Nov. 10, 1986.
P 86-1520	Generic name: Blocked aromatic isocyanate	51 FR 30426(30427) (8-26-86)	Do.
P 86-1521	Generic name: Complex epoxy resin adduct	51 FR 30426(30427) (8-26-86)	Do.
P 86-1522	Generic name: Complex epoxy resin adduct	51 FR 30426(30427) (8-26-86)	Do.
P 86-1523	Generic name: Complex epoxy resin adduct	51 FR 30426(30427) (8-26-86)	Do.
P 86-1524	Generic name: Complex epoxy resin adduct	51 FR 30426(30427) (8-26-86)	Do.
P 86-1525	2-pyrrolidone-1-dodecyl	51 FR 30426(30427) (8-26-86)	Do.
P 86-1526	N-n-octyl-2-pyrrolidone 2-pyrrolidone-1-octyl	51 FR 30426(30427) (8-26-86)	Do.
P 86-1527	Generic name: Aliphatic urethane-modified alkyd polymer	51 FR 30426(30428) (8-26-86)	Do.
P 86-1528	Generic name: Propanedioic acid, bis(2-(2-hydroxy ethoxy)ethyl)ester	51 FR 30426(30428) (8-26-86)	Do.
P 86-1529	Generic name: Tertiary amine adduct with epoxy resin	51 FR 30426(30428) (8-26-86)	Do.
P 86-1530	Generic name: Saturated polyester silane	51 FR 30426(30428) (8-26-86)	Nov. 11, 1986.
P 86-1531	Generic name: Silylated carboxylic acid	51 FR 30426(30428) (8-26-86)	Do.
P 86-1532	Generic name: Prepolymer of benzene, 1,1'methylene bis, hexanedioic acid.	51 FR 30426(30428) (8-26-86)	Do.
P 86-1533	Generic name: Thermoplastic polyurethane elastomer	51 FR 30426(30428) (8-26-86)	Do.
P 86-1534	Generic name: Thermoplastic polyurethane elastomer	51 FR 30426(30428) (8-26-86)	Do.
P 86-1535	Generic name: Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.	51 FR 30426(30428) (8-26-86)	Do.
P 86-1536	Generic name: Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.	51 FR 30426(30428) (8-26-86)	Do.
P 86-1538	Isophthalic, nonanoic acid, isophorondiamine, trimethylolpropane, ester-amide polymer.	51 FR 30426(30428) (8-26-86)	Do.
P 86-1539	Generic name: Silicon substituted organic amine	51 FR 31170 (9-2-86)	Nov. 13, 1986.
P 86-1540	Generic name: Poly-epsilon-caprolactonediol derivative of an alkyl diol, polymer with methylene bis (isocyanatobenzene), aromatic initiated (alkylene ether) glycol and alkanol.	51 FR 31170 (9-2-86)	Do.
P 86-1541	Generic name: Prepolymer of sulfurated prepolymer	51 FR 31170 (9-2-86)	Do.
P 86-1542	3-methyl-2-(2-propenyl)-phenol, 5-methyl-2-(2propenyl)-phenol	51 FR 31170 (9-2-86)	Do.
P 86-1543	Polysilicate, dimethylvinylsiloxy, tri-methylsiloxy-	51 FR 31170 (9-2-86)	Nov 16, 1986.
P 86-1544	Generic name: Disubstituted-heterocycle, inorganic salt	51 FR 31170 (9-2-86)	Do.
P 86-1545	Generic name: Styrenated acrylate methacrylate	51 FR 31170 (9-2-86)	Do.
P 86-1546	Generic name: Aliphatic alicyclic acid	51 FR 31170(31171) (9-2-86)	Do.
P 86-1547	Generic name: Thermoplastic polyurethane polymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1548	Generic name: Polyesteramide polymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1549	Generic name: Carboxylic terminated polyester prepolymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1550	Generic name: Polyester amide	51 FR 31170(31171) (9-2-86)	Do.
P 86-1551	Generic name: Polyesteramide polymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1552	Generic name: Alpha, alpha'-bis(methylphenyl)-1,3 benzenediethanol	51 FR 31170(31171) (9-2-86)	Do.
P 86-1553	Generic name: Carboxylic terminated polyester prepolymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1554	Generic name: Acrylic polymer	51 FR 31170(31171) (9-2-86)	Do.
P 86-1555	Generic name: Acrylic polymer	51 FR 31170(31171) (9-2-86)	Do.

I. 172 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 86-1556	Generic name: Isocyanate, hydroxyterminated linear polyesterdiol, alkdiol, piperazine polymer.	51 FR 31170(31171) (9-2-86)	Do.
P 86-1557	Generic name: Oxepanone poly with polyalkoxy compound, trifunctional polyol, substituted propanoic acid, a diamine and a diisocyanate.	51 FR 31170(31171) (9-2-86)	Do.
P 86-1558	Generic name: Diethylenetriamine, polymer with an alkyl diacid and a monocyclic acid anhydride.	51 FR 31170(31171) (9-2-86)	Do.
P B6-1559	Generic name: Diethylenetriamine, polymer with an alkyl diacid, a monocyclic anhydride and a quaternized substituted alkyl diamine.	51 FR 31170(31171) (9-2-86)	Do.
P 86-1560	Generic name: Sorbitan ester	51 FR 31170(31171) (9-2-86)	Nov. 17, 1986.
P 86-1561	Generic name: Polyoxyethylene sorbitan ester	51 FR 31170(31171) (9-2-86)	Do.
P 86-1562	Generic name: Acyclic acid, bicycloheptane diester with 2,2'-[isopropylidenebis(p-phenyleneoxy)] diethanol.	51 FR 31170(31172) (9-2-86)	Do.
P 86-1563	Generic name: Diphenol diester	51 FR 31170(31172) (9-2-86)	Do.
P 86-1564	Generic name: Functional styrenated methacrylate acrylate	51 FR 31170(31172) (9-2-86)	Do.
P 86-1565	Generic name: Aromatic polymer	51 FR 31170(3!172) (9-2-86)	Do.
P 86-1566	Generic name: Reactive epoxy film former	51 FR 31170(31172) (9-2-86)	Do.
P 86-1567	Generic name: U. V. curable polyurethane	51-FR 31170(31172) (9-2-86)	Do.
P 86-1568	Generic name: Polyester polyurethane	51 FR 31170(31172) (9-2-86)	Nov. 18, 1986.
P 86-1569	Generic name: Polyurethane lacquer	51 FR 31170(31172) (9-2-86)	Do.
P 86-1570	Generic name: Polysilicate, trimethylsiloxy-	51-FR 31170(31172) (9-2-86)	Do.
P 86-1571	Generic name: Alkylalkoxysilane	51 FR 31170(31172) (9-2-86)	Do.
P 86-1572	Generic name: Alkylalkoxysilane	51 FR 31!70(31172) (9-2-86)	Do.
P 86-1573	Generic name: Polyester polyurethane	51 FR 31170(31172) (9-2-86)	Do.
P 86-1574	Generic name: Complex dioic acid	51 FR 31170(31172) (9-2-86)	Nov. 19, 1986.
P 86-1575	Generic name: Thixotropic alkyd resin	51 FR 31170(31772) (9-2-86)	Oct. 29, 1986.
P 86-1576	Generic name: Alkyd resin	51 FR 31170(31172) (9-2-86)	Do.
P 86-1577	Generic name: Modified, maleated metal resinate	51 FR 31170(31172) (9-2-86)	Nov. 19, 1986.
P 86-1580	Generic name: Alkyd resin	51 FR 31170(31173) (9-2-86)	Oct. 29, 1986.
P 86-1581	Generic name: Alkyd resin	51 FR 3I170(31173) (9-2-86)	Do.
P 86-1582	Generic name: Alkyd resin	51 FR 31170(31173) (9-2-86)	Do.
P 86-1583	Generic name: Alkyd resin	51 FR 32245(32246) (9-10-86)	Nov. 20, 1986.
P 86-1584	Generic name: Acrylated alkyd	51 FR 32245(32246) (9-10-86)	Do.
P 86-1585	Generic name: Acrylated alkyd	51 FR 32245(32246) (9-10-86)	Do.
P 86-1586	Generic name: Acrylated alkyd	51 FR 32245(32246) (9-10-86)	Do.
P 86-1587	Generic name: Dilaurylmethyl amine, methyl dilauryl amine	51 FR 32245(32246) (9-10-86)	Do.
P 86-1588	Generic name: Modified styrene-olefin copolymer	51 FR 32245(32246) (9-10-86)	Nov. 23, 1986.
P 86-1589	Generic name: Modified styrene-diene-olefin copolymer	5 FR 32245(32246) (9-10-86)	Do.
P 86-1590	Generic name: Acrylate copolymer; sulfonated acrylate copolymer; sulfonated acrylate telomer.	51 FR 32245(32246) (9-10-86)	Sept. 22, 1986.
P 86-1591	Generic name: Acrylate copolymer; sulfonated acrylate copolymer; sulfonated acrylate telomer.	51 FR 32245(32246) (9-10-86)	Do.
P 86-1592	Generic name: Halogenated substituted ethylene copolymer	51 FR 32245(32246) (9-10-86)	Nov. 24, 1986.
P 86-1593	Generic name: Substituted benzophenone	51 FR 32245(32246) (9-10-86)	Do.
P 86-1594	3-[3',4'(methylenedioxy)phenyl]-2-methyl-N-(2''-carbomethoxyphenyl)-1-imino-propane.	51 FR 32245(32246) (9-10-86)	Do.
P 86-1595	Generic name: Alkoxy substituted carboxy acetonitrile	51 FR 32245(32246) (9-10-86)	Do.
P 86-1596	Z-3-hexene-1-bromo	51 FR 32245(32246) (9-10-86)	Do.
P 86-1597	Generic name: Alkyl cycloalkyl trimellitate	51 FR 32245(32247) (9-10-86)	Do.
P 86-1598	Generic name: Alkyd resin	51 FR 32245(32247) (9-10-86)	Do.
P 86-1599	Generic name: Pentaerythritol type ester	51 FR 32245(32247) (9-10-86)	Do.
P 86-1600	Generic name: Alkyl naphthalene sulfonic acid, compound with amine	51 FR 32245(32247) (9-10-86)	Do.
P 86-1601	Di-lauyldimethyl dimeric linoleate	51 FR 32245(32247) (9-10-86)	Do.
P 86-1602	Generic name: N-alkylaminoacrylamide	51 FR 32245(32247) (9-10-86)	Nov. 25, 1986.
P 86-1603	Generic name: N-alkylaminoacrylamide, hydrochloric acid salt	51 FR 32245(32247) (9-10-86)	Do.
P 86-1604	Generic name: N-alkylaminoacrylamide, sulfuric acid salt	51 FR 32245(32247) (9-10-86)	Do.
P 86-1605	Generic name: N-alkylaminoacrylamide, quaternary salt	51 FR 32245(32247) (9-10-86)	Do.
P 86-1606	Generic name: N-alkylaminoacrylamide, alkylsulfate salt	51 FR 32245(32247) (9-10-86)	Do.
P 86-1607	Generic name: Brominated isocyanurated additive	51 FR 32245(32247) (9-10-86)	Do.
P 86-1608	Generic name: Calcium carboxylate	51 FR 32245(32247) (9-10-86)	Nov. 26, 1986.
P 86-1609	Generic name: Polyester of aliphatic acid	51 FR 32245(32247) (9-10-86)	Do.
P 86-1610	Generic name: Methacrylated polybutadiene	51 FR 32245(32247) (9-10-86)	Do.
P 86-1611	Generic name: Polyurethane	51 FR 32956(32957) (9-17-86)	Nov. 27, 1986.
P 86-1612	Generic name: 9,10 anthracenedione, substituted	51 FR 32956(32957) (9-17-86)	Do.
P 86-1613	Generic name: Ester of aliphatic acid	51 FR 32956(32957) (9-17-86)	Do.
Y-86-214	Generic name: Saturated polyester resin of an aryl ester, aryldicarboxylic acid, alkyl dicarboxylic acid and alkyl diol.	51 FR 29695 (8-20-86)	Aug. 24, 1986.
Y-86-215	Generic name: Polyamide copolymer	51 FR 29695 (8-20-86)	Aug. 25, 1986.
Y-86-216	Generic name: Polyether block polyamide copolymer	51 FR 29695 (8-20-86)	Do.
Y-86-217	Generic name: Polystyrene acrylate	51 FR 29695 (8-20-86)	Do.
Y-86-218	Generic name: Keytone resin	51 FR 29695 (8-20-86)	Do.

I. 172 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
Y-86-219	Generic name: Modified polyester of carbomonocyclic acids and anhydride with neopentyl glycol.	51 FR 30428(30429) (8-26-86)	Sept. 1, 1986.
Y-86-220	Generic name: Acrylic solution	51 FR 30428(30429) (8-26-86)	Do.
Y-86-221	Generic name: Polyester polyol	51 FR 30428(30429) (8-26-86)	Sept. 2, 1986.
Y-86-222	Generic name: Vinyl acetate-acrylate copolymer (vinyl acrylic copolymer)	51 FR 30428(30429) (8-26-86)	Do.
Y-86-223	Generic name: Styrene-acrylic copolymer	51 FR 30428(30429) (8-26-86)	Do.
Y-86-224	Generic name: Polyester resin	51 FR 31169 (9-2-86)	Sept. 8, 1986.
Y-86-225	Ethene polymer with 2-propenoic acid, 1,1-dimethylethyl ester and 2-propenoic acid.	51 FR 31169 (9-2-86)	Do.
Y-86-226	Adipic and terephthalic acid polymers with neopentyl glycol, ethylene glycol and isodecyl alcohol.	51 FR 31169 (9-2-86)	Sept. 9, 1986.
Y-86-227	Generic name: Polyester resin of an aryl ester, alkyl dicarboxylic acid an alkyl diol.	51 FR 32248 (9-10-86)	Sept. 11, 1986.
Y-86-228	Generic name: Hydroxy functional styrenated acrylate methacrylate	51 FR 32248 (9-10-86)	Sept. 14, 1986.
Y-86-229	Generic name: Water dispersible polyester resin	51 FR 32248 (9-10-86)	Sept. 15, 1986.
Y-86 230	Generic name: Acrylic solution	51 FR 32248 (9-10-86)	Sept. 16, 1986.
Y-86-231	Generic name: Styrenic-methacrylic copolymer	51 FR 32248 (9-10-86)	Do.
Y-86-232	Generic name: Unsaturated polyester polymer	51 FR 32248 (9-10-86)	Do.
Y-86-233	Generic name: Ethylene oxidepropylene oxide copolymer ether with sorbitol.	51 FR 32248 (9-10-86)	Sept. 17, 1986.
Y-86-234	Generic name: Polyester of carbomonocyclic acid, sulfonated carbomonocyclic ester, alkylene glycol and cycloalkylene glycol.	51 FR 32248 (9-15-86)	Sept. 16, 1986.
Y-86-235	Generic name: Epoxy ester	51 FR 32248 (9-15-86)	Sept. 18, 1986.

II. 88 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.

P 86-1322
P 86-1323
P 86-1324
P 86-1325
P 86-1326
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P 86-1330
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III. 169 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.

P 86-936
P 86-983
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Y 86-218

IV. 57 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-199	Vinyl, acetate, butyl acrylate, neodecanoic acid, ester vinyl sulfonic acid, sodium salt	July 18, 1986.
P 81-462	Benzaldehyde, 3-methoxy-4-(4,3-proparanium-2-hydroxy-N,N,N-trimethyl chloride	Apr. 11, 1986.
P 83-262	Generic name: Halogenated dinitro ether compound	June 23, 1986.
P 83-855	Generic name: Salt of aminomethylphosphonic acid	July 21, 1986.
P 83-856	.....do	July 11, 1986.
P 84-8	Generic name: Polyfunctional copolymer of styrene with alkyl acrylate and subsitituted alkyl methacrylated	July 15, 1986.
P 84-954	Generic name: Substituted aromatic	July 3, 1986.
P 84-993	1,3-phenylene-bis(3-methyl-1-phenylpentylidene)bis-lithium	July 10, 1986.
P 84-1129	Acetic acid, ester with C_9–C_{11} iso alcohols, C_{10}-rich	Aug. 4, 1986.
P 84-1130	Acetic acid, ester with C_8–C_{10} alcohols, C_9-rich	Aug. 6, 1986.
P 84-1131	Acetic acid, ester with C_{11}–$_{14}$ iso alcohols, C_{13}-rich	Aug. 10, 1986.
P 85-62	Generic name: Polyalkylene oxide aromatic diisocyanate prepolymer	July 21, 1986.
P 85-119	Generic name: Hydroxy resin	July 14, 1986.
P 85-489	Generic name: Polyvinyl alcohol	May 7, 1986.
P 85-1012	1-Hexanamine, 2-ethyl-N,N-bis(2-ethylhexyl)-	July 8, 1986.
P 85-1122	Polymer of ethanol, 2,2'-thiobis; ethanol, 2-mercapto; oxirane, methyl; and phenol, 4,4'-thiobis	July 14, 1986.
P 85-1180	Generic name: Tert-amyl peroxy alkylene ester	July 25, 1986.
P 85-1226	Generic name: Polyether polyurethane polymer	July 31, 1986.
P 85-1358	Generic name: Aromatic acetamide	July 25, 1986.
P 85-1454	Generic name: Polyurea polyurethane polymer	Aug. 11, 1986.
P 85-1458	Generic name: Acrylic polymer containing aromatic carboxyesters	July 21, 1986.
P 86-43	Generic name: Rubber modified epoxy	June 25, 1986.
P 86-101	Generic name: Polyamide resin	July 9, 1986.
P 86-127	1,3,4-Thiadiazolidine-2,5-dithione, monosodium salt	July 28, 1986.
P 86-156	Generic name: Food black #2, new salt form	July 14, 1986.
P 86-199	Generic name: Polymer of functional acrylates and methacrylates	July 5, 1986.
P 86-379	Generic name: Oxirane polymer with dialkylcarbomono-cyclicoxysubstituted propanol	July 9, 1986.
P 86-435	Generic name: Self-synergized phenolic antioxidant reaction product	July 21, 1986.
P 86-498	3-Acetyl-4-oxopentanoic acid, ethyl ester	June 27, 1986.
P 86-508	Generic name: Azo triazinyl benzothiazolesulfonic acid	July 13, 1986.
P 86-516	Benzenediazonium, 2-methoxy-4-(phenylamino)-, sulfate (1:1)	July 23, 1986.
P 86-527	Generic name: Modified acrylic polymer	July 1, 1986.
P 86-528	.....do	Do.
P 86-584	Generic name: Polyhydric phenol, diazo naphthoquin one sulfonate	June 26, 1986.
P 86-585	Generic name: Quaternary ammonium salt	June 30, 1986.
P 86-600	Generic name: Isocyanate-capped polyols	July 17, 1986.
P 86-614	Cyclosiloxznes, di-me	Aug. 14, 1986.
P 86-636	Generic name: Perfluoroelastomer	July 19, 1986.
P 86-695	Generic name: A maleic modified resin ester, amino alcohol salt	Aug. 4, 1986.
P 86-714	Generic name: Hydroxyalkyl metallic oxide	June 29, 1986.
P 86-851	Generic name: Ethyl acetoxyalkenoate	July 15, 1986.
P 86-852	Generic name: Acid terminated, water dispersible, isophthalic/terphthalic acid, polyester resin	Aug. 4, 1986.
P 86-865	Generic name: Modified epoxy acrylate	July 24, 1986.
P 86-915	Generic name: Phenolic polyester	July 15, 1986.
P 86-918	Generic name: Linseed oil based terphthalic alkyd	July 25, 1986.
P 86-939	Generic name: Polyester/polyamine copolymer	July 22, 1986.
P 86 1007	Generic name: Acrylate functional polysiloxane	Aug. 5, 1986.
P 86-1010	Generic name: Polyester of aliphatic polyol rosin, linseed oil and aromatic dibasic acid	Do.
P 86-1040	Generic name: Vinyl toluene alkyd	Aug. 13, 1986.
P 86-1045	Generic name: Hydroxy ester	Aug. 22, 1986.
P 86-1068	Generic name: Cyanoacrylate ester polymer	Aug. 19, 1986.
P 86-1069	Generic name: Substituted ketone	Aug. 22, 1986.
Y 85-111	Generic name: Unsaturated polyester resin from dibasic acids and polyols	Oct. 28, 1986.
Y 86-65	Polymer of: Tall oil fatty acids; 1,2-benzenediccarboxylic acid; benzoic acid; 2,2-dimethyl-1,3-propanediol; and 2-ethyl-2(hydroxymethyl)-1,3-propanediol.	Aug. 6, 1986.
Y 86-174	Generic name: Poly(ethylene terphthalate)-poly(oxy-alkyl glycol)-carboxylate polymer	July 16, 1986.
Y 86-182	Generic name: Polyester of carbamocyclic acid, sulfonated carbo cyclic diester, and alkylene glycols	Aug. 10, 1986.
Y 86-205	Generic name: Water reducible alkyd resin	Aug. 14, 1986.

V. 29 Premanufacture Notices Suspended as of the End of August

PMN No.	Identity/generic name	FR citation	Date suspended
P 84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4981 (2-9-86)	Aug. 16, 1986.
P 85-216	Generic name: Substituted pyridine	49 FR 47921 (47922) (12-7-84)	Aug. 4, 1986.
P 85-941	Generic name: Substituted alkylamine salt	50 FR 21498 (21499) (5-24-85)	Do.

V. 29 PREMANUFACTURE NOTICES SUSPENDED AS OF THE END OF AUGUST—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-1059	Generic name: Alkylene bis-anthranilate ester	50 FR 25778 (25779) (6-21-85)	Aug. 6, 1986.
P 86-660	Generic name: Isocyanato polyester urethane acrylate	51 FR 10663 (10664) (3-28-86)	Aug. 25, 1986.
P 86-667	N-Methyl-benzene sulfonamide	51 FR 10663 (10664) (3-28-86)	Aug. 13, 1986.
P 86-838	Generic name: Substituted pyridine	51 FR 12557 (12559) (4-11-86)	Aug. 29, 1986.
P 86-937	Generic name: Alkyl formamide	51 FR 16587 (16558) (5-5-86)	Aug. 19, 1986.
P 86-1021	Generic name: Transition metal trichalcogenide	51 FR 18958 (18959) (5-23-86)	Aug. 7, 1986.
P 86-1050	Di(phenoxyethyl)formal	51 FR 20706 (6-6-86)	Aug. 12, 1986.
P 86-1054	Generic name: Substituted poly-acrylamide	51 FR 20706 (20707) (6-6-86)	Aug. 6, 1986.
P 86-1055	Generic name: Polyester urethane methacrylate blocked	51 FR 20706 (20707) (6-6-86)	Aug. 7, 1986.
P 86-1056	......do	51 FR 20706 (20707) (6-6-86)	Do.
P 86-1060	Generic name: Heterocyclic animal	51 FR 20706 (20707) (6-6-86)	Aug. 17, 1986.
P 86-1070	2-Naphthalenesulfonic acid, 7,7'-[(2,4,6-trimethyl-5-sulfo-1,3-phenylene)bis(imino(6-chloro-1,3,5-triazine 4,2-diyl)imino)]bis[4-hydroxy-3-[(4-methoxy-2-sulfophenyl)azo], pentasodium salt.	51 FR 20706 (20708) (6-6-86)	Aug. 19, 1986.
P 86-1075	Generic name: Sulfated oil, sodium salts	51 FR 21241 (21242) (6-11-86)	Aug. 25, 1986.
P 86-1076	Generic name: Alkyl esters sulfated, sodium salts	51 FR 21241 (21242) (6-11-86)	Do.
P 86-1077	......do	51 FR 21241 (21242) (6-11-86)	Do.
P 86-1081	Generic name: Halogenated aromatic substituted alkane	51 FR 21241 (21242) (6-11-86)	Aug. 24, 1986.
P 86-1082	Generic name: Halogenated aromatic substituted olefin	51 FR 21241 (21242) (6-11-86)	Do.
P 86-1088	Generic name: Urethane acrylate with pendant hydroxy and carboxy groups.	51 FR 21241 (21243) (6-11-86)	Aug. 21, 1986.
P 86-1122	Generic name: Maleic acid half-ester functionalized with alkenyl ether groups.	51 FR 21796 (6-16-86)	Aug. 29, 1986.
P 86-1499	Generic name: Branched fatty alcohols	51 FR 29695 (29698) (8-20-86)	Aug. 22, 1986.
P 86 1519	Generic name: Half-blocked aromatic isocyanate	51 FR 30426 (30427) (8-26-86)	Aug. 21, 1986.
P 86-1520	Generic name: Blocked aromatic isocyanate	51 FR 30426 (30427) (8-26-86)	Do.
P 86-1521	Generic name: Complex epoxy resin adduct	51 FR 30426 (30427) (8-26-86)	Do.
P 86-1522	......do	51 FR 30426 (30427) (8-26-86)	Do.
P 86-1523	......do	51 FR 30426 (30427) (8-26-86)	Do.
P 86-1524	......do	51 FR 30426 (30427) (8-26-86)	Do.

[FR Doc. 87-1799 Filed 1-29-86; 8:45 am]

BILLING CODE 6560-50-M

Friday
January 30, 1987

Part III

Department of Education

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the Perkins Loan, Formerly the National Direct Student Loan, College Work-Study, Supplemental Educational Opportunity Grant and Guaranteed Student Loan Programs; Notice; Academic Year 1987-88

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the Perkins Loan, Formerly the National Direct Student Loan, College Work-Study, Supplemental Educational Opportunity Grant and Guaranteed Student Loan Programs

AGENCY: Department of Education.

ACTION: Notice of approved systems of need analysis for academic year 1987–88.

SUMMARY: The Secretary of Education announces approved need analysis systems that institutions of higher education must use in calculating a student's financial need or expected family contribution during academic year 1987–88 under the Perkins Loan, College Work-Study (CWS), Supplemental Educational Opportunity Grant (SEOG) and Guaranteed Student Loan (GSL) Programs. The first three programs are known collectively as the campus-based programs. The Secretary takes this action under the authority of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) as amended, 34 CFR 674.13, 675.13, and 676.13 of the Perkins Loan, CWS, and SEOG program regulations, respectively and section 406 (b)(2) of the Higher Education Amendments of 1986 (Pub. L. 99–498). Under section 406(b)(2) of the Higher Education Amendments of 1986, an institution must use a need analysis system approved by the Secretary for use in the campus-based programs to determine an applicant's expected family contribution under the GSL Program, whether or not the institution participates in any campus-based program.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Anna S. Borlaug, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, SW., Room 4018, ROB–3, Washington, DC 20202, Telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION:

Program Information

The campus-based programs are "need based" student financial aid programs. Under each program, an institution must determine whether a student has financial need. It determines need by subtracting from the student's educational costs, his or her expected family contribution, i.e., the amount the student and his or her parents may reasonably be expected to contribute toward his or her educational costs. Institutions determine a student's expected family contribution by using a need analysis system.

The systems listed below qualified as approved systems of need analysis under the above cited regulations for each program, or are approved under the Notice of publication of sample cases and expected parental contributions for the Perkins Loan, CWS and SEOG Programs published in the **Federal Register** of September 30, 1986 (51 FR 34918–34919). To determine a student's expected family contribution under the Perkins Loan, CWS, SEOG and GSL Programs for academic year 1987–88, an institution must use one of the following organizations' and agencies' systems of need analysis:

1. Academic Computing Systems, Inc., Austin, Texas.
2. Advanced Process Laboratories, Omaha, Nebraska.
3. The American College Testing Program, Iowa City, Iowa.
4. Atlanta Student Aid, Smyrna, Georgia.
5. Bobby Woodrell, Canoga Park, California.
6. Calculator Systems Associates, Corona, California.
7. The City University of New York, New York, New York.
8. The College Board, The College Scholarship Service, New York, New York.
9. Collegiate Data Systems, Raleigh, North Carolina.
10. Compugrant, Inc., Hiram, Ohio.
11. Computing Options Company, Frederick, Maryland.
12. Diversified Financial Aid Services, Inc., Phoenix, Arizona.
13. Educational Compliance Management, Inc., Great Neck, New York.
14. Financial Analysis Service, Hiram Ohio.
15. G.E. White Needs Analysis System, Lake Forest, Illinois.
16. Graduate and Professional School Financial Aid Service, Princeton, New Jersey.
17. Information and Communications, Inc., SAFE System, San Diego, California.
18. Integrated Data Systems, San Dimas, California.
19. M-Data, Cedar Springs, Michigan.
20. National Education Corporation, Irvine, California.
21. Pennsylvania Higher Education Assistance Agency, Harrisburg, Pennsylvania.
22. Proprietary Systems, Inc., Denver, Colorado.
23. R. Gonzalez Management, Inc., Los Angeles, California.
24. Sigma Systems, Inc., Los Angeles, California.
25. Stephen Lipka, CPA, Paramus, New Jersey.
26. The Ultimate Corp., East Hanover, New Jersey.
27. The Ultimate Corp., East Hanover, New Jersey.
28. United Education and Software, Sioux Falls, South Dakota.
29. United Student Aid Funds, Inc., (System #1), Indianapolis, Indiana.
30. United Student Aid Funds, Inc., (System #2), Indianapolis, Indiana.
31. Family Contribution (FC) printed on the Student Aid Report, United States Department of Education.
32. The method of calculating student aid indices used in the Pell Grant Program (34 CFR Part 690), United States Department of Education.

(20 U.S.C. 1087aa–1037ii, 42 U.S.C. 2751–2756b, 20 U.S.C. 1070b–1070b-3, and 20 U.S.C. 1071 to 1087–2)

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; 84.007, Supplemental Educational Opportunity Grant Program; and 84.032, Guaranteed Student Loan Program)

Dated: January 23, 1987.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 87–1853 Filed 1–29–87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
January 30, 1987

Part IV

Department of Education

34 CFR Part 690

Pell Grant Program—Schedule of Expected Family Contributions and Cost of Attendance; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program; Schedule of Expected Family Contributions and Cost of Attendance

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for the Pell Grant Program Expected Family Contribution Schedule for the 1987–88 award year. These regulations are needed to implement the provisions of section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by section 408 of the Higher Education Amendments of 1986, Pub. L. 99–498. The Family Contribution Schedule describes the formulas used in determining the amount, if any, of a student's Pell Grant award. The Pell Grant expected family contribution number is also known as the "student aid index (SAI)."

Further, the Secretary notifies institutions and students that the cost of attendance regulations used to calculate Pell Grant awards during the 1986–87 award year will be used to calculate a student's cost of attendance during the 1987–88 award year.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. It should be noted, however, that these regulatory amendments apply only to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987. The regulations for the 1986–87 award year, which pertain to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1986 through June 30, 1987, are still applicable. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Fred Sellers, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education [ROB–3, Room 4318], 400 Maryland Avenue, SW., Washington, DC 20202. Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION:

Family Contribution Schedule—Current Requirements

Section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by section 408 of the Higher Education Amendments of 1986, Pub. L. 99–498, enacted on October 17, 1986, requires the Secretary to use, with certain specified modifications, the 1986–87 award year Pell Grant Expected Family Contribution Schedule in award year 1987–88. The specified modifications include changes in the family size offsets and other changes to reflect the most recent and relevant data, such as updating calendar years. The Secretary is, therefore, amending only the relevant sections of the 1986–87 Pell Grant Family Contribution Schedule and publishing these amendments as final regulations.

Updating the Family Size Offsets To Account for Inflation

Section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by section 408 of the Higher Education Amendments of 1986 requires that the family size offsets for the 1987–88 award year Pell Grant Expected Family Contribution Schedule be based upon the family size offsets used in the 1986–87 award year Pell Grant Expected Family Contribution Schedule, adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, rounded to the nearest $100. That section also provides that the percentage change is the percentage difference between the arithmetic mean for the period of October 1, 1984, through September 30, 1985, and the arithmetic mean for the period of October 1, 1985, through September 30, 1986. Because that percentage difference was equal to an increase of 2.2 percent, the family size offsets used in 1986–87 were multiplied by 1.022 and the results were rounded to the nearest $100.

Cost of Attendance

Section 3 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by section 408 of the Higher Education Amendments of 1986 requires that the cost of attendance criteria used for calculating Pell Grant awards for award year 1986–87 be used for the 1987–88 award year. Therefore, the Secretary gives notice that the cost of attendance provisions for the Pell Grant Program contained in 34 CFR Part 690 Subpart E, that were in effect and used to calculate Pell Grant awards for the 1986–87 award year, shall be used to calculate Pell Grant awards for the 1987–88 award year.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes made in the Family Contribution Schedule are specifically directed by section 5 of the Student Financial Assistance Technical Amendments Act of 1982 as amended by section 408 of the Higher Education Amendments of 1986 and establish no new substantive policy. Public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. These regulations revise the Pell Grant Family Contribution Schedule used in determining student eligibility for Pell Grants and only change the statutory citations of the cost of attendance regulations. However, they will not have a significant economic impact on the institutions affected.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantages, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.063, Pell Grant Program)

Dated: January 6, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations as follows:

PART 690—PELL GRANT PROGRAM

1. The authority citation for Part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

§ 690.32 [Amended]

2. In § 690.32, under the definition for "Dependent of the student's parents," in paragraph (d), remove "1986–87" and add, in its place, "1987–88," and under the definition for "Medical expenses," remove "1985" and "1986" and add, in their place, respectively, "1986" and "1987."

§ 690.33 [Amended]

3. In § 690.33, in paragraph (b)(1), remove "1985" and add, in its place, "1986," in paragraph (b)(2), remove "1986–87" and add, in its place, "1987–88," and in paragraph (f), remove "1985 or 1986" and add, in its place, "1986 or 1987."

§ 690.33a [Amended]

4. In § 690.33a, in paragraph (b), remove "1985" and add, in its place, "1986."

5. In § 690.33a, in paragraph (f), remove "June 1, 1986 through May 31, 1987" and "1985," and add in their place, respectively, "June 1, 1987 through May 31, 1988," and "1986."

6. In § 690.34, revise paragraph (a)(1)(i) to read as follows:

§ 690.34 Computation of the expected family contribution for a dependent student from the effective family income.

* * * * *

(a) * * *

(1)(i) A family size offset in the amount specified in the following table.

FAMILY SIZE OFFSETS

Family members	Amount
2	$6,500
3	8,000
4	10,100
5	12,100
6	13,600

Plus $1,700 for each additional family member over 6.

* * * * *

§ 690.34 [Amended]

7. In § 690.34, in paragraph (a)(2), remove "1985" and "1986", and add, in their place, respectively, "1986" and "1987," in paragraph (a)(3)(ii), remove "1985" and "1986" and add, in their place, respectively, "1986" and "1987," and in paragraph (a)(4), remove "1985" and "1986" and add, in their place, respectively, "1986" and "1987."

8. In § 690.34a, revise paragraph (a)(1) to read as follows:

§ 690.34a Computation of the expected family contribution for a dependent student from the effective family income.

* * * * *

(a) * * *

(1) If the parental discretionary income is positive, the dependent student offset, which is derived from the family size offset, (See § 690.34 (a)(1)(i)), is in the amount specified below:

Dependent Student Offset

Single student	$3,500
Married student	5,200

* * * * *

§ 690.39 [Amended]

9. In the list below, for each paragraph in § 690.39 indicated in the left column, remove the year or years listed in the middle column from wherever they appear in the paragraph, and add the year or years indicated in the right column.

Paragraph	Remove	Add
690.39(a)	1986	1987.
690.39(a)(1)	1985, 1986	1986, 1987.
690.39(a)(2)	1985, 1986, and 1985 or 1986.	1986, 1987, and 1986 or 1987.
690.39(a)(3), 690.39(a)(5).	1985, 1986	1986, 1987.
690.39(b)	1986	1987.

§ 690.42 [Amended]

10. In § 690.42, under the definition for "Dependent," remove "1986–87" and add, in its place, "1987–88."

§ 690.43 [Amended]

11. In § 690.43, in paragraph (b)(1), remove "1985" and add, in its place, "1986," and in paragraph (b)(2), remove "1986–87" and add, in its place, "1987–88."

12. In § 690.44, revise paragraph (a)(1)(i) to read as follows:

§ 690.44 Computation of the expected family contribution for an independent student from the effective family income.

* * * * *

(a) * * *

(1)(i) A family size offset in the amount specified in the following table.

FAMILY SIZE OFFSETS

Family members	Amount
1	$5,200
2	6,500
3	8,000
4	10,100
5	12,100
6	13,600

Plus $1,700 for each additional family member over 6.

* * * * *

§ 690.44 [Amended]

13. In § 690.44, in paragraphs (a)(2), (a)(3)(ii), and (a)(4), remove "1985" wherever it appears and add, in its place, "1986," and remove "1986" wherever it appears and add, in its place, "1987."

§ 690.48 [Amended]

14. In the list below, for each paragraph in § 690.48 indicated in the left column, remove the year or years listed in the middle column from wherever they appear in the paragraph, and add the year or years indicated in the right column.

Paragraph	Remove	Add
690.48(a)	1986	1987.
690.48(a)(1)	1985	1986.
690.48(a)(2)	1985, 1986	1986, 1987.
690.48(a)(3)	1985, 1986, and 1985 or 1986.	1986, 1987, and 1986 or 1987.
690.48(a)(4)	1985, 1986	1986, 1987.
690.48(a)(6)	1985	1986.
690.48(b)	1986	1987.

Subparts C and D—[Amended]

15. The authority citation following each section in Subparts C and D of Part 690 is revised to read as follows:

Authority: Sec. 5 of Pub. L. 97–301 as amended by Sec. 4 of Pub. L. 98–79, Sec. 707 of Pub. L. 98–511, Sec. 16031 of Pub. L. 99–272, and Sec. 408 of Pub. L. 99–498.

Subpart E—[Amended]

16. The authority citation following each section in Subpart E of Part 690, is revised to read as follows:

Authority: Sec. 3 of Pub. L. 97–301 as amended by Sec. 4 of Pub. L. 98–79, Sec. 707 of Pub. L. 98–511, and Sec. 408 of Pub. L. 99–498.

[FR Doc. 87–1852 Filed 1–29–87; 8:45 am]

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federal register

Friday
January 30, 1987

Part V

Department of Justice

Immigration and Naturalization Service

8 CFR Part 242

Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal; Final Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule is a republication of the regulations of September 25, 1986 (51 FR 34081) extending authority to issue or cancel an order to show cause or warrant of arrest, to determine amount and conditions of bond or conditions of release, and to determine applications for release or amelioration of conditions of release to include chief patrol agents, deputy chief patrol agents, associate chief patrol agents, assistant chief patrol agents, assistant district directors for deportation, assistant district directors for examinations, assistant district directors for anti-smuggling and all officers in charge (except foreign).

Republication is necessary in order to reinstate the delegations of authority that were superseded by regulations submitted for publication by the Executive Office for Immigration Review. Additionally, the authority is extended to include the Assistant Commissioner, Investigations—a delegation which was erroneously omitted from the September 25, 1986 regulation.

EFFECTIVE DATE: January 30, 1987.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

For Specific Information: Gregory S. Bednarz, Senior Special Agent, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536. Telephone: (202) 633-2997.

SUPPLEMENTARY INFORMATION: Republication of the regulations of September 25, 1986 (51 FR 34081) extending authority to issue or cancel an order to show cause or warrant of arrest, to determine amount and conditions of bond or conditions of release, and to determine applications for release or amelioration of conditions of release to chief patrol agents, deputy chief patrol agents, associate chief patrol agents, assistant chief patrol agents, assistant district directors for deportation, assistant district directors for examinations, assistant district directors for anti-smuggling and officers in charge (except foreign) is necessary to reinstate the delegations of authority that were subsequently superseded by regulations submitted for publication by the Executive Office for Immigration Review. The authority is also extended to include the Assistant Commissioner, Investigations—a delegation which was erroneously omitted from the September 25, 1986 regulation.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Authority delegation, Detention, Order to show cause, Cancellation proceeding.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for Part 242 of Title 8 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1252, 1254, 1255, 1357, 1362; E.O. 12356. Title I of Pub. L. 95-145 enacted October 28, 1977.

2. In § 242.1, paragraph (a) is revised to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the filing of an Order to Show Cause with the Office of the Immigration Judge. In the proceeding the alien be known as the respondent. Orders to show cause may be issued by:

(1) District directors;
(2) Acting district directors;
(3) Deputy district directors;
(4) Assistant district directors for investigations;
(5) Assistant district directors for deportation;
(6) Assistant district directors for examinations;
(7) Assistant district directors for anti-smuggling;
(8) Officers in charge (except foreign);
(9) Chief patrol agents;
(10) Deputy chief patrol agents;
(11) Associate chief patrol agents;
(12) Assistant chief patrol agents; or
(13) The Assistant Commissioner, Investigations.

* * * * *

3. In § 242.2, paragraph (a) is revised as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* (1) At the time of issuance of the Order to Show Cause or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. However, such warrant may be issued by no other than a:

(i) District director;
(ii) Acting district director;
(iii) Deputy district director;
(iv) Assistant district director for investigations;
(v) Assistant district director for deportation;
(vi) Assistant district director for examinations;
(vii) Assistant district director for anti-smuggling;
(viii) Officer in change (except foreign);
(ix) Chief patrol agent;
(x) Deputy chief patrol agent;
(xi) Associate chief patrol agent;
(xii) Assistant chief patrol agent; or
(xiii) The Assistant Commissioner, Investigations.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation. When a warrant of arrest is served under this part, the respondent shall have explained to him/her the contents of the order to show cause, the reason for the arrest and the right to be represented by counsel of his/her own choice at no expense to the Government. He/she shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the deportation hearing will be held. The respondent shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights.

Service of these documents shall be noted on Form I-213. The respondent shall be advised that any statement made may be used against him/her. He/she shall also be informed whether custody is to be continued or, if release from custody has been authorized, of the amount and conditions of the bond or the conditions of release. A respondent on whom a warrant of arrest has been served may apply to any officer authorized by this section to issue such a warrant for release or for amelioration of the conditions under which he/she may be released. When serving the warrant of arrest and when determining any application pertaining thereto, the authorized officer shall furnish the respondent with a notice of decision, which may be on Form I-286, indicating whether custody will be continued or terminated, specifying any conditions under which release is permitted, and advising the respondent appropriately whether he/she may apply to an immigration judge pursuant to paragraph (b) of this section for release or modification of the conditions of release or whether he/she may appeal to the Board. A direct appeal to the Board from a determination by an officer authorized by this section to issue warrants shall not be allowed except as authorized by paragraph (b) of this section.

* * * * *

4. In § 242.7, paragraph (a) is revised to read as follows:

§ 242.7 Cancellation proceedings.

(a) *Cancellation of an order to show cause.* Any officer authorized by § 242.1 (a) of this part to issue an order to show cause may cancel an order to show cause prior to jurisdiction vesting with the Immigration Judge pursuant to § 3.14 of this chapter provided the officer is satisfied that:

(1) The respondent is a national of the United States;

(2) The respondent is not deportable under immigration laws;

(3) The respondent is decreased;

(4) The respondent is not in the United States; or

(5) The Order to Show Cause was improvidently issued.

* * * * *

Dated: January 23, 1987.

Raymond M. Kisor,

Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 87-1861 Filed 1-29-87; 9:59 am]

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Vol. 52, No. 20

Friday, January 30, 1987

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