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Monday
February 23, 1987

Briefings on How To Use the Federal Register—
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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.

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
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ATLANTA, GA

WHEN: March 26; at 9 am.
WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.
RESERVATIONS: Call the Atlanta Federal Information Center, 404–331–2170.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202–523–3517

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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.

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Presidential Documents

Title 3—

The President

Proclamation 5610 of February 19, 1987

Restoration of the Application of Column 1 Rates of Duty of the Tariff Schedules of the United States to the Products of Poland

By the President of the United States of America

A Proclamation

1. On October 27, 1982, by Proclamation No. 4991, I suspended the application of column 1 rates of duty of the Tariff Schedules of the United States (TSUS) to the products of Poland. This followed from my determination that the Government of the Polish People's Republic had failed to meet certain import commitments under its Protocol of Accession to the General Agreement on Tariffs and Trade (19 UST 4331), and that the Polish martial law government had increased its repression of the Polish people, leaving the United States without any reason to continue withholding action on its trade complaints against Poland.

2. Since issuance of that Proclamation, the Polish Government has taken steps that lead me to believe that Poland should be given a renewed opportunity to address its trade obligations with the benefit of most-favored-nation tariff treatment.

3. The President may, pursuant to his constitutional and statutory authority, including Section 125(b) of the Trade Act of 1974, as amended, terminate in whole or in part Proclamation No. 4991.

4. I have determined in this case that the national interest requires expeditious action.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the statutes of the United States, including, but not limited to, the Trade Expansion Act of 1962, as amended, and the Trade Act of 1974, as amended, do hereby proclaim as follows:

1. Proclamation No. 4991 of October 27, 1982, is hereby revoked.

2. General Headnote 3(d) of the TSUS is modified:

(a) by deleting "or pursuant to Presidential Proclamation No. 4991, dated October 27, 1982" and

(b) by deleting "Polish People's Republic" from the list of countries therein.

3. This Proclamation shall take effect with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this Proclamation in the **Federal Register.**

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 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. 87-3896
Filed 2-19-87; 4:21 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12583 of February 19, 1987

Food for Progress

By the authority vested in me as President by the laws of the United States of America, including the Food for Progress Act of 1985 (section 1110 of the Food Security Act of 1985, Public Law 99–198; 7 U.S.C. 1736o) ("the Act") and section 301 of Title 3 of the United States Code, and in order to provide for the delegation of certain functions under the Act, it is hereby ordered as follows:

Section 1. (a) The function vested in the President by section 1110(b) of the Act of entering into agreements with developing countries is delegated to the Director of the United States International Development Cooperation Agency, and this function may be redelegated to the head of any other agency. This function shall be exercised in accordance with section 112b of Title I of the United States Code and applicable regulations and procedures of the Department of State.

(b) The Director of the United States International Development Cooperation Agency shall, in accordance with Section 3 of this Order, transmit to the Congress all reports required by the Act concerning such agreements.

Sec. 2. The functions vested in the President by section 1110(f)(2) of the Act of waiving any minimum tonnage requirements are delegated to the Secretary of Agriculture, who shall exercise this function in accordance with policy guidance provided by the Food Aid Subcommittee of the Development Coordination Committee.

Sec. 3. In order to ensure that the furnishing of commodities under the Act is coordinated with and complements other United States foreign assistance, the exercise of all functions delegated by this Order shall be coordinated through the Food Aid Subcommittee of the Development Coordination Committee.

Ronald Reagan

THE WHITE HOUSE,
February 19, 1987.

[FR Doc. 87–3853
Filed 2–19–87; 2:30 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12584 of February 19, 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, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to extend the time within which the President's Special Review Board may submit its findings and recommendations, it is hereby ordered that Section 2(b) of Executive Order No. 12575, as amended, is further amended by deleting the phrase "February 19, 1987" and inserting in lieu thereof "February 26, 1987."

Ronald Reagan

THE WHITE HOUSE,
February 19, 1987.

[FR Doc. 87-3929
Filed 2-20-87; 10:46 am]
Billing code 3195-01-M

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Career and Career Conditional Employment; National Guard Technicians

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations to implement Pub. L. 99–586, enacted October 29, 1986. The law authorizes the non-competitive appointment of National Guard technicians under certain conditions.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: Raleigh Neville, (202) 632–6817.

SUPPLEMENTARY INFORMATION: Pub. L. 99–586 amended 5 U.S.C. 3304 to authorize the noncompetitive appointment of National Guard technicians who are separated involuntarily from the Guard (other than by removal for cause on charges of misconduct or delinquency), provided they have 3 years of service, are appointed within 1 year of their separation, and meet appropriate OPM qualification standards. This regulation implements that law.

Pursuant to sections 553(b)(3)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment a final rule, effective upon publication to implement the statutory mandate to benefit eligible Guard technicians. The criteria for eligibility specified by the law and reflected in the final rule are complete and unambiguous. Therefore, the comment period apropriate to a proposed regulation or an interim rule would serve no useful purpose. More important, since the law requires that an appointment be made within 1 year of involuntary separation, any delay in publicizing the authority could adversely affect the very individuals the law was designed to help.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions because it will only affect National Guard technicians and Federal agencies.

List of Subjects in 5 CFR Part 315

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Part 315 as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for Part 315 is revised to read as set forth below and the authority citations throughout Part 315 are removed:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218 §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; §§ 315.602 and 315.604 also issued under 5 U.S.C. 1104; Pub. L. 95–454, sec. 3(5); § 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; § 315.606 also issued under E.O. 11219, 3 CFR 1964–1965 Comp., p. 303; § 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137; 22 U.S.C. 2506, 94 Stat. 2158; § 315.608 also issued under E.O. 12362, 47 FR 21231; § 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–586, Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. A new Section 315.610 is added to Subpart F of Part 315 to read as follows:

Subpart F—Career or Career-Conditional Appointment Under Special Authorities

* * * * *

§ 315.610 Noncompetitive appointment of certain National Guard technicians.

(a) An agency may appoint noncompetitively a National Guard technician who—

(1) Was involuntarily separated (other than by removal for cause on charges of misconduct or delinquency);

(2) Has served at least 3 years as a technician;

(3) Meets the qualifications requirements of the job: and

(4) Is appointed within 1 year after separating from service as a Guard Technician.

(b) The noncompetitive appointing authority also applies to National Guard technicians separated before October 29, 1986, provided they are appointed within a year of the date of separation.

[FR Doc. 87–3764 Filed 2–20–87; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 841

Federal Employees Retirement System—General Administration; State Income Tax Withholding

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim rules and requesting comment on the rules to provide for withholding of State income taxes from benefits payable under the Federal Employees Retirement System (FERS) Act of 1986. These rules provide the procedures that OPM will follow in entering into agreements with States to withhold State income taxes and in withholding those taxes from FERS benefits.

DATES: Interim rules effective March 25, 1987; comments must be received on or before April 24, 1987.

ADDRESSES: Send comments to Frank D. Titus; Director, FERS Implementation Task Force; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 884; Washington, DC 20044; or deliver to OPM, Room 3311, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202)–632–5560.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Pub. L. 99–335, created

a new retirement system for some Federal employees. Section 8469 of title 5, U.S.C., as added by the FERS Act of 1986, requires, under certain circumstances, that OPM withhold State income taxes from FERS benefits. These rules provide the procedures that OPM will follow in entering into agreements with States to withhold State income taxes and in withholding those taxes from FERS benefits.

A single agreement between a State and OPM that OPM will withhold State income taxes should apply to benefits under both FERS and the Civil Service Retirement System (CSRS). OPM will not require States that already have agreements to withhold State income taxes from benefits under CSRS to enter new agreements to have taxes withheld from FERS benefits as well. These rules will permit a single agreement to cover benefits under both retirement systems (by applying the same rules to FERS as are currently applied to CSRS under Subpart S of Part 831, of Title 5, Code of Federal Regulations).

Under section 553(b)(3)(B) of Title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. These rules were developed with full opportunity for public participation as applied to other benefits administered by OPM. Further opportunity for public participation before these rules are effective would be unnecessary. In addition, the need to establish procedures as soon as possible after the statutory effective date of FERS (January 1, 1987) to provide for proper functioning of the new retirement system makes the general notice of proposed rulemaking impracticable.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect State Governments, Federal agencies, and retirement payments to retired Government employees.

List of Subjects in 5 CFR Part 841

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental regulations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Part 841 to add Subpart J to read as follows:

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

* * * * *

Subpart J—State Income Tax Withholding

Sec.

Subpart J—State Income Tax Withholding

Authority: 5 U.S.C. 8461 and 8469.

§ 841.1001 Purpose.

This subpart regulates state income tax withholding from payments of basic benefits under the Federal Employees Retirement System (FERS).

§ 841.1002 Definitions.

For the purpose of this subchapter:

"Agreement" means the Federal-State agreement contained in this subpart.

"Annuitant" means an employee or Member retired, or a spouse, widow, or widower receiving survivor benefits, under Chapter 84 of Title 5, United States Code.

"Effective date" means, with respect to a request or revocation, that the request or revocation will be reflected in payments authorized after that date, and before the next request or revocation is implemented.

"Fund" means the Civil Service Retirement and Disability Fund as established and described in section 8348 of Title 5, United States Code.

"Income tax" and "State income tax" mean any form of tax for which, under a State statute, (a) collection is provided, either in imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and (b) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of the State.

"Net recurring payment" means the amount of annuity or survivors benefits (not recurring interim payments made while a claim is pending adjudication) payable to the annuitant on a monthly basis less the amounts currently being deducted for health benefits, Medicare, life insurance, Federal income tax, overpayment of annuity, indebtedness to the Government, voluntary allotments, waivers, or being paid to a third party or a court officer in compliance with a court order or decree.

"Net withholding" means the amount of State income tax deductions withheld during the previous calendar quarter as a result of requests which designated the State as payee, less similar deductions taken from prior payments which are cancelled in the previous calendar quarter.

"Proper State Official" means a State officer authorized to bind the State contractually in matters relating to tax administration.

"Received" means, in respect to the magnetic tape containing requests and revocations, received at the special mailing address established by OPM for income tax requests, or, for those items not so received, received at the OPM data processing center charged with processing requests.

"Requests" means, in regard to a request for tax withholdings, a change in the amount withheld, or revocation of a prior request, a written submission from an annuitant in a format acceptable to the State which provides the annuitant's name, FERS claim number, Social Security identification number, address, the amount to be withheld and the State to which payment is to be made, which is signed by the annuitant or, in the case of incompetence, his or her representative payee.

"State" means a State, the District of Columbia, or any territory or possession of the United States.

§ 841.1003 Federal-State agreements.

OPM will enter into an agreement with any State within 120 days of an application for agreement from the proper State official. The terms of the standard agreement will be § 841.1004 through 841.1007 of this subpart. OPM and the State may agree to additional terms and provisions, insofar as those additional terms and provisions do not contradict or otherwise limit the terms of the standard agreement.

§ 841.1004 OPM responsibilities.

OPM will, in performance of this agreement:

(a) Process the magnetic tape containing State tax transactions against the annuity roll once a month at the time monthly recurring payments are prepared for the United States Treasury Department. Errors that are identified will not be processed into the file, and will be identified and returned to the State for resolution via the monthly error report. Collections of State income tax will continue in effect until the State requesting the initial action supplies either a valid revocation or change. The magnetic tape must be received 35 days prior to the date of the check in which the transactions are to be effective. For example, withholding transactions for the July 1 check must be received 5 days prior to June 1. If the magnetic tape submitted by the State cannot be read, OPM will notify the State of this fact, and if a satisfactory replacement can be supplied in time for monthly processing, it will be processed.

(b) Deduct from the regular, recurring annuity payments of an annuitant the amount he or she has so requested to be withheld, provided that:

(1) The amount of the request is an even dollar amount, not less than Five Dollars nor more than the net recurring amount. The State may set any even dollar amount above Five Dollars as a minimum withholding amount.

(2) The annuitant has not designated more than one other State for withholding purposes within the calendar year. The State can set any limit on the number of changes an annuitant may make in the amount to be withheld.

(c) Retain the amounts withheld in the Fund until payment is due.

(d) Pay the net withholding to the State on the last day of the first month following each calendar quarter.

(e) Make the following reports:

(1) A monthly report which will include all the State tax withholdings, cancellations and adjustments for the month, and also each request OPM was not able to process, with an explanation, in coded format, of the reason for rejection.

(2) A quarterly report which will include State, State address, quarterly withholdings, quarterly cancellations and adjustments, quarterly net withholdings and year-to-date amounts. Where cancelled or adjusted payments were made in a previous year, OPM shall append a listing of the cancelled or adjusted payments which shows the date and amount of each cancelled or adjusted tax withholding, and the name and Social Security identification number of the annuitant from whom it was withheld. If either party terminates the agreement and the amount of cancelled or adjusted deductions exceeds the amount withheld for the final quarter, then the quarterly report shall show the amount to be refunded to OPM and the address to which payment should be made.

(3) An annual summary report which contains the name, Social Security identification number, and total amount withheld from non-cancelled payments during the previous calendar year, for each annuitant who requested tax withholding payable to the State. In the event the annuitant had State income tax withholding in effect for more than one State in that calendar year, the report will show only the amount withheld for the State receiving the report.

(4) An annual report to each annuitant for whom State income taxes were withheld giving the amount of withholding paid to the State during the calendar year.

§ 841.1005 State responsibilities.

The State will, in performance of this agreement:

(a) Accept requests and revocations from annuitants who have designated that State income tax deductions will go to the State.

(b) Convert these requests on a monthly basis to a machine-readable magnetic tape using specifications received from OPM, and forward that tape to OPM for processing.

(c) Inform annuitants whose tax requests are rejected by OPM that the request was so rejected and of the reason why it was so rejected.

(d) Recognize that, to the extent not prohibited by State laws, records maintained by the State relating to this program are considered jointly maintained by OPM and are subject to the Privacy Act of 1974 (5 U.S.C. 552a). Accordingly, the States will maintain such records in accordance with that statute and OPM's implementing regulations at 5 CFR Part 297.

(e) Respond to requests of annuitants for information and advice in regard to State income tax withholding.

(f) Credit the amounts withheld from FERS annuities to the State tax liability of the respective annuitants, and, subject to applicable provisions of State law to the contrary, refund any balance over and above that liability to the annuitant, unless he or she should request otherwise.

(g) Surrender all tax withholding requests to OPM when this agreement is terminated or when the documents are not otherwise needed for this State tax withholding program.

(h) Allow OPM, the Comptroller General or any of their duly authorized representatives access to, and the right to examine, all records, books, papers or documents related to the processing of requests for State income tax withholding from FERS annuities.

§ 841.1006 Additional provisions.

These additional provisions are also binding on the State and OPM:

(a) A request or revocation is effective when processed by OPM. OPM will process each request by the first day of the second month following the month in which it is received, but incurs no liability or indebtedness by its failure to do so.

(b) Any amount deducted from an annuity payment and paid to the State as a result of a request is deemed properly paid, unless the annuity payment itself is cancelled.

(c) OPM will provide the State with the information necessary to properly process a request for State income tax withholding.

(d) If the State is paid withholding which is contrary to the terms of the annuitant's request, the State is liable to the annuitant for the amount improperly withheld, and subject to account verification from OPM, agrees to pay that amount to the annuitant on demand.

(e) In the case of a dispute amount in any of the reports described and authorized by this agreement, the Associate Director will issue an accounting. If the State finds this accounting unacceptable, it may then and only then pursue such remedies as are otherwise available.

(f) If a State received an overpayment of monies properly belonging to the Fund, OPM will offset the overpayment from a future payment due the State. If there are no further payments due the State, OPM will inform the State in writing of the amount due. Within 60 days of the date of receipt of that communication that State will make payment of the amount due.

§ 841.1007 Agreement modification and termination.

This agreement may be modified or terminated in the following manner:

(a) Either party may suggest a modification of non-regulatory provisions of the agreement in writing to the other party. The other party must accept or reject the modification within 60 calendar days of the date of the suggestion.

(b) The agreement may be terminated by either party on 60 calendar days written notice.

(c) OPM may modify this agreement unilaterally through the rule making

process described in sections 553, 1103, and 1105 of Title 5, United States Code.

§ 841.1008 Authority to use the Federal Personnel Manual System.

OPM may provide such further rules, procedural instructions, and operational guidance as may be necessary and proper under this Subpart and not inconsistent therewith, in the Federal Personnel Manual System.

[FR Doc. 87-3767 Filed 2-20-87; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 285]

Food Stamp Program; Excess Shelter Expense Deductions and Treatment of Low Income Home Energy Assistance Act Payments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Human Services Reauthorization Act of 1986 (Pub. L. 99-425, September 30, 1986) includes a provision which affects the treatment of Low Income Home Energy Assistance Act (LIHEAA) payments in the Food Stamp Program's calculation of an excess shelter expense deduction. In accordance with section 504(e) of this Act, LIHEAA payments must be treated consistently in food stamp calculations regardless of how the LIHEAA payment is distributed to the household. In order to implement this provision, this final rulemaking amends current regulations to: (1) Allow energy expenses covered by LIHEAA payments made to the energy supplier on behalf of the household (i.e., indirect payments) as deductible shelter expenses; (2) consider all households receiving payments under LIHEAA eligible to claim a standard utility allowance for use in the computation of the excess shelter expense deduction; and (3) eliminate the State agency's option to use a separate standard utility allowance for those households which receive an indirect LIHEAA payment. This rulemaking establishes consistent national standards for the treatment of LIHEAA payments in food stamp eligibility and coupon allotment determinations.

DATES: The provisions in this rulemaking are effective retroactive to October 1, 1986, and must be implemented immediately.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Certification Rulemaking Section, Eligibility and Monitoring Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Department has reviewed this final rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. It has been determined that the action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions. Additionally, this action will not result in 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. Therefore this action has been classified as "not major."

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The requirements will affect the food stamp recipients and the State and local agencies which administer the program.

Paperwork Reduction Act

This rulemaking does not contain recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Public Participation and Effective Date

This final rulemaking is being finalized without prior notice of proposed rulemaking or an opportunity for public comment. This rulemaking merely implements the amendments made by section 504(e) of the Human Services Reauthorization Act of 1986 and is an interpretative rule. Furthermore, the rule relieves a restriction which has previously prevented deductions of vendor payments made under LIHEAA. For these reasons, the Department has determined in accordance with 5 U.S.C. 553(b) that prior notice of proposed rulemaking or the opportunity for public comment and publication not less than 30 days prior to the effective date are not required.

Background

Treatment of Indirect Payments Provided Under the Low Income Home Energy Assistance Act

When determining a household's food stamp eligibility and coupon allotment, certain deductions are subtracted from a household's gross income level. One such deduction is for excess shelter expenses. Allowable shelter expenses are defined in the current rules at 7 CFR 273.9(d)(5) and include, in part, such items as the cost of heating, electricity, water, and garbage and trash collection. Disallowed shelter expenses are specified in the current rules at 7 CFR 273.10(d)(1).

Some low-income households receive energy assistance benefits under the Low Income Home Energy Assistance Act (LIHEAA) of 1981 (42 U.S.C. 8621 *et. seq.*). Depending on the State agency's management of LIHEAA payments, a food stamp household may either: (1) Receive LIHEAA payments directly (in which case the household would be responsible for paying its energy provider); or (2) have its LIHEAA payments transferred directly to the energy provider by the State agency. For food stamp purposes, the latter procedure is referred to as either an "indirect payment" or a "vendor payment." Under current Food Stamp Program rules, households which receive their LIHEAA payments directly are allowed to include the expense covered by the LIHEAA payment in the computation of the excess shelter expense deduction. However, in accordance with section 5(e) of the Food Stamp Act (7 U.S.C. 2014(e)) and 7 CFR 273.10(d)(1)(i), households currently may not deduct the portion of their utility bill which is transferred to the energy provider through a vendor payment. This distinction has generated several lawsuits revolving around apparently conflicting legislative intent of amendments to both LIHEAA and the

Food Stamp Act. *See, Schmeige* v. *USDA*, 693 F.2d 55 (8th Cir. 1982); *Idaho* v. *USDA*, 784 F.2d 895 (9th Cir. 1986); and *Segan* v. *USDA*, 626 F. Supp. 545 (Indiana 1985).

The Human Services Reauthorization Act of 1986 (Pub. L. 99–425), enacted on September 30, 1986, reauthorizes the Low Income Home Energy Assistance Program of 1981. Public Law 99–425 also contains an amendment which affects the treatment of LIHEAA payments when determining any excess shelter expense deduction in the food stamp program. Specifically, section 504(e)(2) of Pub. L. 99–425 states:

". . . for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

(A) The full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) No distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any such households;".

As a result of this legislation, all energy expenses covered by LIHEAA payments will be allowable expenses for food stamp purposes and must be included in the calculation of the excess shelter expense deduction. This change alters the treatment of indirect LIHEAA payments but will not affect current policy with respect to other State or local energy assistance payments or other expenses paid to a third party on behalf of households.

Accordingly, 7 CFR 273.10(d)(1)(i) is amended to allow energy expenses covered by vender payments made under the Low Income Home Energy Assistance Act of 1981, as amended, to count as expenses toward the household's excess shelter expense deduction.

Treatment of Indirect LIHEAA Payments and the Standard Utility Allowance

Current rules at 7 CFR 273.9(d)(6)(i) allow State agencies to offer households incurring a heating or cooling expense a standard utility allowance (SUA). The single SUA includes a heating and/or cooling component and is used in lieu of actual costs in the determination of the excess shelter expense deduction. In order to equitably determine the household's eligibility to receive this SUA, the Food Security Act of 1985, Pub. L. 99–198, required that the households receiving indirect LIHEA payments have these payments prorated over the season the payments were intended to cover. After such proration, households which still incur out-of-pocket heating or cooling expenses over and above their indirect LIHEAA or similar indirect energy assistance payment would be eligible to receive the SUA. Finally, section 1511 of Pub. L. 99–198 provided that States choosing to offer an SUA could: (1) Offer on SUA to all households incurring heating or cooling costs; or (2) develop two separate SUAs for households incurring heating or cooling costs—one for households receiving indirect energy assistance payments and the other for households not receiving indirect energy assistance payments. The Department published regulations implementing these provisions from Pub. L. 99–198 in a final rulemaking (51 FR 18744) on May 21, 1986.

However, as previously noted, section 504(e)(2) of Pub. L. 99–425 requires that the *full* amount of LIHEAA payments must be considered expended by the household for heating and cooling expenses regardless of the State's method of distributing the payment. Furthermore, section 504(e)(2) specifies that no distinction may be made with regard to how the LIHEAA payment is provided in determining the food stamp excess shelter expense deduction. These provisions supercede the current regulations which require that, in order for a household receiving indirect energy assistance payments to be eligible for the SUA, the household must incur out-of-pocket expenses over and above the indirect payment. Thus, for food stamp purposes, an energy expense covered by a LIHEAA payment—whether provided directly or indirectly—will be considered an out-of-pocket expense for the purpose of determining the household's eligibility to use the SUA. Because an energy expense covered by any LIHEAA payment will be considered an out-of-pocket expense, it is no longer necessary to prorate an indirect LIHEAA payment over the season the payment is intended to cover.

Accordingly, § 273.9(d)(6)(ii) is amended in this rulemaking to specify that the amount of an energy expense covered by a LIHEAA payment is an out-of-pocket expense for the purpose of determining the household's eligibility to receive an SUA. Section 273.10(d)(6) is amended to specify that LIHEAA payments must not be prorated for the purpose of determining a household's eligibility to receive an SUA.

Moreover, State agencies which elect to develop a separate SUA for those households receiving indirect energy assistance payments may not use the separate SUA for households receiving indirect LIHEAA payments. Rather, States may only apply a separate SUA to other indirect energy assistance payments as provided for at 7 CFR 273.9(d)(6).

Accordingly, §§ 273.9(d)(6)(ii) and 273.9(d)(6)(v)(B) are amended to specify that the State agency's option to use a separate SUA only applies to those households receiving indirect energy assistance other than assistance provided under the Low Income Home Energy Assistance Act of 1981.

Implementation

In accordance with section 1001(a) of Pub. L. 99–425, the provisions in this rulemaking are effective retroactive to October 1, 1986 and must be implemented for all eligibility and benefit calculations made on or after the date of publication. Whenever the household requests a review or the State agency becomes aware that the household may have been denied benefits, the State agencies shall review the case to determine if the household would have been eligible, or would have been eligible for a higher allotment, if the provisions in this rulemaking had been appropriately applied in the food stamp eligibility and benefit calculations as of October 1, 1986. If it is determined that any new applicant household was denied benefits, restored benefits must be provided back to the date of application or October 1, 1986, whichever is later. Currently participating households must receive benefits back to October 1, 1986 or the first month in which application of this rule would have affected the household's benefits, whichever is later.

For quality control (QC) purposes only, for the period between October 1, 1986 and the first of the month following 30 days after publication of this rule, QC must not identify variances resulting solely from a State agency's implementation or non-implementation of this rule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reports and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, Parts 272 and 273 are amended as follows:

1. The authority citation of Parts 272 and 273 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(84) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation* * * *

(84) Amendment No. 285. (i) The provisions of Amendment No. 285 at §§ 273.9(d)(6)(i), 273.9(d)(6)(ii), 273.9(d)(6)(v)(B), 273.10(d)(1)(i) and 273.10(d)(6) are retroactively effective to October 1, 1986. The State agency shall implement the provisions immediately upon publication and any eligible determination made on or after that date shall be made in accordance with this rule. The State agency shall review a case to determine if the household was denied benefits under these amendments whenever the household requests a review or the State agency becomes aware that such a denial may have occurred. Any household that was denied benefits as a result of an eligibility or benefit calculation (e.g., processed change report) made on or after October 1, 1986 is entitled to restored benefits. Restored benefits for these households shall be made available, if approporiate, in accordance with § 273.17 back to: (A) October 1, 1986 or the date of application whichever is later for new applications; or (B) October 1, 1986 or the first month in which the application of these amendments would have affected the household's benefits, whichever is later, for certified households.

(ii) For quality control (QC) purposes only, a variance resulting solely from either the implementation or non-implementation of this rule shall not be identified between October 1, 1986 and April 1, 1987.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.9:

a. The third sentence in paragraph (d)(6)(i) is revised.

b. The first and second sentences in paragraph (d)(6)(ii) are revised.

c. The second sentence in paragraph (d)(6)(v)(B) is amended by adding the phrase, "as provided for in paragraph (d)(6)(i) of this section," after the phrase, "which receive indirect energy assistance payments".

The additions and revisions read as follows:

§ 273.9 Income and deductions.

* * * * *

(d) *Income deduction.* * * *

(6) *Standard utility allowance.* (i) * * * If the State agency chooses to develop two standard utility allowances for households which incur heating or cooling expenses, one standard shall only be used for those households which receive indirect energy assistance payments other than payments under the Low Income Home Energy Assistance Act of 1981, and the second standard shall be used for all other households. * * *

(ii) The standard utility allowance which includes a heating or cooling component shall be made available only to households which incur heating and cooling costs separately and apart from their rent or mortgage. These households include:

(A) Residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering;

(B) Recipients of energy assistance payments made under the Low Income Home Energy Assistance Act of 1981; or

(C) Recipients of indirect energy assistance payments, made under a program other than the Low Income Home Energy Assistance Act of 1981, who continue to incur out-of-pocket heating or cooling expenses in accordance with § 273.10(d)(6) during any month covered by the certification period.

* * * * *

4. In § 273.10:

a. The first sentence in paragraph (d)(1)(i) is revised.

b. Paragraph (d)(6) is revised.

The revisions read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(d) *Determining deductions.* * * *

(1) *Disallowed expenses.* (i) An expense covered by an excluded reimbursement or vendor payment, except an energy assistance vendor payment made under the Low Income Home Energy Assistance Act (LIHEAA), shall not be deductible. * * *

* * * * *

(6) *Energy Assistance Payments.* Except for payments made under the Low Income Energy Assistance Act of 1981, the State agency shall prorate energy assistance payments as provided for in § 273.9(d) over the entire heating or cooling season the payment is intended to cover.

* * * * *

Dated: February 13, 1987.

Robert E. Leard,

Administrator.

[FR Doc. 87–3724 Filed 2–20–87; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 70–CE–01–AD; Amendment 39–5564]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a revision to Airworthiness Directive (AD) 70–03–04, Amendment 39–933, which limits the required repetitive inspection of the turbosupercharger turbine housing of those airplanes equipped with the stainless steel turbine heat shields in place of the insulating turbine blanket. This action is being taken because a review has revealed no problems on those airplanes having turbosuperchargers equipped with the stainless heat shields. This revision limits the required repetitive inspections to those turbosuperchargers equipped with the turbosupercharger turbine blanket.

EFFECTIVE DATE: March 28, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-engine Service Letters Nos. ME70–3, dated January 9, 1970, ME70–3 Supplement 1, dated February 9, 1970, and ME72–4, dated March 24, 1972, applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201; or may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 70–03–04, Amendment 39–933, applicable to Cessna Models T310P, T310Q, 320D, 320E and 320F Series airplanes with the Continental Model TSIO–520B engines installed and Models 401, 401A, 401B, 402, 402A, and 402B Series airplanes with the Continental Model TSIO–520E engines installed, was published in the **Federal Register** on December 22, 1986 (51 FR 45779). The proposal resulted from a review of AD 70–03–04 which revealed no problems on those airplanes having turbosuperchargers equipped with the stainless heat shields. AD 70–03–04, Amendment 39–933, was published on January 31, 1970 (35 FR 1279) in the **Federal Register**. This AD calls for inspection to detect incipient failure of the turbosupercharger housing installed in the above-listed airplanes. This inspection is conducted within 25 hours time-in-service (TIS) after the effective date of the AD on airplanes with turbosupercharger turbine housings having 400 hours or more TIS, at or before 425 hours TIS and thereafter at intervals not to exceed 100 hours TIS, unless already accomplished. The inspection consists basically of removing the engine top cowling and the turbosupercharger turbine insulation blanket and visually inspecting the surface of the turbine housing for cracks, bulging and burned areas. Subsequent to the issuance of AD 70–03–04, the FAA determined that relief from the repetitive inspection requirements of AD 70–03–04 was in order for those airplanes equipped with stainless steel turbine heat shields.

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

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

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

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Therefore, the proposal is adopted without change except for some minor editorial clarifications. Because the potential cost reduction made available by the proposal is small, and the limited number of affected airplanes is distributed among a small number of owners, few if any small entities are expected to experience a significant economic impact as the result of this proposal.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

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

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

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

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

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

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

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

(c) Replacement of the turbosupercharger turbine insulation blanket with stainless steel heat shields in accordance with Cessna Multi-engine Service Letter ME72–4, dated March 24, 1972, will terminate further time interval repetitive inspections required by this AD. However, the inspection cited in paragraph (a) above and any necessary corrective action in paragraph (b) above must be completed at the time of the heat shield installation.

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

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201; or may examine the document(s) referred to herein at the FAA, Rules Docket, Office of the Regional Counsel, Room 1588, 601 East 12th Street, Kansas City, Missouri 64106.

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

Note 2: Time-in-service on turbosupercharger turbine housings may be

determined from the engine maintenance records.

This amendment revises AD 70-03-04, Amendment 39-933.

This amendment becomes effective March 28, 1987.

Issued in Kansas City, Missouri, on February 11, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-3687 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ANE-47; Amdt. 39-5565]

Airworthiness Directives; Pioneer Parachute Company K-XX, K-XXII, and 26 Foot Conical Canopies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all U.S. users of certain Pioneer Parachute Company K-XX, K-XXII, and 26 foot conical canopies by priority letters sent to all certificated parachute lofts and certificated parachute riggers. The AD requires removal or obliteration of the Technical Standard Order (TSO) C-23b markings. The AD is needed to prevent use of affected canopies as FAA approved canopies due to understrength fabric.

DATES: Effective February 23, 1987, as to all persons except those to whom it was made immediately effective by individual letters dated November 21, 1986, and January 13, 1987, which contained this amendment.

Compliance required prior to next use after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable Safety Notice referred to in Note 1 may be obtained from Pioneer Parachute Company, Incorporated, Pioneer Industrial Park, Hale Road, Manchester, Connecticut 06040.

A copy of the Safety Notice is contained in the Rules Docket, Docket Number 86-ANE-47, Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Boston Aircraft Certification Office, Aircraft Certification Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: On November 21, 1986, Priority Letter AD No. 86-24-03 was issued and made effective immediately as to all U.S. users of certain Pioneer Parachute Company K-XX canopies. The Priority Letter AD required removal or obliteration of the TSO C-23b markings. AD action was necessary on these canopies because understrength fabric was found on panels of several canopies of this type.

After issuance of Priority Letter AD 86-24-03, it was determined that an amendment was needed to add certain canopies to the applicability list. Consequently, on January 13, 1987, Priority Letter AD No. 86-24-03R1 was issued and made effective as to all users of certain Pioneer Parachute K-XX, K-XXII, and 26 foot conical canopies.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual Priority Letters as to all known certificated parachute lofts and parachute riggers. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Conclusion

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

List of Subjects in 14 CFR Part 39

Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Pioneer Parachute Company: Applies to Model K-XX, K-XXII, and 26 foot conical canopies with the following serial numbers: K-XX, P/N 5375-1.

Color Patterns: Light Blue Upper Panels and Royal Blue Lower Panels or Yellow Upper Panels and Tan Lower Panels.

598162	598961	599006
598318	598965	599008
598865	598966	599009
598866	598967	599042
598923	598968	599043
598924	598969	599048
598925	598970	599049
598926	598971	599050
598927	598972	599051
598928	598995	599087
598929	599000	599165
598930	599001	599166
598937	599004	
598960	599005	

Color Patterns: Light Blue Upper Panels and Tan Lower Panels or Yellow Upper Panels and Tan Lower Panels.

598307	598351	598530
598317	598363	598531
598320	598364	598532
598340	598366	598533
598341	598367	598535
598342	598521	598536
598343	598522	598537
598344	598523	598545
598345	598524	598571
598346	598525	598572
598347	598526	598592
598348	598527	598863
598349	598528	
598350	598529	

Color Pattern: White Panels.

598539	598579	599007
598540	598842	599164
598541	598843	599561
598542	598844	599562
598546	598845	599563
598547	598858	599613
598548	598864	599614
598549	598962	599640
598550	598996	599701
598552	598997	599702
598553	598998	599703
598554	598999	599711
598555	599002	
598556	599003	

K-XXII, P/N 5418-1

598557	598564	598651
598558	598565	599044
598559	598566	599076
598560	598567	599441
598561	598568	599638
598562	598569	599639
598563	598650	

26 foot conical, P/N 2412-501

Color Pattern: All White.

599093

To prevent use of affected canopies as FAA approved canopies due to understrength material, remove or obliterate TSO C-23b marking prior to next use after receipt of this AD, unless already accomplished.

Notes.—(1) Pioneer Parachute Company Safety Notice, dated December 22, 1986, applies to this AD.

(2) Investigation is continuing and this AD may be amended in light of the results of the investigation.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Boston Aircraft Certification Office, Aircraft Certification Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7103.

This amendment becomes effective March 20, 1987, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD No. 86-24-03, issued November 21, 1986, and Priority Letter AD No. 86-24-03R1, issued January 13, 1987, which contained this amendment.

Issued in Burlington, Massachusetts, on February 12, 1987.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 87-3685 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-30]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: 0901 UTC, June 4, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On December 22, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Santa Rosa transition area and control zone (51 FR 45780). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Santa Rosa, CA—[Revised]

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

§ 71.181 [Amended]

3. § 71.181 is amended as follows:

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

Issued in Los Angeles, California, on February 11, 1987.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-3686 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-34]

Establishment of Transition Area—Mobridge, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Mobridge, South Dakota, transition area to accommodate a new NDB Runway 12 Standard Instrument Approach Procedure (SIAP) to Mobridge Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 UTC, June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 31, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Mobridge, South Dakota, transition area (51 FR 47253).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in

Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Mobridge, South Dakota, transition area to accommodate aircraft utilizing an NDB Runway 12 SIAP.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Mobridge, South Dakota [New]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Mobridge Municipal Airport (Lat. 45°33'00"N., Long. 100°24'00"W.); and within 3 miles either side of the 297° bearing from the Mobridge NDB extending from the 5 mile radius to 8 miles northwest of the Mobridge NDB; and, that airspace extending upward from 1,200 feet above the surface within 9.5 miles southwest of, and 4.5 miles northeast of the 297° bearing from the Mobridge NDB, extending from the Mobridge NDB to 18.5 miles northwest excluding the portions within Federal Airway V71.

Issued in Des Plaines, Illinois, on February 11, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87-3688 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Parts 211, 272 and 302

[OST Docket 42721; Amdt. No. 211-18; 272-1; 302-72]

Applications for Permits to Foreign Air Carriers; Essential Air Transportation to the Freely Associated States; Rules of Practice in Proceedings

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department adopts a rule to implement the provisions of the aviation economic agreement supplementing the Compact Of Free Association between the United States, the Federated States of Micronesia, the Marshall Islands and Palau. The rule will: (1) Establish procedures for the grant of a special class of foreign air carrier permit to "Freely Associated State Air Carriers"; (2) allow these carriers to apply for authority to engage in overseas (and interstate) air transportation between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, Hawaii; (3) make provision for the guarantee of essential air transportation to certain Freely Associated State points, with subsidy if necessary; and (4) permit Freely Associated State Air Carriers to be eligible to provide such subsidized essential air transportation under certain conditions.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Office of the Assistant General Counsel for International Law, C-20, (202) 366-5621, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking, (Docket 42721), published December 24, 1984 (50 FR 95, January 2, 1985), the Civil Aeronautics Board proposed adoption of rules to implement the provisions of the aviation economic agreement supplementing the Compact of Free Association between the United States, the Federated States of Micronesia and the Marshall Islands.

With the statutory termination of the Civil Aeronautics Board on January 1, 1985 under the Airline Deregulation Act of 1978 and the Civil Aeronautics Board Sunset Act of 1984, the Department of Transportation is now responsible for the disposition of this rule.

By Supplementary Rulemaking Notice (No. 85-6, Docket 42721, 50 FR 11182, March 3, 1985), the Department granted a request by the Federated States of Micronesia for extension of time to comment to April 4, 1985, with reply comments due April 25, 1985.

No comments have been filed in this proceeding. Accordingly, except to the extent modified to extend the applicability of these rules to Palau, we adopt this final rule, as proposed.

The Compact of Free Association between the United States, on the one hand, and the Federated States of Micronesia and the Marshall Islands, on the other (hereafter referred to as the "Freely Associated States"), creates a new independent status, in association with the United States, for these island governments in the Trust Territory of the Pacific Islands. A Joint Resolution adopting the Compact was passed by both Houses of Congress and was signed by the President on January 14, 1986 (Pub. L. 99-239).

By Proclamation issued on November 3, 1986, the President of the United States announced the effectiveness of the Compact for the Marshall Islands on October 21, 1986, and for the Federated States of Micronesia on November 3, 1986, in accordance with the terms of the Compact and agreements with those Governments.

A Compact of Free Association has also been concluded between the United States and the Republic of Palau. For purposes of provisions relating to aviation, that Compact is identical to the Compacts in effect with the Marshall Islands and the Federated States of Micronesia. On October 16, 1986, the U.S. Congress approved the Compact with Palau, which was signed by the President on November 14, 1986 (Pub. L. 99-658). However, the Compact approval process in the Republic of Palau has not yet been completed. The Compact will become effective for Palau on a date to be agreed following completion of the Palauan approval process. We are revising the rule to be applicable to Palau in anticipation of effectiveness of the Compact for Palau. Nevertheless, Palau would not be considered to be a Freely Associated State, within the meaning of the rule, until the Compact becomes effective for Palau. Similarly, the rule's subsidy provisions (Part 272) would not be applicable to Palau until effectiveness of the Compact for Palau, although the subsidy provisions in section 419 of the

Federal Aviation Act (49 U.S.C. 1389) would remain applicable until that time.

Supplementary to the Compact is the Federal Programs and Services Agreement. Article IX of that Agreement deals with Civil Aviation Economic Services (hereafter referred to as the "Aviation Agreement"). Subject to the special provisions of the Aviation Agreement, these Micronesian islands are treated as foreign points, and carriers owned and controlled by their citizens as foreign air carriers, for purposes of application of the Federal Aviation Act (49 U.S.C. 1301, *et. seq.*).

Paragraph 5 of Article IX provides that the Department of Transportation (as successor to the Civil Aeronautics Board) will guarantee essential air transportation, with subsidy if necessary, between the United States and certain points in the Federated States of Micronesia, the Marshall Islands, and Palau. In addition, paragraph 5 provides that Freely Associated State Air Carriers, which are air carriers owned and controlled by citizens of the Federated States of Micronesia, the Marshall Islands, Palau and/or the United States, may be authorized by the Department to engage in local air transportation between Guam, the Commonwealth of the Northern Mariana Islands (and within the Commonwealth of the Northern Mariana Islands) and Honolulu, Hawaii (interstate and overseas air transportation). Freely Associated State Air Carriers could be selected to perform subsidized essential air transportation to these Micronesian points only if no U.S. air carrier were available to perform such transportation, or the subsidy cost would be substantially less than for an available U.S. air carrier.

Section 221(a)(5) of the Compact provides that the Department of Transportation, as successor to the Civil Aeronautics Board, has "the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact." As noted, the Compact has been adopted by both Houses of Congress as Public Laws (Pub. L. 99–239, January 14, 1986; Pub. L. 99–658, November 14, 1986). Therefore, the Department has, through the Compact, been granted specific statutory authority to implement the provisions of paragraph 5 of the Aviation Agreement.

Subparagraph 5(h) of the Aviation Agreement provides:

(h) The Civil Aeronautics Board shall adopt such rules to implement the provisions of this paragraph as the Board, in its discretion deems appropriate.

This rule implements the provisions of paragraph 5 of the Aviation Agreement.

A summary of the final rule, follows:

Essential Air Service

As noted, section 5(a) of the Compact provides for the guarantee of essential air service, with subsidy if necessary, to various points in the Federated States of Micronesia, the Marshall Islands, and Palau. This rule specifies the procedures for implementation of these subsidy provisions. The authority for the essential air service provisions is derived from the provision of the Compact that grants the statutory authority to implement paragraph 5 of the Aviation Agreement, and not from section 419 of the Federal Aviation Act, *Small Community Air Service, Guaranteed Essential Air Transportation.* This rule, therefore, differs in several respects from the provisions of section 419.

Most significantly, the rule contemplates that there may be service by carriers in addition to those carriers providing the essential air transportation, although, all service, including connecting, multi-stop, or service via foreign points, whether provided by U.S., Freely Associated State or foreign air carriers, will be considered in determining if essential air transportation is being provided. Among the criteria for determination of the level of essential air transportation will be the demonstrated demand for service, as well as any subsidy costs involved. There is no specified minimum level of service. The essential air service provisions will be effective until October 28, 1988, and may be extended by Congress. Again, however, action by Congress on the Compact subsidy program would not necessarily be tied to, or be the same as action by Congress on the U.S. domestic subsidy program under section 419 of the Federal Aviation Act.

The Department has the authority to require that existing essential air transportation be maintained by U.S. or Freely Associated State air carriers, pending the selection of a carrier to provide essential air transportation, with a 90 day notice for termination of service below the level of essential air transportation. The Department will determine the level of essential air transportation for the eligible Freely Associated State points within nine (9) months after the effective date of the Compact of Free Association for the Freely Associated State concerned. The views of the Governments of the Freely Associated States will be carefully considered in making these determinations.

The Department will determine the compensation necessary to maintain the essential air transportation level, although payments will be made from appropriations to the Department of Interior. Such compensation will be provided only so long as is necessary to maintain a level of essential air transportation. The Department is authorized to impose conditions with respect to service, fares or rates on the operations of carriers serving a subsidized market as may be necessary or desirable to minimize the required subsidy compensation, provided such conditions do not unduly impair the services provided in the market (§ 272.10).

The Presidents of the Freely Associated States concerned must be served with all documents concerning subsidy or licensing proceedings.

Applications for Freely Associated State Foreign Air Carrier Permits

Paragraph 5(b) of the Aviation Agreement provides that the Department will establish a distinct classification of foreign air carriers known as Freely Associated State Air Carriers. The Department now adds a new subpart D to Part 211, which sets forth the procedures and requirements for such applications. Section 211.31 requires that the applicant clearly establish substantial ownership and effective control of the carrier, and that citizens of other countries do not have interests in the carrier sufficient to permit them to substantially influence its actions. The applicant must also establish that the Administrator of the FAA has determined that carrier complies with required safety standards.

Service of Documents

Paragraph 6 of the Aviation Agreement requires that the United States promptly notify the Government of the Marshall Islands, the Federated States of Micronesia or Palau of the filing with the Department of Transportation (as successor to the Civil Aeronautics Board) of any application by a United States air carrier for authority under the laws of the United States to operate air services to, through, beyond, within and between the territories of those governments. We are amending § 302.8 *Service of Documents,* § 302.9 *Parties;* and Part 302, Subpart Q *Expedited Procedures for Processing Licensing Cases,* § 302.1705 *Service of Documents,* to implement this provision.

The amendments require that all applications "directly involving" service to the Federated States of Micronesia,

the Marshall Islands or Palau, and all other documents in the proceeding, be served on the President and designated authorities of the Freely Associated State(s) concerned. The concerned Freely Associated State Government will be made a party to the proceeding.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in annual effect on the economy of $100 million or more. This regulation is significant under the Department's Regulatory Policies and Procedures because it involves important Departmental policies. Its economic impact will be so minimal that a full regulatory evaluation is not necessary.

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Department certifies that the rule will not have a significant economic impact on a substantial number of small entities. There are only a few small U.S. air taxi operators in this area. The rule will not be detrimental to their operations. They will be eligible, under the rule, to receive subsidy for necessary essential air service operations.

Immediate Effectiveness

No comments were received in response to the Notice of Proposed rulemaking. The Compact has recently become effective for the Federated States of Micronesia and the Marshall Islands. This rule implements important provisions of the Compact. It therefore extends benefits already provided for in the Compact, without adding any new restrictions for any person or carrier. In order to insure that the Compact's provisions may be available immediately to interested parties, without confusion as to the procedures for their implementation, the Department finds, in accordance with 5 U.S.C. 553(d), that good cause exists for making this rule immediately effective.

List of Subjects

14 CFR Part 211

Air carriers, Air transportation-foreign, Freely Associated State Air Carriers.

14 CFR Part 272

Air carrier, Essential air service, Freely Associated States.

14 CFR Part 302

Administrative practice and procedure, Air rates and fares, Authority delegations, Postal service, Freely Associated States.

Final Rule

Accordingly, for the reasons set out in the preamble, the Department adds a new 14 CFR Part 272, Essential Air Transportation to the Freely Associated States, and amends 14 CFR Part 211, Applications for Permits to Foreign Air Carriers, and 14 CFR Part 302, Rules of Practice in Proceedings, as follows:

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

1. The authority citation for Part 211 is revised to read as follows:

Authority: 49 U.S.C. 1324, 1372, 1386, 1481, 1482, 1502. Section 221(a)(5) of the Compact of Free Association, and Paragraph 5 of Article IX of the Federal Programs and Services in implementation of that Compact (Pub. L. 99-239; Pub. L. 99-658).

2. A new Subpart D consisting of §§ 211.30 through 211.35 is added to read as follows:

Subpart D—Freely Associated State Air Carriers

Sec.
211.30 Eligibility.
211.31 Application.
211.32 Issuance of permit.
211.33 Interstate and overseas authority.
211.34 Other permits.
211.35 Termination of eligibility.

Subpart D—Freely Associated State Air Carriers

§ 211.30 Eligibility.

Foreign carriers owned and controlled by citizens of the Federated States of Micronesia, the Marshall Islands, Palau and/or the United States may, in accordance with the provisions of paragraph 5(b) of Article IX of the Federal Programs and Services Agreement, implementing section 221(a)(5) of the Compact of Free Association between the United States and those governments, apply for authority as "Freely Associated State Air Carriers." The permit application for such authority shall be labeled on the front page, "Application for Freely Associated State Foreign Air Carrier Permit."

§ 211.31 Application.

The application shall include, in addition to other requirements of this part, documentation clearly establishing:

(a) That the carrier is organized under the laws of the Federated States of Micronesia, the Marshall Islands, Palau or the United States;

(b) That substantial ownership and effective control of the carrier are held by citizens of the Federated States of Micronesia, the Marshall Islands, Palau and/or the United States;

(c) That citizens of other countries do not have interests in the carrier sufficient to permit them substantially to influence its actions, or that substantial justification exists for a temporary waiver of this requirement;

(d) That the Administrator of the Federal Aviation Administration has determined that the carrier complies with such safety standards as the Administrator considers to be required.

(e) That the government or governments of the Freely Associated States concerned have consented to the carrier's operation as a "Freely Associated State Air Carrier."

§ 211.32 Issuance of permit.

If the Department is satisfied that the applicant meets the requirements of paragraphs (a) through (e) of § 211.31, and that grant of all or part of the requested authority would otherwise be in the public interest, the Department may, subject to Presidential review under section 801(a) of the Federal Aviation Act, issue a "Freely Associated State Foreign Air Carrier Permit" to the applicant, including such terms, conditions or limitations as the Department may find to be in the public interest.

§ 211.33 Interstate and overseas authority.

(a) An application under this subpart may include a request, in addition to other foreign air transportation, for authority to engage in overseas air transportation between Guam, the Commonwealth of the Northern Mariana Islands and Honolulu, Hawaii, and interstate air transportation within the Commonwealth of the Northern Mariana Islands. A request for all or part of such limited overseas and interstate air transportation authority shall be supported by documentation establishing:

(1) The impact of such overseas and interstate air transportation services on the economic projections of the carrier's proposed operations;

(2) The need for such proposed overseas and interstate air transportation by the affected U.S. points;

(3) The economic impact of such overseas and interstate air transportation on services provided by other carriers providing essential air transportation services to eligible Freely Associated State points within the scope of Part 272 of this chapter.

(b) The Department may grant a Freely Associated State Air Carrier

authority to engage in all or part of the overseas and interstate air transportation requested in paragraph (a) of this section provided that the Department finds:

(1) That grant of such overseas and interstate air transportation authority would be in furtherance of the objectives of the Compact of Free Association and related agreements between the United States and the Freely Associated States, and would otherwise be in the public interest; and

(2) That grant of such overseas and interstate air transportation authority would not significantly impair the economic viability of existing services providing essential air transportation to any eligible Freely Associated State point within the scope of Part 272 of this Chapter, or significantly increase compensation that may be required to maintain any such essential air transportation.

(c) The Department may, at any time, subject to Presidential review under section 801(a), suspend, modify, or revoke such overseas or interstate authority if it concludes that the requirements specified in paragraph (b) of this section are not then being met.

§ 211.34 Other permits.

Nothing in this section shall be construed as limiting the authority of the Department to issue a foreign air carrier permit, other than a Freely Associated State Foreign Air Carrier Permit, to a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia, the Marshall Islands or Palau, that does not meet the requirements of this section.

§ 211.35 Termination of eligibility.

The eligibility of a carrier owned or controlled, in whole or in part, by citizens of the Federated States of Micronesia, the Marshall Islands or Palau, respectively, for issuance of a Freely Associated State Foreign Air Carrier Permit under this subpart shall exist only for such period as subparagraphs (a), (d), and (e) (eligibility for Freely Associated State essential air transportation subsidy compensation), or subparagraph (c) (limited overseas and interstate air transportation authority), of paragraph (5) of the Agreement on Civil Aviation Economic Services and Related Programs (Article IX of the Federal Programs and Services Agreement) remain in effect between the Government of those States and the Government of the United States, insofar as authority is conferred by such permits for purposes specified in those subparagraphs.

1. A new Part 272, *Essential Air Transportation to the Freely Associated States,* is added to read as follows:

PART 272—ESSENTIAL AIR TRANSPORTATION TO THE FREELY ASSOCIATED STATES

Sec.

Authority: 49 U.S.C. 1302, 1324, 1502; Sec. 221(a)(5) of the Compact of Free Association, and Paragraph 5 of Article IX of the Federal Programs and Services Agreement in implementation of that Compact (Pub. L. 99-239; Pub. L. 99-658).

§ 272.1 Purpose.

Paragraph 5 of Article IX of the Federal Programs and Services Agreement implementing section 221(a)(5) of the Compact of Free Association between the United States and the Governments of the Federated States of Micronesia, the Marshall Islands and Palau (the Freely Associated States) provides, among other things, for the Department of Transportation (Department), as successor to the Civil Aeronautics Board (Board), to guarantee essential air transportation, with compensation if necessary, to certain points in these islands. Subparagraph 5(h) of the Agreement provides that the Department shall adopt rules to implement the provisions of paragraph 5 as it in its discretion deems appropriate. Section 221(a)(5) of the Compact, which was adopted by Congress as public laws (Pub. L. 99-239, January 14, 1986; Pub. L. 99-658, November 14, 1986), provides that the Department (as successor to the Board) has the authority to implement the provisions of paragraph 5 of the Agreement. This part implements these provisions of paragraph 5.

§ 272.2 Applicability.

This part establishes the provisions applicable to the Department's guarantee of Essential Air Transportation to points in the Federated States of Micronesia, the Marshall Islands and Palau, and the payment of compensation for such services. The rule applies to U.S. air carriers and Freely Associated State Air Carriers providing essential air transportation to these points.

§ 272.3 Points eligible for guaranteed essential air transportation.

(a) Subject to the provisions of this part, and paragraph 5 of Article IX of the Federal Programs and Services Agreement, the Department will make provision for the operation of essential air transportation, with compensation if necessary, to the following points in the Freely Associated States:

In the *Federated States of Micronesia:* Ponape, Truk and Yap.

In the *Marshall Islands:* Majuro and Kwajalein.

In *Palau:* Koror.

(b) The points specified herein in the Federated States of Micronesia, the Marshall Islands or Palau, respectively, shall cease to be eligible points under this part if any of those Governments withdraw from the subsidy provisions of Article IX of the Federal Programs and Services Agreement in accordance with paragraph 8 of Article IX or Article XII of that Agreement.

§ 272.4 Applicability of procedures and policies under section 419 of the Federal Aviation Act.

Since the authority of the Department to guarantee essential air transportation is derived from the Federal Programs and Services Agreement and the Compact of Free Association, the provisions and procedures utilized by the Department in implementation of section 419 of the Federal Aviation Act will be followed only to the extent determined by the Department to be consistent with the obligations assumed by the United States in the Agreement and Compact, and the provisions of this part.

§ 272.5 Determination of essential air transportation.

(a) The Department shall determine the level of essential air transportation for the eligible points set forth in § 272.3 within nine (9) months from the effective date of the Compact of Free Association for the Freely Associated State concerned.

(b) Procedures for the determination of essential air transportation under this section, and review of that determination, shall, except to the extent otherwise directed by the Department, be governed by § 325.4 (except the application of section 419(f)

in § 325.4(b)); § 325.6(a); § 325.7 (except §§ 325.7(a)(2) and 325.7(b)(9)); §§ 325.8–325.11; § 325.12 (provided that all documents shall be served on the President and the designated authorities of the Freely Associated State concerned); and §§ 325.13 and 325.14 of this chapter.

§ 272.6 Considerations in the determination of essential air transportation.

(a) In the determination of essential air transportation to an eligible Freely Associated State point, the Department shall consider, among other factors, the following:

(1) The demonstrated level of traffic demand;

(2) The amount of compensation necessary to maintain a level of service sufficient to meet that demand;

(3) The extent to which the demand may be accommodated by connecting or other services of U.S., Freely Associated State, or foreign carriers by air—through U.S., Freely Associated State, or foreign points—that provide access to the U.S. air transportation system;

(4) Alternative modes of transportation that may be available; and

(5) The peculiar needs of the Freely Associated States for air transportation services.

(b) The Guidelines for Individual Determinations of Essential Air Transportation set forth in Part 398 of this chapter shall be applied only to the extent the Department concludes that they are applicable to the special circumstances affecting transportation to the Freely Associated States and reflective of the provisions of this part.

(c) Nothing in this part shall be construed as providing for a level of essential air transportation that would exceed the level of service justified by the considerations set forth in paragraph (a) of this section.

§ 272.7 Notice of discontinuance of service.

(a) An air carrier or Freely Associated State Air Carrier shall not terminate, suspend, or reduce air service to any eligible Freely Associated State point, unless it has given notice as specified in this section, if as a result of the reduction of such service the aggregate of the remaining air service provided to such point would be below:

(1) If the Department has not made a determination of essential air transportation for such point, the level of service specified in Order 80–9–63; and

(2) If the Department has made a determination of essential air transportation for such point, that level of essential air transportation.

(b) An air carrier or Freely Associated State Air Carrier wishing to terminate, suspend or reduce air service under paragraph (a) shall file a notice of such proposed reduction in service at least 90 days prior to such service reduction, in accordance with the procedures specified in §§ 323.4, 323.6, and 323.7 of this chapter.

(c) The notice shall be served on the President and the designated Authorities of the Freely Associated State concerned, in addition to the persons specified in § 323.7.

(d) The procedures specified in §§ 323.9–323.18, to the extent applicable to 90-day notices filed by certificated air carriers, shall also be applicable to notices of terminations, suspensions or reductions in service filed under this section.

§ 272.8 Obligation to continue service.

(a) If the Department finds that a proposed termination, suspension, or reduction in service by an air carrier or Freely Associated State Air Carrier will, or may, reduce service to an eligible Freely Associated State point below the level of essential air transportation to such point, whether or not the Department has previously determined the level of essential air transportation to such point, the Department may direct the air carrier or Freely Associated State Air Carrier concerned to maintain service to such point at a level the Department determines will ensure essential air transportation to such point, pending the commencement of alternative service as required to maintain the level of essential air service previously, or thereafter, determined by the Department.

(b) During any period the Department requires an air carrier or Freely Associated State Air Carrier to maintain a level of service proposed to be terminated, suspended or reduced, following the filing of a 90 day notice in accordance with § 272.7, the Department will provide for the payment of compensation to such carrier for any losses incurred by that carrier as a result of such required continuation of service in accordance with the procedures set forth in Part 324 of this chapter. If the carrier is already receiving compensation pursuant to § 272.9 of this part, the Department will continue to direct payment of such compensation during any period the carrier is required to maintain service. Such payments shall be made by the Department of Interior from funds appropriated for this purpose.

(c) The Department will review its order from time to time and will revise the level of required service as necessary to maintain only the level of essential air transportation determined by the Department for that point, considering all other service to such point in accordance with § 272.6(a)(3).

(d) During the period any such air carrier or Freely Associated State Air Carrier is required to maintain service under this section, the Department will make every effort to obtain alternative service, with compensation if necessary, as required to maintain essential air transportation to such point.

§ 272.9 Selection of a carrier to provide essential air transportation and payment of compensation.

(a) If the Department finds that essential air transportation will not be maintained to an eligible Freely Associated State point, the Department shall invite applications to provide the service required to maintain essential air transportation to such point.

(b) If the Department determines that essential air transportation will not be provided to such point in the absence of the payment of subsidy compensation to a carrier or carriers, the Department shall determine the compensation necessary, considering all other service to such point in accordance with § 272.6(a)(3), to maintain the level of essential air transportation determined by the Department under § 272.5, and the times and manner of the payment of such compensation.

(c) The compensation determined by the Department to be necessary to maintain essential air transportation to such point shall be paid by the Department of Interior out of funds appropriated for that purpose, to the carrier or carriers selected by the Department.

(d) The Department shall continue to specify compensation to be paid to a carrier or carriers under this section only as long as the Department determines that essential air transportation will not be provided to the Freely Associated State in the absence of the payment of such compensation.

(e) Except as permitted in paragraph (f) of this section, the Department shall select a U.S. air carrier or carriers to provide essential air transportation for compensation.

(f) The Department may select a Freely Associated State Air Carrier, holding a foreign air carrier permit issued in accordance with Subpart D of Part 211 of this chapter, to provide

essential air transportation for compensation, only if—

(1) No U.S. air carrier is available to provide the required essential air transportation; or

(2) The compensation necessary for the provision of the required essential air transportation would be substantially less than the compensation necessary if such essential air transportation were to be provided by a U.S. air carrier.

(g) Any order of the Department selecting a Freely Associated State Air Carrier to provide such essential air transportation shall be submitted to the President of the United States not less than 10 days prior to its effective date and shall be subject to stay or disapproval by the President.

(h) Among the criteria that will be considered by the Department in its determination of the carrier or carriers to be selected to perform the required essential air transportation are:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the Freely Associated States concerned;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the Freely Associated States for which essential air transportation is proposed to be provided;

(3) The amount of compensation that will be required to provide the proposed essential air transportation;

(4) The impact of the proposed service on service provided to other Freely Associated State points; and

(5) The views of the Governments of the Freely Associated States concerned.

(i) The Department may from time to time, on its own motion, or upon application of any carrier or government, review and change its selection of a carrier to provide essential air transportation, or its determination as to the compensation necessary to provide such essential air transportation.

(j) All applications or other documents filed or issued in proceedings under this section shall be served upon the President of the Freely Associated State concerned and the Authorities designated by that Government(s) in accordance with Article II, paragraph 10, of the Federal Programs and Services Agreement supplemental to the Compact of Free Association, and such Government shall be a party to any such proceeding. In reaching its determination, the Department will carefully consider any views of such Government that have been submitted.

§ 272.10 Conditions applicable to carriers serving a subsidized market.

(a) The Department may, after providing an opportunity for comment by the carrier or carriers affected, impose service, fare or rate conditions on any U.S., Freely Associated State, foreign air carrier, or foreign carrier by air as a precondition to the payment of compensation necessary to maintain essential air transportation, whether or not the affected carrier is itself receiving subsidy compensation in the market, if it finds that:

(1) Essential air transportation in a Freely Associated State market or markets will not be provided in the absence of the payment of compensation;

(2) Specified service, rate or fare conditions are or will be necessary or desirable to minimize the required subsidy compensation; and

(3) The imposition of such conditions will not unduly impair the service provided in the market.

(b) To the extent the carrier or carriers upon whom the conditions are imposed pursuant to paragraph (a) of this section do not hold a certificate, permit, or other authority from the Department that may be amended to effectively implement the specified conditions, the Department may notify the Government(s) of the Freely Associated States concerned that the imposition of such conditions on those carriers by those Governments shall be a precondition to the payment of the subsidy compensation required to maintain essential air transportation in the market in question.

(c) The Department may withhold or suspend its provision for the payment of subsidy compensation required to maintain essential air transportation unless and until the Freely Associated State(s) concerned take the necessary action to impose the specified conditions on the carriers referred to in paragraph (b) of this section, and those carriers have complied with the specified conditions.

(d) Any order of the Department imposing conditions, or requiring the imposition of conditions, pursuant to this paragraph shall be submitted to the President for review not less than 10 days prior to its effective date, and shall be subject to stay or disapproval by the President.

§ 272.11 Effective date of provisions.

The provisions of this part shall not become effective for Palau until the Compact of Free Association and Article IX of the Federal Programs and Services Agreement become effective for Palau.

§ 272.12 Termination.

These provisions shall terminate on October 24, 1988, unless the program for the guarantee of essential air transportation to the Federated States of Micronesia, the Marshall Islands and Palau is specifically extended by Congress.

PART 302—RULES OF PRACTICE IN PROCEEDINGS

1. The authority citation in Part 302 continues to read as follows:

Authority: 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402. The Compact of Free Association and paragraph 5 of Article IX of the Federal Programs and Services Agreement, adopted for the United States by Pub. L. 99–239; Pub. L. 99–658.)

2. A new paragraph (9) is added to § 302.8, *Service of documents,* to read:

§ 302.8 Service of documents.

* * * * *

(g) *Freely Associated State Proceedings.* In any proceeding directly involving air transportation to the Federated States of Micronesia, the Marshall Islands, or Palau, the Department and any party or participant in the proceeding shall serve all documents on the President and the designated Authorities of the Government(s) involved. This requirement shall apply to all proceedings where service is otherwise required, and shall be in addition to any other service required by this chapter.

3. Section § 302.9, *Parties,* is revised to read as follows:

§ 302.9 Parties.

The term "party" wherever used in this part shall include any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and any trustee, receiver, assignee or legal successor thereof, and shall include the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings. In any proceeding directly involving air transportation to the Federated States of Micronesia, the Marshall Islands or Palau, these Governments or their designated Authorities shall be a party.

4. Section § 302.1705(c) is revised to read as follows:

§ 302.1705 Service of documents.

* * * * *

(c) *Additional service.* The Department may, in its discretion, order additional service upon such persons as the facts of the situation warrant. Where

only notices are required, parties are encouraged to serve copies of their actual pleadings where feasible. In any proceeding directly involving air transportation to the Federated States of Micronesia, the Marshall Islands or Palau, the Department and any party or participant in the proceeding shall serve all documents on the President and the designated Authorities of the Government(s) involved.

By the Department of Transportation: February 13, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87-3666 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM85-6-000; Order No. 464]

Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act

Issued: February 11, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending Part 4 of its regulations to define when the certification requirements of section 401(a)(1) of the Clean Water Act (CWA) [1] have been waived as a result of the failure of the state or other authorized certifying agency to act on a request for certification filed by an applicant for a Commission hydroelectric license. The Commission is allowing certifying agencies one year after the certifying agency's receipt of a request for section 401 water quality certification to grant or deny the license applicant's request for certification. Additionally, this rule revises § 4.38 of the Commission's Rules and Regulations [2] governing the pre-filing consultation procedures an applicant for a Commission hydroelectric license must follow. The revision will ensure that certifying agencies are incorporated early in the Commission's pre-filing consultation procedures, which will facilitate the information-gathering needed for a certification determination.

[1] 33 U.S.C. 1341(a)(1) (1982).

[2] 18 CFR 4.38 (1986).

EFFECTIVE DATE: The effective date of this final rule is May 11, 1987.

FOR FURTHER INFORMATION CONTACT: Kristina Nygaard, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending Part 4 of its regulations to define when the certification requirements of section 401(a)(1) of the Clean Water Act (CWA) [1] have been waived as a result of the failure of the state or other authorized certifying agency to act on a request for certification filed by an applicant for a Commission hydroelectric license. The Commission is allowing certifying agencies one year after the certifying agency's receipt of a request for section 401 water quality certification to grant or deny the license applicant's request for certification. Additionally, this rule revises § 4.38 of the Commission's Rules and Regulations [2] governing the pre-filing consultation procedures an applicant for a Commission hydroelectric license must follow. The revision will ensure that certifying agencies are incorporated early in the Commission's pre-filing consultation procedures, which will facilitate the information-gathering needed for a certification determination.

II. Background

Section 401(a)(1) of the CWA prohibits Federal agencies from authorizing the construction or operation of facilities which may result in any discharge of water pollutants into the navigable waters of the United States, unless the applicant for such authorization obtains certification from the state in which the discharge will originate or, if appropriate, from the interstate water pollution control agency having jurisdiction over the point where the discharge will originate [3] that any discharge will comply with the water quality standards of the CWA. If section 401 water quality certification is denied by the certifying agency, no Federal agency may authorize any action that may result in a discharge. However, the statute explicitly permits authorization, such as a Commission hydroelectric license under the Federal Power Act (FPA),[4] without section 401 certification, if the certifying agency has failed to act on the applicant's request for section 401 certification within a reasonable period of time, not to exceed one year, from the date the certifying agency received the request for certification.[5] In other words, the CWA section 401 certification is in that event deemed waived.

On August 6, 1985, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this docket to reexamine its procedures for determining when a CWA section 401 certification is deemed waived by the certifying agency.[6] The Commission's practice has been to deem the one-year waiver period to commence when the certifying agency finds the request acceptable for processing. *See Washington County Hydro Development Associates*, 28 FERC ¶ 61,341 (1984). The current reassessment was undertaken in light of the Commission's concern that, under this practice, states could delay indefinitely their acceptance of a certification request, in contravention of the Congress' intent, through the waiver provision, to prevent unreasonable delays (*i.e.*, of more than one year).

The Commission proposed to start the waiver period as of the date the certifying agency receives the certification request, and to allow a certifying agency 90 days from the date the Commission issues a public notice of the acceptance of a hydroelectric license application, or one year after the certifying agency receives an applicant's request for section 401 certification, whichever occurs first, to grant or deny the request. If the certifying agency does not grant or deny the request in that time period, certification would be deemed waived, and the Commission would proceed with the applicant's request for a hydroelectric license. The Commission proposed to retain the requirement in its existing regulations that a license applicant submit a copy of its section 401 certification or a copy of its request to the certifying agency for

[3] For the purposes of this preamble, the term "certifying agency" will encompass state certifying agencies, interstate water pollution control agencies, and the Administrator of the Environmental Protection Agency, as appropriate.

[4] 16 U.S.C. 797(e) (1982), as amended by the Electric Consumers Protection Act of 1986, Pub. L. No. 99-495 (Oct. 16, 1986).

[5] Section 401(a)(1) provides in pertinent part: If the State, interstate agency, or Administrator [of the Environmental Protection Agency], as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application.

[6] 50 F.R. 32229 (Aug. 9, 1985).

certification. The Commission also proposed to require proof of the date the certifying agency receives the applicant's certification request.

The Commission received comments from 29 entities, comprising hydroelectric developers, environmental groups, electric utilities, and state and Federal agencies.[7] The hydroelectric developers and electric utilities generally support the proposed rule, arguing that a predictable commencement date of the waiver period will result in more timely and efficient consideration of section 401 certification requests and will enhance an applicant's ability to estimate when a hydroelectric project can be brought on line. These commenters also point out that the rule should not impose additional burdens on certifying agencies, since the Commission's pre-filing consultation requirements [8] should provide the certifying agencies with the information they need to process a certification request in a timely manner.

A number of environmental groups and state agencies oppose the proposal. Their comments focus on three basic matters: whether the Commission is correctly interpreting the start of the waiver period as the date the certifying agency receives the certification request; whether the Commission has the authority to define the term "reasonable period of time" in the CWA as less than one year; and whether the notice-plus-90-day time period is adequate to allow completion of certification procedures and to ensure adequate applicant compliance with a certifying agency's regulations governing certification.

III. Discussion

A. Waiver Provision

Commenters opposing the proposed rule generally argue that the Commission's holding in *Washington County* more accurately reflects the Congressional intent that states have the primary role in administering the CWA. As the Commission stated in the NOPR, however, the approach taken in *Washington County* fails to enforce the clear text of the waiver provision of the CWA and subjects a license applicant to the possibility that a section 401 certification proceeding may be protracted beyond one year, in contravention of the statutory objective of preventing such delay. The Commission is therefore in this rule revising its interpretation of the CWA to hold that the waiver period for certification of a hydroelectric project commences on the date the certifying agency receives the certification request.

The NOPR proposed to deem certification waived if no action is taken on a certification request by 90 days after the public notice of the acceptance of the license application or one year from the date the certifying agency receives the certification request, whichever comes first. The NOPR proposed the notice plus-ninety-day waiver period to assure, where possible, that the information-gathering processes of the certifying agency and the Commission would operate in tandem, to both agencies' benefit. The NOPR pointed out that, in light of the Commission's pre-filing consultation requirements and the delay in noticing a license application until deficiencies are cured, in most cases a certifying agency will have significantly longer than 90 days in which to act on a certification request. The commenters in support of the Commission's NOPR generally echoed the NOPR's rationale for the proposed waiver period.

A number of commenters opposed the proposed waiver period as beyond the Commission's authority to impose and as inadequate for the certifying agencies' needs. After carefully reviewing the comments both supporting and opposing the proposed waiver period, the Commission has decided to retain the full one-year waiver period. This decision is based on the Commission's conclusion that giving the certifying agencies the maximum period allowed by the CWA will not unduly delay Commission processing of license applications and that a major objective of the rule—obtaining early certainty as to when certification would be deemed waived and avoiding open-ended certification deadlines—has been achieved by revising the date from which the waiver period is calculated.

The Commission believes that a one-year waiver period, calculated from the date of receipt of a certification request, should in all but the most unusual cases provide certifying agencies with sufficient time to complete the certification proceeding. The Commission believes that its pre-filing consultation requirements for hydroelectric license applicants can be of significant assistance in providing certifying agencies with adequate information to analyze certification requests, where the certification request has not been filed too far in advance of the license application. Section 4.38 of the Commission's regulations, 18 CFR 4.38 (1986), requires a license applicant to consult with each appropriate Federal and state agency before submitting its application to the Commission. In practice and, pursuant to this rule, by regulation, certifying agencies are included within the group of agencies to be consulted.

Applicants are required to follow a three-stage consultation process. In the initial stage, an applicant must contact all appropriate agencies and provide them with detailed information regarding the proposed project, including detailed maps containing descriptions of the project area and location of proposed project facilities, engineering designs of the proposed project, identification of the environment to be affected, any environmental protection, mitigation and enhancement plans, and stream flow and water regime information.[9] During this initial phase, the certifying agencies will be receiving much, if not most, of the information required for their section 401 certificiation procedures.

During the second stage of the consultation process, applicants must perform all reasonable studies requested by the consulted agencies.[10] This includes not only studies related to the economic and technical feasibility of the project, but also studies of the project's adverse impacts on natural resources and studies of how to minimize such impacts to significant resources. Again during this second stage, applicants are required to provide the agencies with copies of the draft application, the results of all studies, and written requests for the agencies' review and comment thereon.[11] The Commission's regulations provide that these agencies will have either 30 or 60 days, depending on the type of hydroelectric application involved, to respond with their comments before the applications are filed with the Commission.[12] The second stage of consultation thus provides certifying agencies the opportunity to request and obtain from applicants additional water quality information beyond that provided to them during the initial stage of consultation, and to analyze and comment on that information.

During the third stage of the pre-filing consultation process, a license applicant for a project of less than 5 MW must serve copies of its application on the consulted agencies when it files the

[7] A list of the commenters is in Appendix A.

[8] 18 CFR 4.38 (1986).

[9] See 18 CFR 4.38(b)(1) (1986).

[10] See 18 CFR 4.38(b)(2) (1986) and Davenport-Rock Island Associates, 34 FERC ¶ 61.332 (1986).

[11] See 18 CFR 4.38(b)(2)(iii) (1986).

[12] See 18 CFR 4.38(b)(2)(iv) (1986).

application with the Commission. A license applicant for a project of 5 MW or more must serve copies of its application on the consulted agencies after receiving notification from the Commission that the application has been accepted for Commission processing.[13] Also, the third-stage regulations require applicants to serve on all consulted agencies copies of revisions, supplements, and amendments to their applications, together with any responses to Commission requests to correct deficiencies in their application.[14]

As a result of the Commission's pre-filing consultation procedures, therefore, by the time an applicant files its hydroelectric application the certifying agency will have had numerous opportunities to obtain relevant water quality information from the applicant. If, despite these consultation procedures, or because the certification request was filed too far in advance of these procedures and its own procedures were not timely completed, the certifying agency after a year needs more time or information to act on the merits of a certification request, it has the authority to deny an application on that basis, and thus prevent waiver of the certification requirement. Consequently, a certification applicant should not be able to obtain an unwarranted waiver merely through the use of dilatory tactics.

C. Miscellaneous Issues

1. Codification of § 4.38 pre-filing consultation procedures

The Commission is revising § 4.38 of its regulations [15] to specifically include appropriate certifying agencies within the group of agencies to be consulted at each stage of the pre-filing consultation process. This codifies current practice.

2. Application of the Rule

This rule will be applied to all hydroelectric license applications filed after the effective date of the rule. With regard to pending license applications which do not yet have section 401 certification, the Director, Office of Hydropower Licensing, will notify the appropriate certifying agencies that the Commission will deem certification to be waived one year after the date the certifying agency received the certification request.[16]

3. Project modification

Several certifying agencies suggest that the waiver period should begin to run anew upon the filing of any material amendment to a license application. When a license applicant files a material amendment to its application, as defined by § 4.35(b), 18 CFR 4.35(b) (1986), the Commission will consider it as requiring a new request for certification, and a new waiver period will commence upon the certifying agency's receipt of an amended certification request.

4. Multiple project proposals

The Iowa Department of Water, Air and Waste Management argues that, when multiple projects are proposed within river or lake systems, the one-year deadline should be waived in order to accommodate the evaluation of their cumulative impacts. However, the CWA does not provide for an extension of the one-year maximum waiver period for a certification request for any reason, including that multiple project proposals are simultaneously pending before the Commission or the certifying agency.

5. Application to exemption applications

A number of commenters assert that the rule should also be applied to applications for exemption from licensing. The Commission has held that exemption applications are not required to obtain water quality certification but is considering whether to change this practice. However, this subject is beyond the scope of this particular rulemaking.[17] Therefore, the Commission intends to issue a notice of proposed rulemaking on the matter, in the near future, in order to give the public notice and opportunity to comment. This rule will therefore not address the issue.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [18] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities.[19] Specifically, if an agency promulgates a final rule under the Administrative Procedure Act,[20] a final RFA analysis may be appropriate. A final RFA analysis must contain: (1) A statement of the need for the objective of the rule; (2) a summary of the issues raised by the public comments in response to any initial regulatory flexibility analysis, and the agency responses to those comments; and (3) a description of significant alternatives to the rule consistent with the stated objectives of the applicable statute that the agency considered and ultimately rejected. An agency is not required to make an RFA analysis, however, if it certifies that a rule will not have "a significant economic impact on a substantial number of small entities." [21]

The Commission receives hydroelectric applications from a wide variety of entities. These entities vary greatly in their composition. The Commission believes that a large percentage of the entities that file license, permit, and exemption applications may be small entities, and that therefore a substantial number of small entities would be affected by this rule. However, to the extent that the rule has any impact upon license applicants that may be small entities, the rule should reduce the uncertainties and potential delays involved in seeking a water quality certification, thereby having a positive impact on the small entities subject to the rule.

Since the impact on the small entities regulated by this rule is expected to be beneficial, the Commission does not believe that the economic impact will be "significant" within the meaning of the RFA. Pursuant to section 605(b) of the RFA, the Commission accordingly certifies that the final rule will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) [22] and the Office of Management and Budget's (OMB) regulations [23]

[13] See 18 CFR 4.38(b)(3) (1986).

[14] Id.

[15] 18 CFR 4.38 (1986).

[16] Because the appropriate commencement date of the waiver period for certification requests for hydroelectric projects has been an unsettled question, the Commission will instruct the Director, Office of Hydropower Licensing, to notify the appropriate certifying agencies that, in the event of certification requests that under this rule are deemed to have already been waived or to be waived within 30 days of the effective date of this rule, the certifying agency is invited to submit to the Commission, within 30 days of the effective date of this order, its comments and recommendations on the license application with regard to water quality. The Commission will not act on such license application until after this 30-day comment period, and will consider inclusion in the license of any water quality conditions recommended by the certifying agency.

[17] Exemption from All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less, 45 F.R. 76115 (Nov. 18, 1980) [Reg. Preambles 1977–1981], FERC Stat. & Reg. ¶ 30,204 at 31,358 and 31,368 (1980) (Order No. 106).

[18] 5 U.S.C. 601–612 (1982).

[19] *Id.* 604(a).

[20] *Id.* 553.

[21] *Id.* 605(b).

[22] 44 U.S.C. 3501–3520 (1982).

[23] 5 CFR 1320.13 (1985).

require that OMB approve certain information collection requirements imposed by agency rule. The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (attention: Ellen Brown, (202) 357–8272). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Effective Date

The amendments of this final rule will be effective May 11, 1987. If OMB's approval and control number have not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects in 18 CFR Part 4

Licenses, Permits, Exemptions and determination of project costs, Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 4, Chapter I, Title 18, of the Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—[AMENDED]

1. The authority citation for Part 4 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. No. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352 (1982); Exec. Order No. 12,009, 3 CFR Part 142 (1978), unless otherwise noted.

2. In § 4.38, paragraphs (a), (c), and (e) are revised to read as follows:

§ 4.38 Pre-filing consultation requirements.

(a) An applicant for a license or exemption from licensing must consult with each appropriate Federal and state agency before submitting its application to the Commission. The agencies to be consulted must include the appropriate certifying agency under section 401 of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. 1341, and the Federal agency administering any United States lands utilized or occupied by the project as well as other appropriate resource agencies. To assist applicants, the Director of the Office of Hydropower Licensing or the Regional Engineer responsible for the area will, upon request, provide a list of known appropriate Federal and state agencies.

* * * * *

(c) An applicant must document to the Commission in Exhibit E of its application that the requirements of all three stages of the consultation process have been fully satisfied and must include:

(1) Any agency letters containing comments, recommendations, and proposed terms and conditions; and

(2) With regard to certification requirements for license applicants under section 401 of the Federal Water Pollution Control Act (Clean Water Act), the following:

(i) A copy of the water quality certification, or

(ii) A copy of the request for certification, including proof of the date that the certifying agency received the request in accordance with applicable law governing filings with that agency.

* * * * *

(e)(1) If all the appropriate agencies waive compliance with any requirement of this section, or are deemed by the Commission to have waived compliance under this section, the applicant may omit compliance with that requirement. Except for waiver of water quality certification under paragraph (e)(2) of this section, the applicant must describe in Exhibit E of its application the circumstances of any waiver under this section.

(2) A certifying agency is deemed to have waived the certification requirements of section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act) if the certifying agency has not denied or granted certification by one year after the date the certifying agency received the request for certification.

(3) Any material amendment to plans of development proposed in an application for license, as defined under § 4.35(b), must be considered to require a new request for certification for the purposes of paragraph (2).

* * * * *

§ 4.41 [Amended]

3. In § 4.41, paragraph (f)(2)(vii) is removed.

§ 4.51 [Amended]

4. In § 4.51, paragraph (f)(2)(vi) is removed.

§ 4.61 [Amended]

5. In § 4.61, paragraph (a)(1) is removed, and paragraphs (a)(2), (a)(3), and (a)(4) are redesignated as paragraph (a)(1), (a)(2), and (a)(3), respectively.

Appendix A—List of Commenters

1. Colorado Department of Health.
2. Virginia Commission of Game and Inland Fisheries.
3. Washington Department of Ecology.
4. Alabama Department of Environmental Management.
5. Maine Audubon Society.
6. Virginia State Water Control Board joined by Council on the Environment, State Department of Health, Department of Conservation and Historic Resources.
7. Iowa Department of Water, Air and Waste Management.
8. New York Department of Environmental Conservation.
9. California State Water Resources Control Board.
10. Maine Department of Environmental Protection.
11. Vermont Agency of Environmental Conservation.
12. South Carolina Department of Health and Environmental Control.
13. National Wildlife Federation with Oregon Wildlife Federation.
14. Wisconsin Department of Natural Resources.
15. Ohio Environmental Protection Agency.
16. California Regional Water Quality Control Board—Lahontan Region.
17. Maryland Department of Natural Resources.
18. Northeast Utilities on behalf of Connecticut Light and Power Company, Holyoke Water Power Company, Western Massachusetts Electric Company.
19. Minnesota Power.
20. Montana Power Company.
21. Henwood Associates, Inc.
22. Mega Renewables.
23. Edison Electric Institute.
24. Niagara Mohawk Power Corporation.
25. United States Environmental Protection Agency.
26. Oglethorpe Power Corporation.
27. Keating Associates.
28. Central Vermont Public Service Commission.
29. Friends of the Earth.

[FR Doc. 87–3752 Filed 2–20–87; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket Nos. 81N-0004 and 84F-0230]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration.

ACTION: Final rule; denial of request for stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is (1) denying a request to stay the effect of the amendment to the food additive regulations that provides for the use of gamma radiation treatment to control *Trichinella spiralis* in pork and (2) denying a request to stay the effect of the amendment to the food additive regulations that permits certain new uses of ionizing radiation treatment of food. The agency has concluded that the public interest does not require a stay of these amendments while the agency analyzes the objections and makes a decision whether to grant a hearing.

DATE: This document confirms July 22, 1985, as the effective date of the regulation authorizing the use of gamma radiation treatment of pork to control *Trichinella spiralis;* and April 18, 1986, as the effective date of the regulation authorizing the use of sources of ionizing radiation to treat food.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION:

1. Background

Under the Federal Food, Drug, and Cosmetic Act (the act), food that has been irradiated is adulterated unless the use of radiation on that food was in conformity with a regulation or exemption issued under the provisions of the Food Additives Amendment to the act. The agency may issue such a regulation only if it finds to a reasonable certainty that no harm will result from the consumption of food treated with radiation.

In the **Federal Register** of March 27, 1981 (46 FR 18992), FDA issued an advance notice of proposed rulemaking that, among other things, announced the availability of a report prepared in 1980 by the Irradiated Food Committee (BFIFC) that had been formed by the agency's Bureau of Foods (now the Center for Food Safety and Applied Nutrition). This report (Ref. 1) recommended, based on chemical principles, that irradiation of food at doses below 1 kiloGray (kGy) (100 kilorad (krad)) be considered safe, and that toxicological testing of such foods should not be required. FDA invited public comment on this request.

In the **Federal Register** of February 14, 1984 (49 FR 5714), FDA issued a proposal that addressed the comments that it received in response to the advance notice of proposed rulemaking. The agency proposed: (1) To establish general provisions for food irradiation; (2) to permit the use of food irradiation at doses not exceeding 1 kGy (100 krad) for inhibiting the growth and maturation of fruits and vegetables and for insect disinfestation of food; (3) to allow irradiation for microbial disinfection of certain dry spices and dry vegetable seasonings at a dose not to exceed 30 kGy (3 Mrad); (4) to eliminate the current irradiation labeling requirements for retail labeling; and (5) to replace the current regulations with more comprehensive regulations. The agency stated that it would consider other uses of food irradiation at a dose below 1 kGy (100 krad) if a comment or petition presented evidence that a specific technical effect could be accomplished at that level of irradiation, and that an appropriate food additive regulation could be enforced through records inspection (49 FR 5720).

In a notice published in the **Federal Register** of July 23, 1984 (49 FR 29682), FDA announced that Radiation Technology, Inc., had filed a petition (FAP 4M3789) requesting that the agency amend the food additive regulations to provide for the safe use of a cobalt 60 or cesium 137 source of gamma radiation to control trichinae and other helminths in pork.

In the **Federal Register** of July 22, 1985 (50 FR 29658), in response to this petition, FDA published a final rule permitting the use of cobalt 60 or cesium 137 to irradiate pork carcasses and fresh nonheat processed cuts of pork carcasses, at a dose between 0.3 kGy (30 krads) and 1 kGy (100 krads), to control *Trichinella spiralis.* FDA based its decision on data in the petition showing that irradiation accomplishes the intended technical effect at these doses, on the conclusion in the report of the BFIFC that food irradiated at doses not exceeding 1 kGy (100 krad) is wholesome and safe for human consumption, and on the absence of any data that would refute the conclusions in the BFIFC report. Persons adversely affected by the regulations were given the opportunity to file objections by August 21, 1985.

FDA received 59 objections on or before August 21, 1985. Twenty of these objections requested a hearing. One objection requested a stay of the regulation until the safety issues raised by the objection were resolved. This document addresses that request for a stay.

In the **Federal Register** of April 18, 1986 (51 FR 13376), FDA issued final regulations that: (1) Permit manufacturers to use irradiation at doses not to exceed 1 kGy (100 krad) to inhibit the growth and maturation of fresh foods and to disinfest food of arthropod pests; (2) permit manufacturers to use irradiation at doses not to exceed 30 kGy (3 Mrad) to disinfect dry or dehydrated aromatic vegetable substances (such as spices and herbs) of microorganisms; (3) require that foods that are irradiated be labeled to show this fact both at the wholesale and at the retail levels; and (4) require that manufacturers maintain process records of irradiation for a specified period and make such records available for FDA inspection. That final rule provides a full discussion of comments that FDA received on the February 14, 1984, proposal. Many of these comments are similar or identical to the objections that FDA received on its decision to permit irradiation of pork. Consequently, FDA is incorporating by reference the preamble to the April 18, 1986, final rule.

FDA received 245 objections to the April 18, 1986, final rule during the 30-day objection period, which ended on May 19, 1986. Twelve of these objections requested a hearing. One objection requested a stay of the regulation until the safety issues raised by the objection were resolved. A second objection that requested a stay of the regulation was not submitted to FDA until after the close of the objection period. Although only the former request is appropriately before the agency, this document will address relevant issues raised in both requests for a stay.

II. Standard for Granting a Discretionary Stay

Under section 409(e) of the act (21 U.S.C. 348(e)), a food additive regulation is effective upon publication. However, FDA has discretion to grant a stay of the effective date of the regulation if a hearing is requested. FDA regulations provide that the agency may grant a stay in those situations in which the stay is in the public interest (21 CFR 10.35(d)(1)).

Promulgation of both the regulation approving the use of a source of radiation to treat pork and the April 18,

1986, final rule was preceded by a determination by the agency, based on all available evidence, that these uses of irradiation are safe. To justify a stay, the objections would have to make a substantial showing to the contrary (40 FR 40682, 40687; September 3, 1975). Thus, in reviewing the requests for a stay, the agency has tried to determine whether the objections have created such a significant doubt as to the soundness of FDA's findings of safety that the public interest requires that reliance on those findings be held in abeyance pending resolution of the objections.

III. Safety Issues Raised in Objections and Request for a Stay

A. Pork Regulations

Public Citizen Health Research Group (HRG) requested that the agency stay the effective date of the amendment on the irradiation of pork until the safety issues that it raised in its objection have been resolved. The agency has considered each of these issues to determine whether they create a level of concern that would justify a stay.

1. HRG claimed that FDA did not rely on valid scientific evidence in finding that irradiation of pork to control *Trichinella spiralis* is safe. HRG stated that a primary basis for FDA's conclusion was the BFIFC report, which concluded that food irradiated at doses not exceeding 1 kGy (100 krad) is safe for human consumption. HRG stated that "this conclusion was reached without regard to any scientific studies conducted on food irradiation. The Committee instead relied upon a calculation that led to the finding that there would not be enough significant changes, or creation of enough unique radiolytic products in the food to warrant concern. However, the assertion rests on the assumption that there is a safe level of exposure to a carcinogen, an assumption that FDA has consistently rejected."

HRG is incorrect in its assertion that the BFIFC report was not based on scientific studies. BFIFC reviewed numerous studies on the chemistry of food irradiation to determine effects that are likely to occur in food during the irradiation process. The Committee's conclusion that animal feeding studies with food irradiated at a dose below 1 kGy (100 krad) were not capable of showing an effect and should not be required was based on these chemistry studies and on knowledge concerning the sensitivity of animal feeding tests.

Furthermore, BFIFC's conclusion that foods irradiated at doses below 1 kGy (100 krad) are safe was not based on a determination that there is a safe level of exposure to a carcinogen. BFIFC conducted a detailed analysis of volatile compounds identified in raw beef irradiated at 50 kGy (5 Mrad). These volatiles consisted of a nearly homologous series of 65 compounds derived primarily from the radiolysis of triglycerides from the beef lipid fraction (Ref. 2). Of the 65 volatiles, 23 were also identified in a control sample of beef that had been thermally sterilized. Of the 42 compounds specifically identified in irradiated beef but not in the control, only 6 could not be identified as being present in the volatile fractions of other types of nonirradiated foods (Ref. 1). BFIFC assumed that this subset of radiolytic products (6 of 65 or about 10 percent) is unique radiolytic products. The structures of these six compounds, none of which are known or suspected to be carcinogenic, are similar to those of naturally occurring food constituents. BFIFC concluded that in any event their physiologic effects in humans are likely to be similar to those of natural food constituents and that they may be natural components of food. Therefore, there is no evidence, or any reason to believe, that the toxicity or carcinogenicity of any unique radiolytic products is different from that of other food components (Refs. 3 and 4).

The agency discussed the safety issue in its April 18, 1986, final rule (51 FR 13377). The agency reviewed 409 toxicity studies on irradiated foods (Ref. 5). (The agency has previously stated, incorrectly, that it reviewed 441 studies. In fact, FDA reviewers performed 441 reviews, but some of these reviews were inadvertent repetitions.) Forty-five of these studies dealt with subacute toxicity, 58 with subchronic toxicity, 126 with reproductive toxicity, 14 with teratology, 110 with chronic toxicity, and 102 with genetic toxicity of irradiated foods. Some studies considered more than one type of toxicity.

Although most of the studies were inadequate by present day standards and could not stand alone to support safety, many contained individual components that, when examined either in isolation or collectively, support the conclusion that consumption of foods treated with low levels of irradiation does not cause adverse toxicological effects. Further, the agency finds that many of the studies are useful in resolving questions about the effects of irradiation. For example, if a potent toxic material were present at a level of toxicological significance in the irradiated foods ingested by test animals, some consistent toxicological signs would have been manifest in the studies reviewed. However, agency scientists did not see any consistent pattern or trend of adverse effects that might be attributable to exposure to a toxic material in animals fed food that was irradiated at low dose levels.

FDA reviewers did find that 5 of the 409 studies they reviewed were properly conducted, fully adequate by 1980 toxicological standards, and able to stand alone in support of safety. Of these five studies, three were chronic feeding studies (Refs. 6, 7, and 8), one was a reproduction study (Ref. 9), and one was a combined chronic, reproduction, and teratology study (Refs. 10, 11, and 12). The reports on these five studies did not reveal any adverse effects from the irradiated foods fed to test animals.

The agency, therefore, finds that HRG's contention does not provide grounds for a stay of the effect of the pork regulations. As the foregoing discussion makes clear, the scientific evidence in the record is adequate to provide assurance that the use of irradiation on pork will be safe while the issues raised by the objections are addressed.

2. HRG's objection, as well as several other objections, noted that FDA rescinded a regulation permitting radiation sterilization of bacon in 1968 because of safety concerns. According to the objections, FDA must address these concerns before any irradiated pork product may be considered safe.

FDA originally issued a regulation to permit radiation sterilization of bacon based on summaries of feeding studies submitted in a petition (28 FR 1465; February 15, 1963). However, following evaluation of the complete reports of these studies, FDA concluded that the sponsor had not met its burden for demonstrating safety (33 FR 12055; August 24, 1968) and rescinded the bacon regulations (33 FR 15416; October 17, 1968). The agency stated that further research on the wholesomeness of radiation-sterilized bacon was necessary to establish the conditions of safe use.

The agency believes that this previous action concerning radiation sterilization of bacon is not relevant to the recent regulation to permit low dose irradiation of pork for two reasons. First, 2 years before receiving the petition for low dose irradiation of pork, an FDA Task Group reexamined the original studies on radiation-sterilized bacon. The Task Group found that the adverse effects discussed by FDA in the 1968 notice (33 FR 12055) could not be substantiated because the original studies were of such poor quality that the reviewers were unable to draw any useful

conclusions from them. The Task Group also stated that the number of animals examined in these studies was too small to have any statistical significance concerning tumors or longevity, and that the data were presented so poorly that it could not verify the conditions and results of the studies (Ref. 5). In the April 18, 1986, final rule (51 FR 13384), the agency reconsidered its 1968 action and concluded that the data in the earlier radiation-sterilized bacon studies were inadequate to demonstrate either safety or adverse effects.

Second, the regulation rescinded in 1968 permitted irradiation at a dose between 45 and 56 kGy (4.5 to 5.6 Mrads) as compared to the current regulation which permits a dose from 0.3 to 1.0 kGy (30 to 100 krads). The earlier regulation thus required a minimum dose 150 times higher than the minimum dose and 45 times higher than the maximum dose under the current regulation and permitted a maximum dose 56 times higher than that permitted under the current regulation. Because of the different processing conditions, use of irradiation under the earlier regulation would produce a significantly different pork product than the *Trichinella spiralis*-controlled fresh pork carcasses produced under the current regulation.

Therefore, FDA finds that the evidence that it relied on in 1968 is not relevant to the uses permitted under the new amendment and thus does not provide the basis for a stay. Nonetheless, FDA still holds its position that the safety of radiation-sterilized bacon has not yet been established.

3. HRG stated that scientific studies have demonstrated that food irradiation may pose a risk to human health. Because other objections made similar claims, FDA has reviewed these other objections in evaluating HRG's request for a stay.

a. *Carcinogenicity.* Some objections referenced a U.S. Department of Agriculture (USDA) sponsored study in which mice fed radiation-sterilized chicken had a slightly increased incidence of testicular tumors (Ref. 13).

The agency considered this study before issuing its final rule. Additionally, the National Toxicology Program's Board of Scientific Counselors conducted a peer review of the study (50 FR 29658). Based upon the conclusions of the peer review (Ref. 14) and upon its own evaluation of the data (Ref. 15), the agency found that there was insufficient evidence that irradiation had a treatment-related effect that was either biologically or statistically significant (51 FR 13386).

b. *Kidney damage.* Some objections stated that kidney damage was a direct consequence of feeding animals irradiated food and referenced a Russian study (Ref. 16) in which rats were fed laboratory chow irradiated at various doses and the USDA study in which mice were fed radiation-sterilized chicken meat (Ref. 13).

Although there are two published reports (Refs. 16 and 17) on the Russian study, both lack critical details on the experimental design and the experimental results of this study. These details are necessary to support a claim that adverse effects were observed in this study. For example, the reproductions of photomicrographs in the reports on this study are unusable, and the numerical data are incomplete across dosage groups. Moreover, these reports do not contain any information on the survival rates of rats to the end of the experiment. The total number of rats actually examined histopathologically is not stated, nor is the scope of such observations set forth. The reports do not state the incidence of the effects allegedly observed.

The qualitative description of the kidney changes that was included in the reports on the Russian study is consistent with kidney disease commonly seen in aged laboratory rats (51 FR 13386). The features of chronic progressive nephrosis (Ref. 18) common to aged rats are identical to the microscopic changes in the rat kidneys described by the Russian authors. Without information on the comparative incidence and severity of the kidney lesions in all groups in this study, however, the agency cannot determine the actual nature of the reported changes.

FDA reviewed the kidney data in 11 chronic studies (Refs. 7, 8, and 19 through 27) in which rats were fed various diets consisting of food or feed irradiated at various doses under a variety of conditions to see if effects similar to those found by the Russian authors were found in any of those studies. No such treatment-related kidney effects have been reported in any of these studies as an effect of injestion of irradiated food.

In the USDA mouse study (Ref. 13), all mice fed chicken meat diets (both nonirradiated frozen chicken meat control diets and irradiated chicken meat diets) showed signs of kidney damage (extensive mineralization and glomerulonephropathy) and decreased survival compared to mice fed chow control diets. After careful examination of the study and comparison of data between the mice fed chicken meat control diets and the mice fed chow control diets, the agency concluded that the effects were caused by the high protein content of the chicken diets rather than by the effects of irradiation of the food (51 FR 13386).

Therefore, the agency finds that HRG's claim that consumption of irradiated food will cause kidney damage does not provide grounds for a stay. The scientific evidence in the record is adequate to provide assurance that at least while the issues raised by the objections are resolved, the consumption of irradiated pork will not cause significant harm to the kidneys.

c. *Chromosome damage.* HRG cited several dominant lethal studies that, it contended, showed a possible response when an irradiated food was tested (Refs. 28, 29, and 30). (The dominant lethal test detects germinally transmitted genetic effects which are usually thought to be caused by mutations at the chromosome level.) In one test (Ref. 28), the authors reported an increase in embryonic deaths before the embryos were implanted in the uterus when mice were fed animal chow irradiated at a dose of 5 Mrad. There was no increase in postimplantation deaths of embryos in the groups fed the irradiated food. In addition, the authors did not confirm their observation on preimplantation deaths by cytological analysis. The agency concluded that the preimplantation deaths were not biologically significant because postimplantation losses are a much more sensitive indicator of dominant lethal effects, and because comparable studies did not show the same effect (see comment 35 of the April 18, 1986, rule (51 FR 13387)).

In the other two tests (Refs. 29 and 30), male rats and mice were fed irradiated wheat for 12 weeks and mated with different groups of females over the next 4 weeks. An increase in intrauterine deaths was reported in the females mated during the third and fourth weeks but not in those mated during the first 2 weeks. Considering the test design, the agency believes an effect should have been seen during all 4 weeks if dominant lethal mutations had occurred.

The objection provided no new information in addition to that considered by FDA before it reached its safety decision. Also, the objection provided no evidence showing why irradiated animal chow and wheat are relevant models for evaluating the safety of irradiated pork. Thus, FDA sees no reason to stay its previous decision which it reached after careful consideration of all relevant evidence.

B. General Regulation

Two groups, the Coalition for Alternatives in Nutrition and Healthcare, Inc. (CANAH), and the National Coalition to Stop Food Irradiation (NCSFI) and its affiliates, requested that the agency stay the effective date of the April 18, 1986, final rule on irradiation of food until the safety and labeling issues raised in their objections are resolved. The objection from NCSFI and its affiliates was submitted after the 30-day objection period, and FDA was under no obligation to consider it. However, the agency did review each of the issues in the NCSFI submission before deciding that a stay is not appropriate.

These groups disagreed with FDA's conclusions and responses to comments, but they presented no new data or novel interpretations of data previously considered by FDA. Therefore, the agency finds that these objectors failed to provide any basis on which to conclude that the public interest would be served by a stay of the regulation. Nonetheless, the agency has summarized these general objections and has discussed them below.

1. CANAH disagreed with FDA's safety conclusion and claimed that BFIFC's safety conclusion was based on radiation chemistry and not on accepted scientific animal studies. CANAH refers to a review article by Dr. J. Barna (Ref. 31) who compiled data from toxicological studies performed on irradiated food between 1925 and 1979. This review article summarized benefits and adverse health effects reported in those studies, both for animals fed irradiated foods and for those fed unirradiated foods.

FDA used the bibliography from the 1979 review article as part of an initial list of studies for review. The review article itself states: "[T]he evaluation of the summarized published bioassay data on the wholesomeness of irradiated foods leads to the conclusion that, at present, neither beneficial nor adverse effects of irradiated food consumption are consistent, unambiguous, and reproducible. Neither of them can be traced back to a given food or a group of foods or level of radiation dose." Thus, CANAH has not presented any information that the agency had not considered in reaching its decision on the safety of the use of irradiation or that would warrant a stay of the regulations.

FDA believes that the scientific evidence in the record is adequate to provide assurance that the use of irradiation on food will not compromise the public health while the issues raised by the objections are resolved.

2. Both CANAH and NCSFI disagreed with BFIFC's conclusions and recommendations that the use of irradiation at 1 kGy (100 krad) is safe. NCSFI states that FDA has not established the safety of any pure radiolytic product, or that the chemical differences between foods irradiated at the subject doses and nonirradiated foods are too small to affect the safety of the foods. CANAH and NCSFI argued that free radicals produced during radiation produce toxic radiolytic products. Also, they argued that free radicals destroy the nutritional content of irradiated foods, and that FDA has not assessed the nutritional adequacy of irradiated foods.

The objections have not provided any data that were not already considered by FDA or that would raise a significant concern. These objections raise the same issues that were submitted as comments to FDA's proposal of February 14, 1984, and that the agency considered before reaching its decision on the final rule. At that time, FDA noted that the issue is not whether free radicals hypothetically can form toxic substances, but whether the formation of a toxic substance is sufficiently probable to raise questions about the safety of irradiated food. After reviewing all available data, the agency concluded that any chemical differences between foods irradiated at doses allowed by the regulation and nonirradiated foods are too small to cause concern about safety (see 51 FR 13379). Neither objection has presented any new evidence to the contrary.

Further, in issuing its proposal, the agency cited evidence supporting its conclusion that food irradiated up to 1 kGy (100 krad) would have the same nutritional value as comparable food that has not been irradiated (see 49 FR 5717). Thus, the objections are wrong in asserting that FDA has not considered this issue.

3. NCSFI claimed that FDA failed to establish effective labeling and inspection requirements for foods treated with irradiation. CANAH argued that the labeling statement required by the regulation for 2 years, "treated with radiation" or "treated by irradiation," should be permanent, and that the logo and label statement should be required both on first and second generation irradiated foods.

The agency established the labeling and inspection requirements in the final rule after considering all comments in the context of FDA's current food labeling policy and current inspection guidelines for food facilities. The agency also considered its experience in inspection of radiation facilities that treat medical and hospital supplies. The retail labeling requirements were issued to inform consumers that a food has been so processed and are not necessary for safe use of the foods. The objections have provided no information that would indicate a reasonable possibility that harm would result from the current labeling requirement. Nor have any data been presented that would indicate that irradiation facilities cannot be properly inspected. Thus, these objections do not warrant a stay during the time necessary for further consideration.

4. NCSFI objected claiming that FDA had not established that the balance between microbial spoilage organisms and pathogenic organisms is not adversely affected by radiation doses below 1 kGy.

FDA has seen no evidence in the scientific literature on the effects of radiation on microorganisms that would indicate that all spoilage organisms can be eliminated at a dose below 1 kGy. Thus, such foods would undergo the same pattern of microbial spoilage although over a different time period as a food that has not been irradiated. This fact was noted in FDA's proposal (see 49 FR 5717).

NCSFI has provided no information that such irradiated food would not spoil normally and, indeed, did not assert that it would address the issue of microbial spoilage organisms if the hearing that it requested is granted. Thus, this objection does not warrant a stay.

IV. Evaluation of the Objections and Request for Stay

After careful review of the specific safety issues raised in the objections to the two regulations, the agency has concluded that the objections have not provided evidence of the types of immediate problems that would be necessary to justify a stay of the effect of these regulations. The agency believes that the objections do not raise either new issues or novel interpretations of issues previously considered by FDA. The agency believes that no harm will result from consuming food that is irradiated under these regulations during the time necessary to resolve the issues raised in the objections. Accordingly, the request for a stay is denied. The effective date of the pork regulation was July 22, 1985. The effective date of the general regulation was April 18, 1986.

The agency is continuing to review the objections and the requests for a hearing

on the irradiated pork final rule along with the objections and requests for a hearing submitted in response to its April 18, 1986, rule to determine whether a hearing is appropriate. Because many of the objections and requests for a hearing received in response to the April 18, 1986, final rule are related to objections and requests for a hearing received on the irradiated pork final rule, the agency will consider these requests together in deciding whether to grant a hearing. The Commissioner will publish the agency's decision on the hearing requests in a future issue of the **Federal Register.**

V. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Brunetti, A.P., et al., "Recommendations for Evaluating the Safety of Irradiated Foods," final report prepared for the Director, Bureau of Foods, FDA, July 1980.

2. Chinn, H.I., "Evaluation of Health Aspects of Certain Compounds Found in Irradiated Beef," Federation of American Societies for Experimental Biology (FASEB), Bethesda, MD, 1977.

3. Chinn, H.I., "Supplement I. Further Toxicological Considerations of Volatile Compounds," FASEB, Bethesda, MD, 1977.

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5. Task Group's April 9, 1982, final report to W. Gary Flamm, bibliography of reports evaluated by the Task Group and evaluation forms for the relevant reports.

6. Elias, P.S., "Toxicology Studies in Rats Fed a Diet Containing 15% Irradiated Kent Mangoes," Technical Report IFIP–R–58, 1981.

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8. Renner, H.W., and D. Reichelt, "Zur Frage der Gesundheitlichen Unbedenklicheit Hohen Kozentrationen von Freien Radikalen in Bestrahlten Lebensmittelen," *Zentralbatt fur Veterinarmedizin,* Reihe B, 20–648–660, 1973.

9. Hickman, J.R., D.L.A. McLean, and F.J. Ley, "Rat Feeding Studies on Wheat Treated with Gamma Radiation. I. Reproduction," *Food and Cosmetics Toxicology,* 2:15–21, 1964.

10. Coquet, B., et al., "Etude chez la souris concernant la toxicite, l'influence sur la reproduction, la mutagenicite et le pouvoir teratogene du riz irradie incorpore dans la Nourriture," final report IFIP–R–40, 1976.

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13. Ralston Purina Co., "Final Report: A Chronic Toxicity, Oncogenicity, and Multigeneration Reproductive Study Using CD–1 Mice to Evaluate Frozen, Thermally Sterilized, Cobalt–60 Irradiated, and 10 MeV Electron Irradiated Chicken Meat," Report to U.S. Department of Agriculture, Agricultural Research Service, June 1983.

14. National Toxicology Program Board of Scientific Counselors, Final Summary Minutes for the "Peer Review of the Data from the Raltech Lifetime Feeding Study with Irradiated Chicken Meat in CD–1 Mice by the Technical Reports Review Subcommittee and Panel of Experts," held at Research Triangle Park, NC, March 28, 1985.

15. Cancer Assessment Committee, Center for Food Safety and Applied Nutrition, Memorandum of Conference, October 1, 1984, and January 4, 1985.

16. Levina, A.I., and A.E. Ivanov, "Pathomorphology of the Kidneys in Rats after Prolonged Ingestion of Irradiated Foods," *Bulletin of Experimental Biology and Medicine,* 85:236–238, 1978.

17. Ivanov, A.E., and A.I. Levina, "Pathomorphological Changes in the Testes of Rats Fed on Products Irradiated with Gamma Rays," *Bulletin of Experimental Biology and Medicine,* 91:232–234, 1981.

18. Gray, J.E., "Chronic Progressive Nephrosis in the Albino Rat," *CRC Critical Reviews in Toxicology,* September, pp. 115–144, 1977.

19. Aravindakshan, M., et al., "Multigeneration Feeding Studies with an Irradiated Whole Diet," International Symposium on Food Preservation by Irradiation, IAEA–SM–221–69, 1977.

20. Anukarahanonta, T., et al., "Wholesomeness Study of Irradiated Salted and Dried Mackerel in Rats," Summarized Technical Report IAEA Contract 1609/RB and 1609/RI/RB.

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26. WARF Institute, Inc., "Chronic Toxicity Studies on Irradiated Strawberries, Rat Study," Vol. 2, Contract Report, AEC Contract No. AT–(11–1)–1722, 1970.

27. Richardson, L.R., S.J. Ritchey, and R.H. Rigdon, "A Long-term Feeding Study of Irradiated Foods Using Rats as Experimental Animals," *Federation Proceedings,* 19:1023–1027, 1960.

28. Moutschen-Dahmen, M., J. Moutschen, and L. Ehrenberg, "Pre-implantation Death of Mouse Eggs Caused by Irradiated Food," *International Journal of Radiation Biology,* 18:201–216, 1970.

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30. Vijayalaxmi, and K.V. Rao, "Dominant Lethal Mutations in Rats Fed on Irradiated Wheat," *International Journal of Radiation Biology,* 29:93–98, 1976.

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Dated: February 13, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–3733 Filed 2–20–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Coopers Animal Health, Inc.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Coopers Animal Health, Inc., Kansas City, KS 66103–1438, the sponsor of several NADA's, has advised FDA to change its address from "Kansas City, MO 64108" to "Kansas City, KS 66103–1438." The agency is amending the address entry in 21 CFR 510.600(c)(1) for "Coopers Animal Health, Inc.," and the entry for "017220" in 21 CFR 510.600(c)(2) to reflect this change of address for Coopers Animal Health, Inc.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Coopers Animal Health, Inc." and in paragraph (c)(2) in the entry for "017220" by revising the sponsor address to read "Kansas City, KS 66103–1438."

Dated: February 17, 1987.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 87–3732 Filed 2–20–87; 8:45 am]

BILLING CODE 4160–01–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2204

Rules Implementing the Equal Access to Justice Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule with request for comments.

SUMMARY: The Occupational Safety and Health Review Commission has established rules of procedures implementing the Equal Access to Justice Act ("EAJ Act"). The Commission now amends its rules to reflect recent changes in the EAJ Act. The Commission also invites public comments on these amended rules.

EFFECTIVE DATE: February 23, 1987.

ADDRESS: Comments may be mailed to: Earl R. Ohman, Jr., General Counsel, Occupational Safety and Health Review Commission, Room 402–A, 1825 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., at (202) 634–4015.

SUPPLEMENTARY INFORMATION: Pub. L. 99–80, enacted August 5, 1985, reauthorized the Equal Access to Justice Act, which had expired on September 20, 1984. It also made several amendments. Four of those amendments are of particular importance to EAJ Act proceedings instituted before the Commission:

1. Net worth ceilings for eligible parties have been raised to $2,000,000 for individuals and $7,000,000 for partnerships, corporations, and other entities;

2. Units of local government may now be eligible for fee awards;

3. The position of the government that has to be substantially justified has been specifically defined to include the underlying governmental action or failure to act that the proceeding is based on, as well as the government's position in litigation; and

4. The government is generally restricted in its ability to introduce during the fee proceeding additional evidence of substantial justification.

The Administrative Conference of the United States ("ACUS") is charged with coordination of the procedural rules adopted by various agencies to implement the EAJ Act. To carry out this responsibility, ACUS issued revised model rules implementing the amendments to the EAJ Act (51 FR 16659 (May 6, 1986)), after receiving public comment on draft model rules (50 FR 46250 (November 6, 1985)). Since the preamble to the draft model rules explained their formulation and the preamble to the final model rules summarized and responded to the public comments submitted concerning the amendments, the Commission will not repeat the rationale of those amendments when the Commission's revised rules follow the ACUS amendments. Where the Commission has departed from the ACUS model rules, the reasons for the departure will be explained. Accordingly, the Commission amends its rules as follows:

1. Sections 2204.101 and 2204.102(c) are simplified by citing the EAJ Act only to the United States Code.

2. The Commission has completely revised the effective dates in § 2204.103, entitled "When the EAJ Act applies," to generally conform to the corresponding ACUS model rule § 315.102. This revision is necessary to reflect the effective dates of the amended EAJ Act. The Commission's amended rule, however, does not contain an express provision applying the EAJ Act to adversary adjudications "pending on or commenced on or after October 1, 1981, in which an application for fees and other expenses was timely filed and was dismissed for lack of jurisdiction." No Commission cases have been in that position, and such language would be merely superfluous.

3. The Commission will apply its old rules to those EAJ Act cases pending before it on August 5, 1985, and still on its docket. Given the extremely small number of cases in that posture, however, the Commission will follow the ACUS recommendation and inform the parties directly when the old rules apply rather than include a special provision in its rules. 51 FR 16659, 16660 (May 6, 1986).

4. Sections 2204.105(b) (1), (4), and (5) and 2204.201(b) are revised to reflect the new employment and financial criteria for eligibility under the amended EAJ Act. Also, § 2204.105(b)(4) is amended to specify that a unit of local government with a net worth of not more than $7 million and no more than 500 employees is eligible to proceed under the EAJ Act. Although the OSH Act does not apply to any political subdivision of a state (section 3(5), 29 U.S.C. 652(5)), citations have been issued to employers that have claimed to be a political subdivision of a state. The Commission therefore revises its rules to provide that political subdivisions of a state erroneously cited by OSHA may be eligible to apply for fees under the EAJ Act.

5. The Commission amends § 2204.106(a) to clarify that when deciding whether the Secretary has established that his position was substantially justified, the Commission will consider both the underlying action or failure to act by the Secretary upon which the adjudication is based, as well as his litigation position. The rule also clarifies that substantial justification is the only issue on which the Secretary has the burden of persuasion. The former rule could have been interpreted to require the Secretary to show that the employer failed to meet the qualifying criteria (e.g., financial) for reimbursment under the EAJ Act. Finally, language that defines a "substantially justified" position as one that is "reasonable in law and fact" has been eliminated. The Commission has decided to follow the view of the ACUS that the current uncertainty in the law requires that determinations of "substantial justification" be made on a case-by-case basis. See 51 FR 16659, 16661 (May 6, 1986).

6. The amendment to § 2204.203 clarifies that the Commission may require the applicant to furnish substantiation for any "fees or expenses claimed." The old rule requires the substantiation of expenses but does not expressly cover fees.

7. The Commission amends § 2204.307 by revising paragraphs (a)(1) and (a)(2) and adding a new paragraph (a)(3) to reflect the restrictions on additional proceedings contained in the amended EAJ Act. Unlike the ACUS model rules, however, the Commission would not completely prohibit the Secretary from seeking additional proceedings to enable him to establish that his position was substantially justified. Rather, the

Commission, in accordance with the intent of Congress reflected in the EAJ Act's legislative history, would give the Secretary an opportunity to supplement the record with affidavits or other documentary evidence when disposition of the underlying case occurred before the Secretary had a fair opportunity to adduce evidence that his position was "substantially justified." A literal reading of section 504(a)(1) of the amended EAJ Act could appear to prohibit the Secretary from ever going beyond the administrative record made during the adversary adjudication to establish that his position was substantially justified. The legislative history of that section, however, indicates that the prohibition was intended to apply only when the case has been fully litigated. Congress intended that when "the case is conceded on the merits, dropped by the agency, or otherwise settled . . . before any of the merits are heard," the substantial justification for the government's position would be determined by looking to the "pleadings, affidavits and other supporting documents filed by the parties in both the fee [proceeding] and the case on the merits." H.R. Rep. No. 120, Part 1, 99th Cong., 1st Sess. 13, *reprinted in* 1985 U.S. Code Cong. & Ad. News 132, 141. This view is underscored by the Commission's own experience. In *K.D.K. Upset Forging, Inc.*, 86 OSAHRC ____, 12 BNA OSHC 1856, 1986 CCH OSHD ¶ 27,612 (No. 81–1932, 1986), the Secretary withdrew the citation before hearing and before a record of any substance was established. As a result, there was nothing in the record to support the Secretary's assertion that his decision to issue the citation was substantially justified. In finding that the employer was entitled to an award under the EAJ Act, the Commission noted that the Secretary could have gone far to meet his burden of establishing "substantial justification" simply by having filed supporting affidavits. It would seem that to adopt a rule prohibiting the Secretary from ever supplementing the record compiled before the EAJ Act proceeding would unduly discourage the Secretary from the early withdrawals of citations, except perhaps after some discovery. Internal reviews by the Secretary of cases that should be settled or withdrawn are critical to the timely resolution of the large number of contested cases on the Commission's dockets.

Public Comment

The document revises agency rules of procedure and practice. The Administrative Procedure Act, 5 U.S.C. 553(b)(A), authorizes agencies to revise such regulations on internal procedures without prior notice or public comment. Because it wishes to put these revised procedures into effect as soon as possible to avoid unnecessary expense, the Commission adopts these revised regulations as its final rule. Nevertheless, the Commission values any comments that the public may have on these matters. Public comment is accordingly invited. Comments may be mailed to the General Counsel at the address previously stated.

List of Subjects in 29 CFR Part 2204

Administrative practice and procedure, Equal access to justice.

For the reasons set out in the preamble and under authority granted by 5 U.S.C. 504(c)(1) and 29 U.S.C. 661(f), the Occupational Safety and Health Review Commission amends 29 CFR Part 2204 as follows:

PART 2204—[AMENDED]

1. The authority citation for Part 2204 is revised to read as follows:

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99–80, 99 Stat. 183.

2. The first sentence of § 2204.101 is revised to read as follows:

§ 2204.101 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504, provides for the award of attorney or agent fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Occupational Safety and Health Review Commission. * * *

3. Section 2204.102 is amended by revising paragraph (c) to read as follows:

§ 2204.102 Definitions.

* * * * *

(c) The term "EAJ Act" means the Equal Access to Justice Act, 5 U.S.C. 504.

* * * * *

4. Section 2204.103 is revised to read as follows:

§ 2204.103 When the EAJ Act applies.

The EAJ Act applies to adversary adjudications before the Commission pending or commenced on or after August 5, 1985. The EAJ Act also applies to adversary adjudications commenced on or before October 1, 1984, and finally disposed of before August 5, 1985, if an application for an award of fees and expenses, as described in Subpart B of these rules, has been filed with the Commission within 30 days after August 5, 1985.

5. Section 2204.105 is amended by revising paragraphs (b)(1), (b)(4), and (b)(5) to read as follows:

§ 2204.105 Eligibility of applicants.

* * * * *

(b) The types of eligible applicants are as follows:

(1) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interest, and employs not more than 500 employees;

* * * * *

(4) Any other partnership, corporation, association, unit of local government, or public or private organization that has a net worth of not more than $7 million and employs not more than 500 employees; and

(5) An individual with a net worth of not more than $2 million.

* * * * *

6. Section 2204.106 is amended by revising paragraph (a) to read as follows:

§ 2204.106 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses in connection with a proceeding, or in a discrete substantive portion of the proceedings, unless the position of the Secretary was substantially justified. The position of the Secretary includes, in addition to the position taken by the Secretary in the adversary adjudication, the action or failure to act by the Secretary upon which the adversary adjudication is based. The burden of persuasion that an award should not be made to an eligible prevailing applicant because the Secretary's position was substantially justified is on the Secretary.

* * * * *

7. Section 2204.201 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 2204.201 Contents of application.

* * * * *

(b) The application also shall include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants). * * *

* * * * *

8. Section 2204.203 is amended by revising the last sentence to read as follows:

§ 2204.203 Documentation of fees and expenses.

* * * The Commission may require the applicant to provide vouchers, receipts, or other substantiation for any fees or expenses claimed.

9. Section 2204.307 is amended by revising paragraphs (a)(1) and (a)(2) and adding a new paragraph (a)(3) to read as follows:

§ 2204.307 Further proceedings.

(a)(1) The determination of an award shall be made on the basis of the record made during the proceeding for which fees and expenses are sought, except as provided in paragraphs (a)(2) and (a)(3) of this section.

(2) On the motion of a party or on the judge's own initiative, the judge may order further proceedings, including discovery and an evidentiary hearing, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses).

(3) If the proceeding for which fees and expenses are sought ended before the Secretary had an opportunity to introduce evidence supporting the citation or notification of proposed penalty (for example, a citation was withdrawn or settled before an evidentiary hearing was held), the Secretary may supplement the record with affidavits or other documentary evidence of substantial justification.

* * * * *

Dated: February 17, 1987.

E. Ross Buckley,

Chairman.

Dated: February 18, 1987.

John R. Wall,

Commissioner.

[FR Doc. 87-3723 Filed 2-20-87; 8:45 am]

BILLING CODE 7600-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 218

Fishermen's Contingency Fund

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is amending 30 CFR Part 218 to combine the provisions of two sections (§§ 218.152 and 218.153), both entitled "Fishermen's Contingency Fund," into a single section. These regulations provide for assessments to lease, permit, easement, or right-of-way holders in the Outer Continental Shelf (OCS), for the purpose of the establishment and maintenance of a Fishermen's Contingency Fund. The two sections are combined to avoid confusion and simplify MMS regulations governing the Royalty Management Program.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432 or FTS 326-3432 in Lakewood, Colorado.

SUPPLEMENTARY INFORMATION:

I. Background

The Outer Continental Shelf Lands Act (OCSLA) Amendments of 1978 (43 U.S.C. 1801 et seq.), established a Fishermen's Contingency Fund (43 U.S.C. 1841) to allow for compensation payments to fishermen for damages to commercial fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production in the OCS. Prior to the assumption of royalty management responsibilities by MMS, pursuant to Secretarial Order No. 3087 of December 3, 1982, the Conservation Division of the U.S. Geological Survey (USGS) had royalty management responsibility, including the assessment and collection of amounts for the establishment and maintenance of a Fishermen's Contingency Fund. Two regulations covering the Fishermen's Contingency Fund were issued by USGS: 30 CFR 250.56 (44 FR 61903, October 26, 1979) and 30 CFR 251.5-5 (45 FR 6347, January 25, 1980).

Section 250.56 was issued by the USGS to provide for assessments to any holder of a lease issued or maintained under the OCSLA. This regulation also applied to any holder of an exploration permit or of an easement or right-of-way for the construction of a pipeline in an area covered by an account under the Fishermen's Contingency Fund. Similarly, § 251.5-5 was issued by the USGS to provide for assessments to the holder of a permit for geological or geophysical exploration activities for mineral resources in an area covered by an account under the Fishermen's Contingency Fund.

After assuming royalty management responsibilities, the MMS issued a **Federal Register** Notice (48 FR 35639, August 5, 1983) to redesignate and identify regulations in 30 CFR that it would retain and administer. Former USGS regulations, 30 CFR 250.56 and 30 CFR 251.5-5, were redesignated as MMS regulations at §§ 218.152 and 218.153, under Title 30, Part 218, Subpart D (Oil, Gas and Sulfur, Offshore).

Because the two former USGS regulations are under MMS regulations in the same part and subpart, MMS is amending 30 CFR 218 to combine the provisions to avoid confusion and simplify its royalty management regulations.

II. Procedural Matters

Administrative Procedure Act

The changes included in this rulemaking are technical corrections only and not substantive changes. Accordingly, pursuant to 5 U.S.C. 553(b), it has been determined that it is unnecessary to issue proposed regulations before the issuance of this final regulation. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make this regulation effective upon publication in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

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

Paperwork Reduction Act of 1980

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

National Environmental Policy Act of 1969

The Department of the Interior has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969 [42 U.S.C. 4332 (2)(C)].

List of Subjects in 30 CFR Part 218

Coal, Continental shelf, Electronic fund transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Oil and gas exploration, Public lands-mineral resources.

Dated: January 30, 1987.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR 218 is amended as set forth below:

SUBCHAPTER A—ROYALTY MANAGEMENT

PART 218—[AMENDED]

1. The authority citation for Part 218 is revised to read as follows:

Authority: 25 U.S.C. 396, et seq.; 25 U.S.C. 396a, et seq.; 25 U.S.C. 2101, et seq.; 30 U.S.C. 181, et seq.; 30 U.S.C. 351, et seq.; 30 U.S.C. 1001, et seq., 30 U.S.C. 1701, et seq.; 43 U.S.C. 1301, et seq.; 43 U.S.C. 1331, et seq.; and 43 U.S.C. 1801, et seq.

2. Section 218.152 is revised to read as follows:

§ 218.152 Fishermen's Contingency Fund.

Upon the establishment of the Fishermen's Contingency Fund, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act and any holder of an exploration permit or of an easement or right-of-way for the construction of a pipeline, shall pay an amount specified by the Director, MMS, who shall assess and collect the specified amount from each holder and deposit it into the Fund. With respect to prelease exploratory drilling permits, the amount will be collected at the time of issuance of the permit.

§ 218.153 [Removed and Reserved]

3. Section 218.153 is removed and reserved.

[FR Doc. 87-3684 Filed 2-20-87; 8:45 am]
BILLING CODE 4310-MR-M

National Park Service

36 CFR Part 62

National Natural Landmarks Program; National Significance Criteria

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This revision to the National Natural Landmarks Program national significance criteria is to clarify the language and sharpen the definition of national significance. The revised criteria will better enable the National Park Service to evaluate additions to the National Registry of Natural Landmarks and better communicate the concept of national significance to the public. Since many persons and organizations seek natural landmark recognition for sites they own or administer, a better understanding of our definition of the concept will help them recognize why few sites qualify, and also assist our contractors in providing us with information we need to make good judgments.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Hardy L. Pearce, Interagency Resources Division, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127, (202) 343-9500.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Interior established the Natural Landmarks Program in 1962 as a natural areas survey to identify and encourage the preservation of features that best illustrate the ecological and geological character of the United States, to enhance the educational and scientific value of sites thus identified, to strengthen public appreciation of natural history, and to foster wider support for conservation of the Nation's natural heritage.

Potential National Natural Landmarks are identified primarily through inventory studies conducted for the National Park Service, and through recommendations received from Federal agencies, State natural heritage programs, and other sources. Recommended areas are surveyed in the field and evaluated with respect to selection criteria by expert natural scientists. If an area is judged nationally significant, it is proposed to the Secretary of the Interior for designation as a National Natural Landmark. Areas so designated are listed on the National Registry of Natural Landmarks, which now includes 573 sites in 48 States, 3 territories, and the Commonwealth of Puerto Rico. Additions to the Registry are published annually in the **Federal Register**.

Natural landmark designation is not a land withdrawal and affects neither the ownership of a site nor its use. Rather, it is a means of public recognition employed by the Secretary to encourage the preservation, well-informed management, and consideration in public and private planning efforts of nationally significant natural areas without acquisition by the Federal Government.

Public Participation

A proposed rule was published in the **Federal Register** on May 2, 1966 (51 FR 16349). Two comments were received, and although they were minor and largely of an editorial nature, they were incorporated. A 30-day public comment period opened on May 2, 1986 and was extended on June 2, 1986 for an additional 60 days.

Drafting Information

Drafting of this regulation was done by National Natural Landmarks Program staff, in consultation with other National Park Service employees, outside scientists, representatives of national conservation organizations, and others.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities as per the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no costs should result for any small entity.

The rule does not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1980.

List of Subjects in 36 CFR Part 62

Natural resources.

PART 62—NATIONAL NATURAL LANDMARKS PROGRAM

For the reasons set out in the preamble, 36 CFR Part 62 is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: Sec. 1, Pub. L. 74-292, 49 Stat. 666 (16 U.S.C. 461 *et seq.*); Sec. 2 of Reorganization Plan No. 3 of 1950 (34 Stat. 1262).

2. Section 62.2 is amended by revising the definition "National Significance" to read as follows:

62.2 Definitions.

* * * * *

"National Significance" denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards, as one of the best examples of that feature known.

* * * * *

3. Section 62.5 is revised to read as follows:

62.5 National natural landmark criteria.

(a) *Introduction.* "National Significance" denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards, as one of the best examples of that feature known. Such features include terrestrial and aquatic ecosystems, geologic structures, exposures, and landforms that record active geologic processes or portions of earth history; and fossil

evidence for biological evolution. Because the general character of natural diversity is regionally distinct according to broad patterns of physiography, many types of natural features lie wholly within one of the 33 physiographic provinces of the Nation, as defined by Fenneman (1928) and modified by the National Park Service. For that reason, and because no uniform, nationally applicable classification schemes for biotic communities or geologic features have gained wide acceptance and use in lieu of other classification schemes by the majority of organizations involved in natural area inventory activities, individual classification systems are developed for each inventory study of a physiographic province to identify the types of regionally characteristic natural features sought for representation on the National Registry of Natural Landmarks. Most types represent the scale of distinct biotic communities or individual geologic, paleontologic or physiographic festures, most of which are mappable at the Earth's surface at scales on the order of 1:24,000 or are traceable in the subsurface. Nearly two-thirds of all National Natural Landmarks range in size between about 30 and 2,000 hectares (about 12 and 5,000 acres), but larger and smaller sites also occur owing to the wide variety of natural features recognized by the National Natural Landmarks Program.

(b) *Criteria.* (1) The following criteria form the guidelines used to evaluate the relative quality of sites as examples of regionally characteristic natural features. Primary criteria relating to a specific type of natural feature form the principal basis for selection and must be met for a site to be considered for National Natural Landmark designation. Secondary criteria relating to significant features or qualities in addition to the principal feature are provided for additional consideration when two or more sites are found to meet the primary criteria.

(2) Primary Criteria.

(i) Illustrative Character. A site exhibits a combination of well-developed component features that are recognized in the appropriate scientific literature as characteristic of a particular type of natural feature. What is sought is not necessarily the statistically representative, but rather the unusually illustrative.

Example: An alpine glacier, which exhibits classic shape, an unusual number of glaciologic structures like crevasses, and well-developed bordering moraine sequences.

(ii) Present Condition. A site has received less human disturbance than other examples.

Example: A large beech-maple forest, only a small portion of which has been disturbed by logging.

(3) Secondary Criteria.

(i) Diversity. A site, in addition to its primary natural feature, contains high quality examples of other ecological and/or geological features.

Example: A composite volcano, which also illustrates geothermal phenomena.

(ii) Rarity. A site, in addition to its primary natural feature, contains a rare geological or paleontological feature or biotic community, or provides high quality habitat for one or more rare, threatened, or endangered species.

Example: Badlands, which also are composed of strata containing rare fossils.

(iii) Value for Science and Education. A site is associated with a significant scientific discovery or concept, possesses an exceptionally extensive and long-term record of onsite research, or offers unusual opportunities for public interpretation of the natural history of the United States.

Example: A dunes landscape, which was the subject of pioneering studies that first recognized the process of ecological succession.

Dated: November 6, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-3505 Filed 2-20-87; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-4-FRL-3159-4]

Ocean Dumping; Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a new dredged material disposal site in the Atlantic Ocean offshore Fernandina Beach, Amelia Island, Florida ("the Fernandina site"), as an EPA-approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for projects in the area which require ocean disposal of dredged material. This final designation is for an indefinite period of time but is subject to continued monitoring to ensure that unacceptable adverse environmental impacts do not occur. The interim designation previously given to another site in the area near Fernandina Harbor is being cancelled.

DATE: This designation shall become effective on March 25, 1987.

ADDRESSES: Send comments to:

Sally Turner, Chief, Marine Protection Section, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

The file supporting this site designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460.

EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Reginald G. Rogers, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This designation of the Fernandina site, Florida is within Region IV and is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under the Act (40 CFR Chapter I, Subchapter H, section 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. This site designation is being published as final rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material.

B. EIS Development

Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

The object of NEPA is to build into Agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's

in connection with ocean dumping site designations such as this [See 39 FR 16186 (May 7, 1974)].

The Corps of Engineers and EPA have prepared a draft and final EIS titled, *Supplement to the Jacksonville Harbor Ocean Dredged Material Disposal Site—Final Environmental Impact Statement for Designation of a New Fernandina Harbor, Florida Ocean Dredged Material Disposal Site.*

This Supplemental EIS (SEIS) discusses the final EPA designation of an ocean dredged material disposal site for continuing use near Fernandina Beach, FL. The purpose of the EPA's action is to provide an environmentally acceptable ocean location for disposal of dredged materials if an ocean disposal site is needed for such materials. The need for ocean disposals is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

Of Friday July 25, 1986, a notice of availability of the draft SEIS for public review and comment was published in the **Federal Register** [51 FR 26748 July 25, 1986]. Seven comment letters were received on the draft SEIS and were addressed in the final SEIS. On Friday November 14, 1986, the notice of availability of the final SEIS was published in the **Federal Register** [51 FR 41415 November 14, 1986]. Three comment letters were received on the final SEIS. The comments on the final SEIS were addressed in the proposed rulemaking published for this site designation at 52 FR 438 (January 6, 1987).

C. Site Designation

The proposed site is located approximately six nautical miles offshore Amelia Island, Florida and occupies an area of about 4 square nautical miles. Water depths within the area average 16 meters. The coordinates of the site are as follows:

30°33′00″ N.; 81°16′52″ W.
30°31′00″ N.; 81°16′52″ W.
30°31′00″ N., 81°19′08″ W.
30°33′00″ N., 81°19′08″ W.

On January 6, 1987, EPA proposed a rule change designating this site for the disposal of dredged materials [52 FR 38 (January 6, 1987)]. The preamble to this proposed rule presented the characteristics of the site in terms of the eleven specific factors identified in § 228.5 of the Ocean Dumping Regulations which, taken together, constitute an assessment of the site's suitability as a repository for dredged material. That assessment concludes that this site is appropriate for final designation. The State of Florida, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have concurred with this site designation.

Two letters of comment were received on the proposed rule, neither of which opposed the designation of the Fernandina site. The first, from the U.S. Coast Guard Port Safety and Security Division, indicated that a memorandum of understanding between the Coast Guard and the Corps of Engineers requires the Corps of Engineers to provide surveillance over federally contracted activities which are associated with federal navigation projects which entail dredged material disposal operations in ocean waters. In supplementary information accompanying the proposed rule, EPA had referred to the Coast Guard's monitoring role and we acknowledge this memorandum of understanding and its provisions for federal navigation projects. The second letter of comment was received from the Department of Interior's Minerals Management Service, Offshore Minerals Management Office, and Office of Strategic and International Minerals. The comments indicated that EPA neglected to mention the potential for offshore minerals other than oil and gas deposits, and that the Service would like to be kept informed of the results of monitoring at the site. EPA acknowledges that mineral deposits other than oil and gas may exist in the area. However, EPA believes that this site designation will not affect the future exploration or extraction of minerals in the vicinity. EPA will keep the Service informed of the availability of results of monitoring studies conducted at the site.

D. Action

The designation of the Fernandina site as an EPA-approved ocean dumping site is today being published as a final rulemaking. Management of this site will be the responsibility of the EPA Region IV.

A site designation does not give approval for actual disposal of materials at the site. Before ocean dumping of dredged material from a specific project may commence at the designated site, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria (40 CFR, Part 227). If a Federal project is involved, the Corps of Engineers must also evaluate the proposed ocean disposal in accordance with the same criteria. In either case, EPA has the authority to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met. Upon the effective date of this rule change, the nearby Fernandina Harbor site, previously designated for dredged materials on an interim basis, will no longer be needed. Therefore, the interim designation is being cancelled. The interim site was incorrectly cited in the proposed rule change. The citation given in the paragraph included in order to cancel the interim site was "paragraph (a)(1)(ii)(C)" of § 228.12 of the Ocean Dumping Regulations. This citation should have read § 228.12 paragraph (a)(3)" of the Ocean Dumping Regulations. This final rule corrects the amending paragraph in order to effect removal of the interim Fernandina site from the list of sites in § 228.12(a)(3).

E. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this final rule does not necessitate preparation of a Regulatory Impact Analysis.

This final rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

This final rulemaking notice represents the Record of Decision required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: February 13, 1987.

Approved by:

Jack E. Ravan,

Regional Administrator for Region IV.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 409 is amended as set forth below.

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C Sections 1412 and 1418.

2. Part 228 is amended by removing from § 228.12(a)(3) the words and coordinates "Fernandina Harbor—30°42'00" N., 81°19'05" W.; 30°42'00" N., 81°17'55" W.; 30°41'00" N., 81°17'55" W.; 30°41'00" N., 81°19'05" W." and by adding paragraph (b)(3) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(30) Fernandina Beach, Florida Dredged Material Disposal Site—Region IV.

Location:
30°33'00" N.; 81°16'52"W.
30°31'00" N.; 81°16'52" W.
30°31'00" N.; 81°19'08" W.
30°33'00" N.; 81°19'08" W.
Size: 4 square nautical miles
Depth: Average 16 meters
Primary use: Dredged Material
Period of Use: Continuing use
Restrictions: Disposal shall be limited to dredged material which meets the criteria given in the Ocean Dumping Regulations, Part 227.

[FR Doc. 87-3717 Filed 2-20-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 86-207; FCC 87-34; RM-5208]

Amateur Radio Service Rules To Permit Emission F8E on Frequencies 902 MHz and Above

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The attached rule amendment authorizes amateur stations to transmit emission F8E on frequencies 902 MHz and above. The rule amendment is necessary to allow amateur operators to experiment with an additional emission mode. The effect of the amendment is to allow amateur operators to advance their knowledge of amateur radio technology.

EFFECTIVE DATE: April 6, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted January 28, 1987 and released February 12, 1987.

1. The full text of this Commission decision including the rule change is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision and the rule change may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

2. The amended rules authorize amateur stations to transmit emission F8E on frequencies 902 MHz and above. Authorization of emission F8E allows for experimentation by amateur operators, thereby creating favorable conditions for the advancement of amateur radio technology.

3. In transmitting emission F8E, amateur operators are encouraged to follow voluntary band plans that are in effect in order to avoid interference.

4. The amended rule is set forth at the end of this document.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities because these entities may not use the Amateur service for business radio communications. Also, because transmitting emission F8E on Amateur radio service frequencies is optional rather than mandatory, there would be no significant impact on the manufacturers of amateur radio equipment.

6. The amended rule has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements; and will not increase or decrease burden hours on the public.

7. This Report and Order and this rule amendment is issued under the authority of 47 U.S.C. 154(i) and 303 (g) and (r).

8. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

9. It is ordered that Part 97 is amended as shown at the end of this document.

10. It is further ordered that this rule amendment shall become effective April 6, 1987.

11. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 97

Amateur radio, Emissions, Frequencies, Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Amended Rules

PART 97—[AMENDED]

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Authority: The authority citation for Part 97 continues to read as follows: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.61(c) is revised to read as follows:

§ 97.61 Authorized emissions.

* * * * *

(c) *Above 144.1 HMz:* Amateur stations are authorized to transmit the following emissions on amateur frequencies above 144.1 MHz: NON, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F2A, F3E, G3E, F3C, F3F, H3E, J3E and R3E. PON emission (the emission letters "K, L, M, Q, V, W, and X" may also be used in place of the letter "P" for pulsed radars) may be transmitted on all amateur frequencies above 902 MHz, except in the 1240-1300 MHz and 10.0-10.5 GHz bands. Emission F8E may be transmitted on all amateur frequencies 0.35 meters and above.

* * * * *

[FR Doc. 87-3725 Filed 2-20-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 61109-7026]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of final 1987 fishing quotas.

SUMMARY: NOAA issues a notice of final quotas for the surf clam and ocean quahog fisheries for 1987. These quotas were selected from a range defined as optimum yield (OY) for each fishery, as adjusted to reflect fishing activity at the end of 1986. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1987.

EFFECTIVE DATE: February 20, 1987.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls (Plan Coordinator), 617–281–3600, ext. 263.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council, to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges which have been identified as OY for each fishery.

In specifying the quota values, the Director, Northeast Region, NMFS, considered stock assessments, catch records, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas likely to be reopened to fishing. Proposed quotas were published on November 28, 1986 (51 FR 43055). No public comments were received on the proposed quotas during the comment period.

The proposed quotas were adjusted under § 652.21(a), (b), and (c) to reflect the amount of shortfall or overharvest in each designated fishery during 1986. The 1986 quotas for the Mid-Atlantic and Nantucket Shoals Area fisheries were exceeded by small amounts requiring deductions from the 1987 quotas. The Georges Bank fishery fell short of its quota, requiring an increase in the 1987 value.

The following quotas are established for the surf clam and ocean quahog fisheries for 1987:

Fishery area	1987 quota (in bushels)
Mid-Atlantic surf clam	2,600,000
Georges Bank surf clam	330,000
Nantucket Shoals surf clam	190,000
Ocean quahog	6,000,000

Other Matters

This action is taken under § 652.21 and is in compliance with Executive Order 12291. The action is covered by the certification for Amendment 3 to the FMP (47 FR 4268, January 29, 1982), and under the Regulatory Flexibility Act, that the authorizing regulations do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 18, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 87–3740 Filed 2–20–87; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 35
Monday, February 23, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 432

Reduction in Grade and Removal Based on Unacceptable Performance

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing changes to its regulations on reduction in grade and removal based on unacceptable performance in an effort to improve employee and agency understanding and use of the authorities provided by the Civil Service Reform Act of 1978. These regulations reflect the provisions of OPM's final regulations on performance appraisal for General Schedule and prevailing rate employees (5 CFR 430.201) as well as for employees under the Performance Management and Recognition System (5 CFR 430.401). They amend the coverage provisions and reflect a decision of the U.S. Court of Appeals for the Federal Circuit. They clarify procedural requirements, agency responsibilities, and employee rights. The regulations provide for agencies to extend the notice period required prior to reduction in grade or removal for a period beyond 60 days under certain criteria. In addition, portions of the regulations are restructured and obsolete material is removed.

DATE: Comments must be received on or before April 24, 1987.

ADDRESS: Written comments may be sent or delivered to the Chief, Appellate Policies Division; Room 7635; Office of Employee, Labor, and Agency Relations; Office of Personnel Management; 1900 E Street; NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ken Bates, (202) 653–8551.

SUPPLEMENTARY INFORMATION: Because of numerous questions from employees and agencies on the procedures of 5 CFR Part 432, the issuance of final regulations on Performance Management at 5 CFR Part 430, and several related appellate decisions, OPM has become aware of the need to clarify the requirements of law and regulation affecting the resolution of employee performance problems. Accordingly, OPM is proposing a number of changes in Part 432 to improve employee and agency understanding of the procedures involved in resolving such problems.

OPM proposes to amend the current 5 CFR 432.101, *Principal statutory requirements,* by not reprinting the text of the law (5 U.S.C. 4303) in the regulations. While explicit reference to the statutory requirements would be retained, those requirements would be discussed within the context of various sections of Part 432, rather than being listed separately at the beginning of the regulations. For example, the several procedural requirements of 5 U.S.C. 4303(b) would be referenced in some detail under the revised 5 CFR 432.105, titled "Procedures" (see discussion below). Such a change will make both the legal and regulatory requirements of Part 432 easier to use and understand. As a result, it would no longer be necessary to divide Part 432 into two subparts; yet all of the substantive requirements of the current Subpart A would be discussed or referenced elsewhere in the regulations.

OPM proposes to amend the current 5 CFR 432.201, *Coverage,* by reorganizing and expanding the material under this heading, to make it easier to use. In addition, OPM proposes to change several of the items listed. In *Wilfred R. Phipps* v. *Department of Health and Human Services,* 767 F.2d 895 (1985), the Federal Circuit Court of Appeals held that if agencies had informed employees in advance that a promotion would be temporary, they were not required to follow adverse action procedures when terminating a temporary promotion, regardless of whether it extended past 2 years. To reflect this holding, OPM proposes to amend the regulatory coverage to exclude both temporary and term promotions from coverage no matter how long they extend. OPM also proposes to show as excluded two types of actions that the drafters of the statute clearly did not envision as being covered under Chapter 43 of title 5 of U.S. Code: reductions in grade based either on minimally satisfactory performamce or on unacceptable performance of a noncritical element. Finally, the proposed regulations would reflect recent changes in title 38 of the U.S. Code pertaining to certain employees in the Department of Medicine and Surgery, Veterans Administration, who would otherwise be excluded from coverage of Part 432.

To clarify and enhance understanding, the current definitions in 5 CFR 432.202 would be revised so that they are consistent with definitions used in Part 430—Performance Management, and also to reflect more completely the meaning of terms used in statute and in Part 432. They would include a definition of "current continuous employment," which is not currently defined in regulation even though it is discussed in FPM chapter 752. OPM proposes to tie the regulatory definition of this term to the central language of the law in 5 U.S.C. 4303(f), and not to the methods by which service is credited for completion of the probationary period.

The definition of "opportunity to demonstrate acceptable performance" would be amended to reflect the different standard of performance required of employees covered by the Performance Management and Recognition System. A definition of "same or similar positions" is proposed to clarify the meaning of this term. Finally, OPM proposes to spell out the statutory definition of "unacceptable performance," rather than merely referencing the law as is done in the current regulations.

The current section 432.203 is proposed to be retitled as "Opportunity to demonstrate acceptable performance," and amended to describe more clearly the key elements of the opportunity period leading to the decision about whether to propose removal or reduction in grade. The proposed changes in this section reflect the requirements of 5 U.S.C. 4302a and Part 430 OPM's regulations regarding employees covered under the Performance Management and Recognition System. In addition, paragraph (d) of the revised 5 CFR 432.104 would clarify the procedures under which an employee may ask the agency to consider a medical condition that may contribute to his or her performance problems.

OPM proposes to amend the current 5 CFR 430.204 to list in some detail the various procedural requirements for taking a performance-based action. In addition, the amendments would make it clear (1) that an agency must give the employee at least 30 days' notice of the proposed reduction in grade or removal; and (2) that the notice period may be extended another 30 days by the agency for any reason, and for a further period still beyond the second 30 days if certain criteria are met.

The regulations would delete the current 5 CFR 432.205, *Interim procedures*, which covered actions taken under this part pending OPM's approval of the agency's performance appraisal system, since all agencies have been required to have OPM approved appraisal systems since October 1, 1981.

In addition, appeal rights to the Merit System Protection Board would be stated explicitly as applying only to competitive service employees and preference eligibles in the excepted service. Chapter 43 of title 5 of the U.S. Code procedural rights to nonpreference eligibles in the excepted service without a corresponding appeal right. This has been a source of confusion to agencies and employees.

Finally, the regulations dealing with agency records would be deleted. Such material is unnecessary because an agency's obligation to maintain relevant records to support any action taken under this part, as well as an employee's right to review such records, is already provided for within the context of existing appeal and grievance rights.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal employees.

List of Subjects in 5 CFR Part 432

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM proposes to revise 5 CFR Part 432 to read as follows:

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Sec.

Authority: 5 U.S.C. 4305.

§ 432.101 Statutory authority.

Section 4303(a) of title 5 of the United States Code authorizes agencies to reduce in grade or remove an employee for unacceptable performance. This part contains regulations that the Office of Personnel Management (OPM) has prescribed to implement and supplement this authority.

§432.102 Coverage.

(a) *Actions covered.* This part covers reduction in grade and removal of an employee based solely on unacceptable performance.

(b) *Actions excluded.* This part does not apply to the following:

(1) The reduction to the grade previously held of a supervisor or manager who has not completed the probationary period under 5 U.S.C. 3321(a)(2);

(2) The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less;

(3) The reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continous employment in the same or similar positions;

(4) The reduction in grade or removal for minimally acceptable performance of a critical element;

(5) The reduction in grade or removal based on performance of a noncritical element;

(6) An action taken by the Special Counsel of the Merit Systems Protection Board under the authority of 5 U.S.C. 1206;

(7) An action taken under 5 U.S.C. 7521 against an administrative law judge;

(8) An action taken under 5 U.S.C. 7532 in the interest of national security;

(9) An action taken under a provision of statute, other than one codified in title 5 of the U.S. Code, which excepts the action from the provisions of title 5 of the U.S. Code;

(10) A removal from the Senior Executive Service to a civil service position outside the Senior Executive Service under Part 359 of this chapter;

(11) A reduction-in-force governed by Part 351 of this chapter;

(12) A voluntary action initiated by the employee;

(13) A performance-based action taken under Part 752 of this chapter;

(14) An action that terminates a temporary or term promotion and returns the employee to the position form which temporarily promoted, or to a different position of equivalent grade and pay, in accordance with Part 335 of this chapter;

(15) An involuntary retirement because of disability under Part 831 of this chapter; and

(16) A termination in accordance with terms specified as conditions of employment at the time the appointment was made.

(c) *Agencies covered.* This part applies to agencies covered by 5 U.S.C. 4301(1) which are as follows:

(1) The executive department listed at 5 U.S.C. 101;

(2) The military departments listed at 5 U.S.C. 102;

(3) The Government Printing Office;

(4) The Administrative Office of the U.S. Courts; and

(5) Independent establishments that are establishment in the executive branch, except for a government corporation, the U.S. Postal Service, or the Postal Rate Commission.

(d) *Agencies excluded.* This part does not apply to the agencies excluded by 5 U.S.C. 4301(1), which are as follows:

(1) The U.S. Postal Service;

(2) The Postal Rate Commission;

(3) The Central Intelligence Agency;

(4) The Defense Intelligence Agency;

(5) The National Security Agency;

(6) The General Accounting Office;

(7) Any government corporation; and

(8) Any agency having the principal function of conducting foreign intelligence or counterintelligence activities.

(e) *Employee coverage.* This part applies to all individuals employed in or under an agency but does not apply the following employees:

(1) An employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less;

(2) An employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions;

(3) An employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

(4) An individual in the Foreign Service of the United States;

(5) A physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans Administration, whose pay is fixed under Chapter 73 of title 38, U.S. Code, except persons appointed under 38 U.S.C. 4104(3);

(6) An administrative law judge appointed under 5 U.S.C. 3105;

(7) An individual in the Senior Executive Service;

(8) An individual appointed by the President;

(9) An employee occupying a position in Schedule C as authorized under Part 213 of this chapter;

(10) A reemployed annuitant;

(11) A National Guard technician;

(12) An individual occupying a position in the excepted service for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12-month period; and

(13) An individual occupying a position filled by Noncareer Executive Assignment under Part 305 of this chapter.

§ 432.103 Definitions.

In this part—(a) *"Critical element"* means a component of a position consisting of one or more duties and responsibilities that contributes toward accomplishing organizational goals and objectives and that is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.

(b) *"Current continuous employment"* means a period of service or employment immediately preceding an action under this part in the same or similar positions without a break of a workday.

(c) *"Opportunity to demonstrate acceptable performance"* means, except for employees covered by the Performance Management and Recognition System, the period of time required by 5 U.S.C. 4302(b)(6) during which the employee is given the opportunity to demonstrate acceptable performance prior to the agency's decision as to whether to propose reduction in grade or removal. For employees covered under the Performance Management and Recognition System, it means the period of time required by 5 U.S.C. 4302a(b)(6) during which the employee is given the opportunity to raise his or her level of performance to the fully successful level or higher.

(d) *"Reduction in grade"* means the involuntary assignment of an employee to a position at a lower classification or job grading level.

(e) *"Removal"* means the involuntary separation of an employee from employment with an agency.

(f) *"Same or similar positions"* means positions in which the duties performed require the same qualifications and would demonstrate the same degree of difficulty and responsibility as an individual's current position.

(g) *"Unacceptable performance"* means performance of an employee that fails to meet established performance standards in one or more critical elements of such employee's position.

§ 432.104 Opportunity to demonstrate acceptable performance.

(a) *Initiation of opportunity period.* Before proposing to reduce in grade or remove an employee under this part, the agency shall provide the employee an opportunity to demonstrate acceptable performance. This period may be initiated at any time during the performance appraisal cycle that the employee's performance in one or more critical elements becomes unacceptable. At the time that an agency identifies the critical element(s) for which performance is unacceptable, the employee must be informed of the performance standards that must be reached in order to be retained. If an employee is covered under the Performance Management and Recognition System, 5 U.S.C. 4302a(b)(6) requires an agency to provide written notice of such employee's unacceptable rating to the employee.

(b) *Length of the opportunity period.* An opportunity period shall be a period of time, commensurate with the duties and responsibilities of the employee's position, sufficient to allow the employee to show whether he or she can perform at the requirement level.

(c) *Assistance during the opportunity period.* Section 4302(b)(5) of title 5 of the U.S. Code requires that agency performance appraisal systems shall provide for assisting employees in improving unacceptable performance. Section 4302a(b)(5) of title 5 of the U.S. Code requires that for employees covered under the Performance Management and Recognition System, agency performance appraisal systems shall provide for assisting such employees in improving performance rated at a level below the fully successful level.

(d) *Consideration of medical condition.* (1) If the employee wishes the agency to consider any medical condition that may contribute to his or her unacceptable performance, he or she shall furnish acceptable medical documentation (as defined in Part 339 of this chapter) of the condition.

(2) An agency shall consider such documentation, whether received prior to or during the opportunity period, during the time allowed for an answer to a proposed reduction in grade or removal, or any time before the final agency decision.

(3) An agency may require or offer a medical examination in accordance with the criteria and procedures provided in Part 339 of this chapter.

(4) If the employee has 5 years of service or more, the agency shall provide information concerning disability retirement.

(5) Agencies shall be aware of the affirmative obligations of 29 CFR § 1613.704, which requires reasonable accommodation of a qualified employee who is handicapped.

(e) *Agency decisions based on the results of the opportunity period.*

(1) If, at the completion of the opportunity period, an agency determines that an employee has demonstrated performance of his or her critical element at the minimally acceptable level or higher, the agency may not propose action under this part to reduce in grade or remove the employee.

(2) As required by § 430.405(j)(3), when an employee covered under the Performance Management and Recognition System improves to at least the minimally acceptable level but not to the fully successful level, the employee, if not reassigned, shall be required to undergo an additional oportunity period to demonstrate performance at the fully successful level or higher.

(3) If, at the completion of the opportunity period, the agency determines that the employee's performance is unacceptable, it shall remove, reduce in grade, or reassign the employee.

§ 432.105 Procedures.

(a) *Statutory requirements.* An employee whose reduction in grade or removal is proposed under this part is entitled to the procedures specified in 5 U.S.C. 4303 which are—

(1) A thirty day advance notice of the proposed action that identifies both the specific instances of unacceptable performance by the employee on which the proposed action is based and the critical elements of the employee's

position involved in each instance of unacceptable performance;

(2) Representation by an attorney or other representative;

(3) A reasonable time to answer orally and in writing; and

(4) A final written decision that specifies the instances of unacceptable performance on which the action is based. Unless proposed by the head of the agency, such written decision shall be concurred in by an employee who is in a higher position than the person who proposed the action.

(b) *Extension of notice period.* (1) Section 4303(b)(A) of title 5 of the U.S. Code provides that an agency shall give an employee 30 days' advance written notice of a proposed reduction in grade or removal. Section 4303(b)(2) of title 5 of the U.S. Code provides that an agency may extend this advance notice period not to exceed 30 days under regulations prescribed by the head of the agency and for a period beyond 30 days in accordance with regulations issued by OPM.

(2) If an agency needs to extend the notice period beyond the additional 30 days provided for in 5 U.S.C. 4303(b)(2), it may do so for the following reasons:

(i) To obtain and/or evaluate medical information when the employee has raised a medical issue in the answer to a proposed reduction in grade or removal;

(ii) To arrange for the employee's travel to make an oral reply to an appropriate agency official;

(iii) To consider the employee's answer if an extension to the period for an answer has been granted (e.g., because of the employee's illness or incapacitation);

(iv) To consider specific positions to which the employee might be reassigned or reduced in grade if agency procedures require this or if it is necessary to consider reasonable accommodation of a handicapping condition; or

(v) To comply with a stay order by the Office of the Special Counsel of the Merit System Protection Board.

(3) If an agency believes that an extension of the notice period is necessary for another reason, it may request prior approval for such extension from the Chief, Appellate Policies Division, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC., 20415.

(c) *Representation.* Section 4303(b)(1)(B) of title 5 of the U.S. Code provides that an employee covered by this part is entitled to be represented by an attorney or other representative. An agency may disallow as an employee's representative an individual whose activities as a representative would cause a conflict of interest or an employee whose release from his or her official position would give rise to unresonable costs to the Government or whose priority work assignment precludes his or her release from official duties.

(d) *Time limitation on use of instances of unacceptable performance.* Section 4303(c)(2) of title 5 of the U.S. Code provides that a decision to reduce in grade or remove for unacceptable performance may be based only on those instances of unacceptable performance that occurred during the 1-year period ending on the date of notice of proposed action.

(e) *Agency decision.* In arriving at its decision, the agency shall consider any answer of the employee and/or his or her representative furnished in response to the agency's proposal. Section 4303(c)(1) of title 5 of the U.S. Code provides that the decision shall be made within 30 days after expiration of the notice period provided for in 5 U.S.C. 4303(b)(1)(A). The agency shall deliver the written notice of its decision to the employee at or before the time the action will be effective. Such notice shall inform the employee of his or her appeal rights.

(f) *Applications for disability retirement.* Section 831.501(d) of title 5 of the Code of Federal Regulations provided that an employee's application for disability retirement shall not preclude or delay an otherwise appropriate personnel action. Section 831.1203 sets for the basis under which an agency shall file an application for disability retirement on behalf of an employee.

§ 432.106 Appeal and grievance rights.

(a) *Appeal rights.* Section 4303(e) of title 5 of the U.S. Code provides that an employee in the competitive service or a preference eligible in the excepted service who has been removed or reduced in grade under this part is entitled to appeal the action to the Merit System Protection Board. Actions listed at § 432.102(b) are not covered by the provisions of this part, including the right to appeal to the Merit System Protection Board under 5 U.S.C. 4303(e).

(b) *Grievance rights.* Section 7121(e)(1) of title of the U.S. Code provides that if removal or reduction in grade falls within the coverage of an applicable negotiated grievance procedure, an employee may elect to file a grievance under the procedure or file an appeal with the Merit Systems Protection Board but not both.

[FR Doc. 87-3766 Filed 2-20-87; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 870 and 890

Reconsideration Process for the Federal Employees' Group Life Insurance and the Federal Employees Health Benefits Programs

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing revised regulations to clarify for individuals and agencies the reconsideration process under the Federal Employees Health Benefits (FEHB) Program and the Federal Employees' Group Life Insurance (FEGLI) Program. These regulations would distinguish between determinations made by employing offices and those made by OPM.

DATE: Comments must be received on or before April 24, 1987.

ADDRESS: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Ray, (202) 632-4634.

SUPPLEMENTARY INFORMATION: The FEHB and FEGLI regulations currently outline the procedures for individuals to follow in requesting reconsideration of a denial of health benefits or life insurance coverage or a denial of the opportunity to change coverage. Some confusion has been expressed as to what constitutes an "initial decision" by OPM and when that decision is subject to further review within OPM.

Agency employing offices have been delegated the authority by OPM to make the determinations on health benefits and life insurance entitlements for current employees and the health benefits entitlements, generally, for former spouses not currently receiving annuities. These are considered "initial decisions" by the agencies. OPM does not render a formal reconsideration determination *until the agency has made an initial decision in writing* for current employees and former spouses not receiving annuities. OPM makes the determinations ("initial decisions") for annuitants and former spouses who are eligible for immediate annuities. (OPM also acts as the employing office for former spouses' health benefits entitlements if the divorce occurred after retirement and the former spouse has future title to an annuity or portion of an

annuity. However, for the purposes of the discussion of these proposed regulation changes, we will refer to the larger category of former spouses actually in receipt of annuity benefits.)

OPM provides an "initial decision" only for an annuitant or a former spouse receiving an annuity. For example, an employee who had not met the statutory requirement of having been enrolled for five years or from his or her first opportunity to enroll may retire and be under the mistaken impression that he or she can retain FEHB coverage during retirement. Once OPM reviews the enrollment forms and discovers that the former employing office has erroneously transferred the enrollment to OPM rather than terminating it, OPM will issue an initial decision to the annuitant, advising him or her of the reason why coverage cannot be continued and of the right to reconsideration. The same would hold true for any other on-the-roll annuitant or former spouse request for a health benefits or life insurance change which could not be honored. The individual would be notified of OPM's "initial decision" and be afforded the right of reconsideration.

The changes we are proposing to the reconsideration regulations should clarify that agencies must make the initial decisions on health benefits and life insurance questions for active employees and former spouses not receiving annuities. OPM will make the initial decisions for annuitants and former spouses who are receiving annuities. Employees, annuitants, and former spouses are entitled to only one reconsideration determination from OPM.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations simply clarify the reconsideration process already in effect.

List of Subjects in 5 CFR Parts 870 and 890

Administrative practice and procedures, Claims, Government employees, Health insurance, Life insurance, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR Parts 870 and 890 as follows:

1. The authority citation for Part 870 continues to read as follows:

Authority: 5 U.S.C 8716.

PART 870—BASIC LIFE INSURANCE

2. In § 870.205, paragraphs (a), (b), and (c) are revised to read as follows:

§ 870.205 Reconsideration.

(a) *Who may file.* An employee or annuitant may request OPM to reconsider an agency decision (for employees) or an initial decision of OPM (for annuitants) denying basic insurance coverage.

(b) *Agency decision.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the written decision stating the right to reconsideration by OPM. OPM may extent the time limit as provided in paragraph (e) of this section. An OPM decision in response to a request for reconsideration of an agency decision is a final decision, not an initial decision as described in paragraph (c) of this section.

(c) *Initial OPM decision.* An OPM decision for an annuitant shall be considered an initial decision as used in paragraph (a) of this section when rendered by OPM in writing and stating the right to reconsideration. However, an initial decisoin rendered at the highest level of review available within OPM will not be subject to reconsideration.

* * * * *

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

3. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C 8913; § 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L 95–454, 92 Stat. 1112; § 890.301 also issued under 5 U.S.C. 8905(b); § 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9) § 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and title II of Pub. L. 99–251.

4. In § 890.104, paragraphs (a), (b), and (c) are revised to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider a decision of an employing office refusing to permit registration for or change of enrollment or refusing to permit enrollment of an individual as a family member.

(b) *Agency decision.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the written decision stating the right to reconsideration by OPM. The time limit may be extended as provided in paragraph (e) of this section. An OPM decision in response to a request for reconsideration of an agency decision is a final decision, not an initial decision as described in paragraph (c) of this section.

(c) *Initial decision.* An OPM decision for an annuitant shall be considered an initial decision when rendered by OPM in writing and stating the right to reconsideration. However, an initial decision rendered at the highest level of review within OPM will not be subject to reconsideration.

* * * * *

[FR Doc. 87–3765 Filed 2–20–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. 44685; Notice No. 87–4]

Nondiscrimination on the Basis of Handicap in Air Travel

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

ACTION: Notice of intent to form advisory committee for regulatory negotiation.

SUMMARY: The Department of Transportation is considering the establishment of an advisory committee to develop a recommended rulemaking proposal concerning nondiscrimination on the basis of handicap in air travel. The rulemaking would implement the Air Carrier Access Act of 1986. The committee would adopt its recommendations through a negotiation process. The committee would be composed of persons who represent the interests affected by the rules, such as persons representing disabled individuals and their groups, air carriers, flight crewmembers, airport operators and aviation officials, and the Department.

DATE: Comments should be received by March 25, 1987. Comments received after this date may be considered to the extent practicable.

ADDRESS: Comments should be sent to Docket Clerk, Docket No. 44685, Department of Transportation, 400 7th Street, SW., Room 4107, Washington DC

20590. Comments are available for inspection at this location from 9:00 a.m. through 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., Room 10424, Washington DC 20590. Telephone 202–366–9306 (voice); 202–755–7687 (TDD).

SUPPLEMENTARY INFORMATION:

Background

In 1982, the Civil Aeronautics Board (CAB) promulgated 14 CFR Part 382, a regulation intended to prohibit discrimination on the basis of handicap by certificated air carriers (e.g., the major airlines) and commuter air carriers. The regulation was divided into Subpart A (a general prohibition of discrimination), Subpart B (specific requirements for service to disabled passengers) and Subpart C (recordkeeping, reporting, and enforcement provisions). Only Subpart A applied to all certificated and commuter carriers. Subparts B and C applied only to those carriers who received a direct Federal subsidy under the Essential Air Service program.

The legal authority for the regulation included section 504 of the Rehabilitation Act of 1973, as amended (which prohibits discrimination on the basis of handicap in Federally-assisted programs), section 404(a) of the Federal Aviation Act of 1958, as amended (which requires carriers to provide "safe and adequate" service), and section 404(b) of the latter Act (which prohibited "unjust discrimination" in air transportation). Knowing that section 404(b) was scheduled to be eliminated as part of the CAB "sunset" process, and that section 504 applied only to recipients of Federal financial assistance, the CAB believed it was a sound legal and policy judgment to apply the specific provisions of Subparts B and C only to those subsidized carriers who were subject to section 504. Section 404(a), standing alone, was judged to be too tenuous a legal basis for applying these provisions to nonsubsidized carriers.

The Paralyzed Veterans of America (PVA) sued the CAB, arguing that even nonsubsidized carriers received significant Federal assistance in the form of Federal Aviation Administration (FAA) air traffic control services and airport and airway improvement grants. Consequently, PVA said, all portions of the rule should apply to all carriers. The U.S. Court of Appeals for the District of Columbia agreed. The Department of Justice appealed this decision. The Supreme Court decided, in June 1986, that nonsubsidized carriers did not receive Federal financial assistance and, therefore, were not covered by section 504. The result of this decision was to leave Part 382 in effect, without change.

In response to the Supreme Court decision, Congress enacted the Air Carrier Access Act of 1986, which President Reagan signed into law on October 2, 1986. The Act amended section 404 of the Federal Aviation Act to prohibit discrimination on the basis of handicap by all air carriers. It also directed the Department to promulgate regulations to implement its provisions by January 31, 1987.

In August 1986, in response to correspondence from blind individuals and members of Congress, the Department published an informational notice requesting comment on a series of issues of concern to blind air travelers. The Department received several hundred comments on this notice, which are expected to form part of the basis for subsequent rulemaking actions to implement the Air Carrier Access Act of 1986.

Air carrier policies concerning disabled passengers have long been a troublesome and controversial subject. Many disabled passengers have objected to airline policies that they view as inconvenient, unnecessary, and discriminatory. Disabled passengers have also expressed concern about the seeming inconsistency of airline policies, asserting that it is often difficult for them to know, from one airline to the next or even from one terminal or flight crew to the next on the same airline, what conditions will be imposed on their ability to travel. Air carriers, on the other hand, believe that their policies are necessary for safety reasons.

The Department's experience in other rulemakings concerning the access of handicapped persons to transportation services suggests that it is difficult for the Department to draft a rule agreeable to all affected parties in this area. Consequently, we believe that an effort to negotiate the terms of a rule implementing the Air Carrier Access Act of 1986 could be worthwhile.

Regulatory Negotiation

The increasing complexity of some Government regulations, compounded by what some see as an increased formalization of the written rulemaking process, can make it difficult for an agency to develop a sound regulatory solution to some problems. The standard process often leads to participants developing adversarial relationships with each other. In this more formal structure, they may take extreme positions, withhold information from one another, or attack the legitimacy of opposing positions. The give and take sometimes necessary to develop a workable solution is not always possible through the comment and reply process. Public comments are often focused on finding problems with the proposals of others rather than helping to develop creative solutions.

With these problems in mind, participants often tell the agency that a "better rule could be developed if we could all just sit around a table and work it out." As the Administrative Conference of the United States has pointed out:

> Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute.

As a result of research on this problem, the Administrative Conference adopted Recommendation 82–4, "Procedures for Negotiating Proposed Regulations," 47 FR 30708, June 18, 1982. The Administrative Conference's recommendation is essentially that agencies consider assembling a group of representatives of all affected interests who would be encouraged to reach consensus on a resolution of the issues and to draft for the agency head's consideration, the text of a proposed regulation. We agree with this recommendation. We have set forth below a set of suggested procedures that we believe will provide a mechanism by which the benefits of negotiation can be achieved. We also believe that the procedures provide the appropriate safeguards suggested by the Administrative Conference, "to ensure that affected interests have the opportunity to participate, that the resulting rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious."

To ensure its legality, regulatory negotiation would be carried out by an advisory committee created under the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. app. 1. The purpose of regulatory negotiation is to have representatives of all affected interests fully discuss the issues under conditions that would provide incentives to narrow or eliminate their differences and to negotiate a proposed rule acceptable to

each interest. The recommendation by the committee should be a proposal that reflects appropriate rulemaking objectives, including Executive Order 12291. The agency would take part in the discussions. Additionally, to facilitate this process, the agency will utilize the services of an impartial convenor or mediator to conduct the regulatory negotiation. While the agency is hopeful that this process will result in the issuance of an NPRM and, subsequently, a final rule that would be acceptable to most or all parties, the agency is committed to promulgating a rule to carry out the Air Carrier Access Act of 1986.

If this process fails, DOT will issue an NPRM based upon the complete regulatory record including the record of this process.

The Department used regulatory negotiation once before, in connection with the Federal Aviation Administration's Flight and Duty Time rulemaking. While the affected parties did not come to formal consensus on all issues, the negotiation process resulted in agreement on many issues and, in the Department's view, enabled it to successfully develop a materially improved final rule. The Department believes that regulatory negotiation can be useful in many contexts, including this one.

The Department has been heartened by the interest in regulatory negotiation on this rulemaking by many key parties. The PVA, along with several other groups representing disabled persons, took the initiative to request that the Department use regulatory negotiation to conduct the rulemaking on this subject. Air carrier industry groups we have informally contacted have indicated their willingness to participate as well.

Procedures and Guidelines

The following proposed procedures and guidelines would apply to this process, subject to appropriate changes made as a result of comments received on this notice or as are determined to be necessary during the negotiating process. It should be noted that several necessary preliminary steps have already been taken.

1. *Convenor/Mediator:* The Department is seeking the services of a convenor/mediator for the negotiating group. Upon determination by the Department (in consultation with the convenor/mediator) of the appropriate negotiating group, the convenor/mediator, a neutral third-party, would conduct the regulatory negotiation process and help it run smoothly. This individual is not involved with the substantive development or enforcement of this regulation. The convenor/mediator would chair the actual negotiations, participate in them, and be expected to offer alternative suggestions toward the desired consensus. He or she could also ask the parties to present additional material or to reconsider their position. Being "neutral" with respect to the end result, he or she can make some of the objective decisions that are necessary in determining the feasibility of negotiation for particular issues and in determining potential interests and participants.

2. *Feasibility:* The Department has examined the issues and interests involved and we have made a preliminary inquiry among representatives of the identified interests to determine whether it is possible to reach agreement on: (a) Individuals to represent those interests, (b) the preliminary scope of the issues to be addressed, and (c) a schedule for developing a notice of proposed rulemaking. The issues and interests are listed in subsequent sections of this document. On the basis of the regulatory history of the rulemaking and the preliminary inquiry, we believe that regulatory negotiation could be successful in developing a proposal and that the potential participants listed below could adequately represent the affected interests.

3. *Participants:* The number of participants in the negotiating group generally should not exceed 15; a number larger than this could make it difficult to have effective negotiations. One purpose of the present notice is to assist the Department in determining whether other interests, who would not be adequately represented by the proposed participants, may be substantially affected by the prospective rule. However, we do not believe that each potentially affected individual or organization must have its own representative. Rather, each interest should be adequately represented by the selected parties and the committee should be fairly balanced. Individuals and organizations who are not part of the committee (as well as staff or technical assistants to individuals who are sitting at the table) may attend committee sessions and confer with or provide their views to committee members.

4. *Good faith:* Participants must be willing to negotiate in good faith. In this regard, it is important that senior individuals within each organization, including the Department, be designated to represent that organization. No individual is required to "bind" the interests he or she represents, but the individual should be at a high enough level within his or her organization to "carry a lot of weight." The Department plans to issue the negotiated proposal in a notice of proposed rulemaking and, subsequently, a negotiated final rule, unless it is inconsistent with the statutory authority of the agency or other statutory requirements, or it is not appropriately justified. It is expected that, during the negotiating process, the participants will communicate to their respective organizations the progress of the negotiations. For the process to be successful, the interests represented should be willing to accept the final product of the advisory committee.

5. *Notice of intent to establish advisory committee and request for comment:* In accordance with the requirements of the Federal Advisory Committee Act, an agency of the Federal Government cannot establish or utilize a group of people in the interest of obtaining advice or recommendations unless that group is chartered as a Federal advisory committee in accordance with the requirements of the statute. It is the purpose of this notice to indicate our intent to create a Federal advisory committee as well as to—

a. Identify the issues we believe are involved in the rulemaking.

b. Identify the interests we believe are affected by those issues.

c. Identify the participants we have initially determined will adequately represent those interests in the negotiations; and

d. Ask for comment on the use of regulatory negotiation for this rulemaking and on whether the issues, parties, procedures, and guidelines are adequate and appropriate.

6. *Requests for representation:* If, in response to this notice, an additional person or interest requests membership or representation in the negotiating group, the Department would determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be adequately represented by an individual already in the negotiating group, and (iii) whether, in any event, the requester should be added to the group or whether interests can be consolidated and still provide adequate representation.

7. *Final notice:* After evaluating comments and requests for representation received as a result of this notice, the Department would issue a final notice announcing the establishment of the Federal advisory committee, unless it determines that such action is inappropriate after reviewing the comments. After the Federal advisory committee is

appropriately chartered, and notice is published in the **Federal Register**, the negotiation process would begin.

8. *Administrative support and meetings:* Staff support would be supplied by the Department. Meetings, at least initially, would be held in the Washington, DC, area.

9. *Consensus:* The goal of the negotiating process is consensus. Generally, consensus means that each interest should concur in the result. In this regard, a mediation service would be provided by the convenor/mediator to facilitate the negotiation process.

10. *Record of meetings:* In accordance with the requirements of the Federal Advisory Committee Act, the Department would keep a record of all meetings of the advisory committee. This record would be placed in the public docket for this rulemaking. Meetings of the committee would generally be open to the public, subject to space availability, and would be announced in the **Federal Register** before being held.

11. *Committee procedures:* Under the general guidance and direction of the convenor and subject to any applicable legal requirements, the committee would establish the detailed procedures for committee meetings that it deemed most appropriate.

12. *Notice of proposed rulemaking:* The objective of the committee is to prepare a report containing a notice of proposed rulemaking (NPRM) and preamble. The Department would make drafting assistance available to the committee. The report should also describe the factual material on which the group relied. If consensus is not obtained on some issues, the report should identify the areas of agreement, the areas in which consensus could not be reached, and the reasons for nonagreement. It is expected that, to the extent possible, the participants would address economic and regulatory flexibility requirements.

13. *Agency action on NPRM:* The Department would issue the proposed rule as prepared by the committee unless the agency finds that it is inconsistent with the statutory authority of the agency or other statutory requirements or it is not appropriately justified. In that event, the agency would explain the reasons for its decision. If the agency wishes to modify the negotiated proposal, it would do so in a way that allows the public to distinguish its modifications from what the group proposed.

14. *Final rule:* After the comments have been received on any notice of proposed rulemaking, the advisory committee would review the comments to determine whether its original recommendations to the agency should be modified. Any necessary changes would be negotiated by the committee in the same manner as the NPRM. The committee would prepare a final report, including a preamble responding to public comment and a proposed final rule. The final rule is the sole responsibility of the Secretary. It must be stressed that the Secretary wants to use the regulatory negotiation process and intends to use any negotiated rule on which there is a committee consensus, if it is practicable and legally proper for her to do so.

Major Issues

The Department has reviewed correspondence, comments responding to the August 1986 informational notice, the legislative history of the Air Carrier Access Act of 1986, and other available information and has tentatively identified major issues that would be considered as part of the regulatory negotiation. Other issues would be considered during the negotiation as they arose. Comments are invited concerning the appropriateness of these issues for consideration and concerning whether other issues should be added to this list.

1. *Coverage.* Should air taxi and charter operations be covered as well as those of major airlines and commuter carriers?

2. *Differences in rules.* How, if at all, should substantive regulatory provisions differ as applied to different types of carriers (e.g., major airlines, commuter carriers, air taxis) and/or different types and sizes of aircraft?

3. *Consistency.* To what extent should all carriers be required to have consistent policies and practices concerning travel by persons with a given disability?

4. *Differences in disability.* To what extent, and how, should carriers' practices be required to be specifically adapted to the needs of persons with various disabilities (e.g., blindness, mobility impairments)?

5. *Roles of carriers and airports.* How should the responsibilities of air carriers and airport operators for accommodating the needs of disabled passengers be allocated?

6. *Definitions.* What definitions should be used for such terms as "handicapped person," "qualified handicapped person," and "facility"? Should additional terms be defined, and, if so, how?

7. *Carrier practices.* What Federal regulatory requirements, if any, should there be concerning the following matters or issues affecting air travel by disabled persons?

(a) Provision of information to persons with vision or hearing impairments (including reservations, terminal procedures, pre-flight and in-flight briefings, and emergency information).

(b) Conditions and procedures for refusal of service.

(c) Determinations concerning requirements for an attendant.

(d) Advance notice requirements for travel by disabled persons.

(e) Accommodation of dog guides.

(f) Conditions for the carriage and storage of artificial aids (e.g., canes, crutches, wheelchairs, including carriage of batteries for electric wheelchairs).

(g) Provision of ramps, wheelchairs, aisle chairs, medical oxygen, and other equipment to facilitate the travel of disabled persons (including whether there should be Federal standards for these or other devices used to assist disabled passengers).

(h) Charges for assistance or equipment provided to disabled travelers.

(i) Training of carrier personnel (including knowledge of the procedures concerning disabled passengers).

(j) Circumstances under which a carrier may require a disabled passenger to accept special assistance, if any.

(k) Seating restrictions (e.g., limitations by carriers on where disabled persons may sit in the aircraft, requirements that a disabled person must sit on a blanket).

(l) Procedures for enplaning (including preboarding), deplaning, and emergency evacuation as they affect disabled passengers.

(m) Reimbursement or replacement by airlines in cases of lost or damaged artificial aids or medical items.

8. *Relationship to other standards.* What relationship, if any, should these rules have with standards or policies of international organizations (e.g., the International Air Transport Association (IATA) and the International Civil Aviation Organization (ICAO)?

9. *Recordkeeping and reporting.* What recordkeeping and/or reporting requirements, if any, should there be through which the Department would monitor carrier compliance with these regulations?

10. *Enforcement.* What enforcement procedures should the Department use to ensure compliance with these rules (e.g., the present complaint/hearing/order mechanism of Part 382, a regulatory compensation scheme analogous to the denied boarding compensation rule, a right of civil action

by the passenger, as in 14 CFR Part 253, etc.).

Interests Involved

The Department has tentatively identified the following interests to be represented in the negotiations to develop a rule to implement the Air Carrier Access Act of 1986. Comments are invited on any additional interests that should be represented.

1. Persons with disabilities:
(a) Mobility impaired persons.
(b) Vision-impaired persons.
(c) Persons with other types of disabilities (e.g., hearing disabilities, mental disabilities).
2. The air travel industry.
(a) Scheduled air carriers.
(b) Commuter airlines.
(c) Air taxis.
(d) Charter operators and carriers.
(e) Airport operators and aviation officials.
(f) Airline public contact personnel (e.g., ticket or reservation agents, flight attendants).
3. Federal government.

Potential Parties

It is important that the advisory committee be composed of persons with substantial expertise and divergent viewpoints on the various issues that would be discussed. The representatives also must be able to adequately represent their interests and be able to "speak for them" to the fullest extent possible.

The following is a list of organizations which the Department has tentatively identified as participants representing the various interests involved in this rulemaking:

1. Paralyzed Veterans of America.
2. National Federation of the Blind.
3. American Council of the Blind.
4. Society for the Advancement of Travel for the Handicapped.
5. National Council of Independent Living.
6. A representative of persons with mental disabilities.
7. A representative of persons with hearing impairments.
8. Air Transport Association (ATA).
9. Regional Airline Association.
10. National Air Taxi Association.
11. A representative of airport operators and aviation officials.
12. A representative of charter operators and/or carriers.
13. A representative of airline public contact personnel.
14. A representative of scheduled air carriers whose interests are not represented by ATA.
15. Office of the Secretary, Department of Transportation.

Comments are invited about the appropriateness of these participants for the negotiation. We also invite suggestions for other potential participants. Commenters should keep in mind that it is not necessary for every concerned organization to be represented, so long as every significant interest is represented. In addition, the number of participants representing clusters of interests (e.g., disabled persons, the air travel industry) should be balanced. Negotiation sessions will be open to members of the public, so individuals and organizations that are not represented at the table may attend all sessions and communicate informally with members of the advisory committee. The Department will make technical services (e.g., drafting and word-processing assistance) available to the participants.

Schedule

The Air Carrier Access Act of 1986 calls for the Department to promulgate a rule on this subject by January 31, 1987. Clearly, the proposed regulatory negotiation will not result in the publication of a final rule by this date. The Department believes that the participation of the concerned parties (including groups that played a key role in the enactment of the Air Carrier Access Act of 1986) in a regulatory negotiation has significant benefits that will substantially mitigate any problems caused by the additional time the process will take. However, the Department does seek comment on the issue of the timing of the process, as it relates to the time frame set forth in the Act.

The Department does believe that it is essential to come as close as possible to the time frame that Congress established. To this end, the Department proposes the following timetable for the regulatory negotiation process. The Department seeks comment on this proposed timetable for the rulemaking.

March 27, 1987—Notice establishing advisory committee; beginning of negotiations.

July 24, 1987—Conclusion of negotiations on notice of proposed rulemaking (NPRM).

August 21, 1987—Publication of NPRM, with 60-day comment period.

October 21, 1987—End of comment period; beginning of negotiations on final rule.

December 15, 1987—Conclusion of negotiations on final rule.

January 15, 1987—Publication of final rule.

The development of a final rule would depend on the comments received and their consideration by the advisory committee. Our experience indicates that the period of time between the publication of a proposed and a final rule can be significantly shortened in a successful regulatory negotiation. This expectation is reflected in the proposed timetable. Also, in order to minimize the possibility of delay because of the review required by Executive Order 12291, DOT has already taken steps to ensure the involvement of the Office of Management and Budget (OMB) during the process.

Failure of Advisory Committee to Agree on Recommendations

In the event that the advisory committee is unable to reach a consensus on a proposed NPRM for submission to the Department, the Department will promptly develop and publish for comment an NPRM implementing the Air Carrier Access Act in a manner it deems appropriate. Because of the importance the Department attaches to the timely promulgation of a rule on this subject, the Department has determined that, in the event the committee is unable to agree on a recommended NPRM by July 24, 1987, the Department may dissolve the committee and issue an NPRM on its own. The Department may dissolve the committee at an earlier time if the convenor/mediator believe that sufficient progress cannot be made or that an impasse has developed that cannot be resolved.

Issued this 13th day of February 1987, at Washington, DC.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87-3779 Filed 2-20-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-277-76]

Miscellaneous Tax Matters; Withdrawal of Notices of Proposed Rulemaking; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to withdrawal notice.

SUMMARY: This document contains a correction to a withdrawal of notices of proposed rulemaking that appeared in the Federal Register on January 26, 1987 (52 FR 2724). That notice withdrew several notices of proposed rulemaking

relating to Federal taxation that were published from 1970 through 1984. The list of withdrawn proposals contained an error.

FOR FURTHER INFORMATION CONTACT: Robert Beatson, 202–566–3459 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

During the development of the Tax Reform Act of 1986, the Internal Revenue Service and the Treasury Department intensively reviewed all regulations projects that were open as of July 1, 1986, to determine whether these projects should remain open or whether available Service and Treasury resources would be more efficiently utilized if some of those projects could be closed. As a result of that review, it was announced in the January 26, 1987, withdrawal notice that various circumstances warranted the closing of numerous regulations projects. Twenty-five notices of proposed rulemaking were withdrawn.

Need for Correction

As published, the withdrawal of notices of proposed rulemaking at 52 FR 2724 inadvertently included project number LR–9–75, proposed rules to clarify the definition of property which is a pollution control facility. It was not intended that proposed regulations LR–9–75 be withdrawn.

Correction of Publication

Accordingly, the publication of the withdrawal of notices of proposed rulemaking, which was the subject of FR Doc. 87–1653, is corrected as follows:

Paragraph 1. In the table on page 2725, the line that reads "LR–9–75...103 (b)(4)...To Clarify the Definition of Property which is a Pollution Control Facility...08–20–75 40 FR 36371" is removed.

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87–3737 Filed 2–18–87; 3:11 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3159-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notification of availability of data and request for comment.

SUMMARY: Today's notice announces the availability of waste sampling and ground-water monitoring data for U.S. Nameplate Company, Incorporated's on-site lagoon. This data was collected through EPA's spot-check verification sampling program in an effort to more fully characterize the waste included in U.S. Nameplate's delisting petition to exclude specific wastes from hazardous waste control. The data is contained in a report entitled "Hazardous Waste Delisting Support: Sampling Mission #2-U.S. Nameplate" prepared by ERCO/A Division of ENSECO Incorporated. The Agency requests public comment on this data in relation to the proposed denial of U.S. Nameplate's waste (see 51 FR 26428–26438, July 23, 1986).

DATES: EPA will accept public comments on this data until March 25, 1987. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this notice as it relates to the proposed denial of U.S. Nameplate's waste by filing a request with Bruce Weddle, whose address appears below, by March 10, 1987. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (WH–562), 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variance Section, Assistance Branch, PSPD/OSW (WH–563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this docket number: "F–87–USNN–FFFFF".

Requests for a hearing should be addressed to Bruce Weddle, Director, Permits and State Programs Division, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The public docket where this information can be viewed is located at the U.S. Environmental Protection Agency, 401 M Street SW. (sub-basement), Washington, DC 20460. The docket is open from 9:30 a.m. to 3 30 p.m. Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $0.20 per page.

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–563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On July 23, 1986, the Agency proposed to deny a final exclusion to U.S. Nameplate Company, Incorporated under 40 CFR 260.20 and 260.22 (see 51 FR 26428–26438 and regulatory docket number "F–87–USNN–FFFFF"). During the public comment period for that proposal, the petitioner disagreed with waste and ground-water characterization data previously collected by the Agency. Subsequent to the publication of the proposed denial, the U.S. EPA conducted verification sampling and ground-water monitoring to more fully assess the characteristics of the waste. The samples collected included: 45 samples of the petitioned lagooned sludge; two ground-water samples; and two field bank samples. A discussion of all sampling activities and sampling results are contained in a summary report entitled "Hazardous Waste Delisting Support: Sampling Mission #2-U.S. Nameplate". A copy of this report has been included in the public docket for the Agency's proposed decision (see docket number "F–87–USNN–FFFFF"). The information and data contained in this report will be considered and used by the Agency in making its final decision on U.S. Nameplate's delisting petition.

Dated: February 17, 1987.

Susan Bromm,

Acting Director, Permits and State Programs Division.

[FR Doc. 87–3719 Filed 2–20–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–499; FCC 86–587]

Radio and Television Broadcasting; Proposed Rules Relating to the Issues-Programs List for Noncommercial Educational Broadcasting Licensees

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to modify § 73.3527(a)(7) of the Commission's Rules relating to the noncommercial educational issues-programs list. The proposal would

replace the existing quarterly list of 5 to 10 issues with a requirement that calls for a quarterly list of those programs that have provided the stations most significant treatment of community issues for the preceding three months. The proposed rule change will bring noncommercial rules into line with the Court of Appeals' concern with the previously required illustrative issues-programs list and conform noncommercial rules with those same requirements for commercial stations.

DATES: Comments must be filed on or before March 27, 1987, and reply comments on or before April 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kreisman, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 86-499, FCC 86-587, adopted December 29, 1986 and released on January 26, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. In this proceeding, the Commission proposes to modify § 73.3527(a)(7) of the Commission's Rules relating to the noncommercial educational issues-programs list. The proposal would replace the present illustrative issues-programs list as was done for commercial stations. Under the revised rule, a noncommercial licensee is obliged, each quarter, to list those programs aired during the preceding quarter which, in the licensee's judgment, provided the station's most significant treatment of issues of concern to the broadcaster's community. This program record keeping obligation accommodates the Court of Appeals concern for the proper functioning of the petition to deny process and the FCC's own information needs. This requirement has been narrowly tailored to meet our regulatory needs and, therefore, is minimally burdensome to licensees. The proposed rule change will conform noncommercial rules with those same requirements for commercial stations.

2. This is a nonrestricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 603, adoption of these proposals would be minimally burdensome on small entities since the "significant treatment" issues-programs list has been narrowly tailored to meet the FCC's regulatory needs.

4. The Secretary shall cause a copy of the *Notice* to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. section 601 *et seq.* (1981).

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified requirement or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before March 27, 1987, and reply comments on or before April 13, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Initial Regulatory Flexibility Analysis

I. Reason for Action

In this proceeding the Commission proposes to modify § 73.3527(a)(7) of its rules relating to the noncommercial educational issues-programs list to conform with the same requirements for commercial stations. The modification of those rules was initiated in response to concern expresed by the United States Court of Appeals that an illustrative issues-programs list did not further the Commission's stated regulatory goal of relying on effective public particiaption in the license renewal process.

II. Objective

Specifically, this proceeding proposes to amend § 73.3527(a)(7) by replacing the illustrative issues-programs list with a requirement that calls for a quarterly list of those programs that have provided the station's most significant treatment of community issues for the preceding three months.

III. Legal Basis

The legal basis for the Commission's engaging in rule making is contained in sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended.

IV. Description, Potential Impact, and Number of Small Facilities Affected

This item would have a minimal impact on small noncommercial educational stations for the "significant treatment" alternative has been narrowly tailored to meet the FCC's regulatory needs and, therefore, is minimally burdensome to licensees. In the past, these stations have been required to place in their public files on a quarterly basis a list of from 5 to 10 community issues and the programming broadcast during the preceding three months that was responsive to the community issues. In repsonse to directives from the Court of Appeals, the Commission is proposing herein to replace the existing illustrative issues-programs list with one that sets forth the significant programming broadcast in response to community issues listed.

V. Recording, Record Keeping and Other Compliance Requirements

The modified list would be required to set forth the signficant programming in response to community issues broadcast during the quarter.

VI. Federal Rules which Overlap, Duplicate or Conflict with the Proposed Rules

There is no overlap, duplication, or conflict.

VII. Any Significant Alternatives Minimizing Impact On Small Entities And Consistent With Stated Objectives

There are none.

[FR Doc. 87-3728 Filed 2-20-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 80

[PR Docket No. 87-10; FCC 87-31; RM-5576]

Maritime Service; Proposed Amendment Permitting Installation of Radar Equipment on Voluntarily Equipped Ships by Non-Licensed Persons

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rule would permit installation of radar equipment on any voluntarily equipped ship by the station licensee or by any one who is under the supervision of the station licensee. In either case the person installing the radar equipment would not be required to have an FCC operator license. This action was initiated by a petition for rulemaking filed by SI-TEX Marine Electronics Inc. (SI-TEX). The effect of the proposed rule is to eliminate the need for persons who install radar equipment on voluntarlily equipped ships to have an FCC operator license.

DATES: Comments must be received on or before April 6, 1987, and reply comments must be received on or before April 21, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted January 2, 1987 and released February 12, 1987. The full text of this Commission decision including the proposed rule change is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision including the proposed rule change may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. In response to a petition for rulemaking (RM-5576) filed by SI-TEX the FCC proposes amending the rules in the maritime service to permit installation of radar equipment on voluntarily equipped ships by persons who do not have FCC operator licenses provided the installation is made by or under the supervision of the station licensee. However, any internal modifications of adjustments during or coincidental to the installation of radar which may affect its operation would still be required to be made by licensed personnel.

2. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule if promulgated will not have a significant economic impact on a substantial number of small entities. This action permits persons without FCC operator licenses to install radar equipment on ships not rquired to carry radar.

4. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

5. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 6, 1987, and reply comments on or before April 21, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

6. This Notice of Proposed Rule Making is issued under the authority of 47 U.S.C. 154(i) and 303(g).

7. A copy of this Notice of Proposed Rule Making will be served on the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 80

Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Proposed Rules

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations would be amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 80.177 a new paragraph (d) is added to read as follows:

§ 80.177 When operator license is not required.

* * * * *

(d) A radio operator license is not required to install a radar station on a voluntarily equipped ship if the installation is made by, or under the supervision of, the licensee of that ship station and if modifications or adjustments other than to the front panel controls are not made to the equipment.

[FR Doc. 87-3727 Filed 2-20-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-03; Notice 1]

Federal Motor Vehicle Safety Standards; Headlamp Concealment Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend Motor Vehicle Safety Standard No. 112, in response to Chrysler Corporation's alternative request for an interpretation or petition for rulemaking. The amendment would delete the requirement that during the opening of a concealed headlamp the headlamp beam may not project to the left of or above the position of the beam when the concealed headlamp device is fully open. The agency also asks comment upon Chrysler's suggested amendment which would not delete the requirement, but would create an exception to it.

DATES: Comment closing date is April 9, 1987. Effective date for the amendment would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine. Office of Rulemaking, NHTSA, Washington, DC (202-366-5280).

SUPPLEMENTARY INFORMATION:

Paragraph S4.5 of Safety Standard No. 112, *Headlamp Concealment Devices* states that "After December 31, 1969, the headlamp beam of headlamps that illuminate during opening and closing of the headlamp concealment device may not project to the left of or above the position of the beam when the device is fully opened". In the view of Chrysler Corporation, this requirement imposes a design restriction on those types of rotating headlamp systems "which, although they project a beam of light very slightly to the left during opening and closing do so at a point in their travel that does not produce glare in the eyes of oncoming drivers".

Chrysler specifically references its 1987 Dodge Daytona model which is equipped with a retracting headlamp system. In order to adapt the system to the car's front end sheetmetal, it was necessary to design the system so that in opening and closing it moves through "a laterally outboard 7 mm truncated arc". As a result, the right headlamp momentarily projects a beam of light to the left of center, which, however, is not above the position of the beam when the device is fully opened. Chrysler can meet the requirement through "incorporating a complex and costly electronic switching system to illuminate the headlamps only when they are fully opened and to turn out the light during opening and closing." Because it does not believe that the low candela of the lamp during its arc are sufficient to cause glare, Chrysler asked the agency for an interpretation that beams could project to the left "provided the photometric values for the glare test points of a fully opened headlamp are not exceeded. . . ." Alternatively, it petitioned for rulemaking to amend paragraph S4.5 to establish an exception to the prohibition of beam projection to the left. That exception would be "when the photometric values for the points above V=0 (glare test points) are not exceeded during any portion of the headlamp's travel". In a subsequent letter revising its original petition Chrysler requested amendment of paragraph S4.5 to establish an exception that would be "when the maximum allowable photometric values at the points at or above V=0.5 (glare test points) are not exceeded during any portion of the headlamp's travel." The significant difference in this revised petition is that the exception would now allow light intensities permitted by the standard, rather than limit the light intensity to that achieved by the specific lamp under test, at the regulated test points.

Because the prohibition in S4.5 is absolute. NHTSA is unable to provide an "interpretation" that would allow a deviation from its terms. However, the agency has reviewed Chrysler's alternative requests for rulemaking, and has decided to grant the manufacturer's petition. In the agency's opinion, however, either Chrysler's original proposed or revised amendment are problematic. Regardless of the motion of the beam during movement to the final position of the lamp, headlamp beams do not uniformly decrease in intensity from their hot spots (i.e., brightest part of beam) radially outward. Because small higher intensity areas randomly occur in larger areas of lower intensity, any concealed headlamp could produce higher intensities at various test points during its travel than when fully open. Therefore, even concealed headlamps that comply with Standard No. 112 could become noncompliant with a procedure that uses performance relative to the photometry in Standard No. 108 as the criterion, rather than performance relative to the lamp's own photometry when fully opened.

The safety problem that paragraph S4.5 is intended to address is the effect of transitory glare upon drivers of other motor vehicles. The agency believes that such effects are minimal in comparison with the incidence of glare that motorists already experience, such as created by oncoming upper beams, or by lower beams during changes in vehicle position (rounding corners) or attitude (coming over the brow of a hill) causing momentary "glare" with little ill effect. Although undue glare in any form is undesirable, and manufacturers should design their headlighting systems so that glare in any form is reduced, the agency has tentatively concluded that S4.5 represents a design restriction that is not required to serve the interests of motor vehicle safety.

Accordingly, the agency is proposing the deletion of paragraph S4.5. Although it does not believe that the detailed photometric measurement implied in the two amendments of S4.5 recommended by Chrysler, and quoted in a prior paragraph, is necessary for safety, NHTSA is nevertheless interested in soliciting comments from the public on Chrysler's suggested method.

Having proposed the deletion of S4.5, the agency also proposes that S4.6 be renumbered, and that reference to its effective date ("after December 31, 1969") be removed.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies or procedures, and that neither a regulatory impact statement nor a regulatory evaluation is required. Since use of concealed headlamp systems is optional and because the proposed amendment would relieve a restriction, the proposal would not impose additional requirements or costs but would permit manufacturers greater flexibility in the design of headlamp systems.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal will have no effect upon the human environment since there will be no change in the weight and quantity of materials used in the manufacture of headlamp concealment devices.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact upon a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles will be minimally impacted.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the

proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Because of the necessity for the petitioner and other vehicle manufacturers to plan production on an orderly basis, it is tentatively found that an effective date earlier than 180 days after issuance of the final rule would be in the public interest.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR Part 571 and 571.11, Motor Vehicle Safety Standard No. 112, *Headlamp Concealment Devices,* be amended as follows:

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50, 501.8.

2. Paragraph S4.5 of § 571.112 would be removed.

3. Paragraph S4.6 of § 571.112 would be redesignated S4.5 and the phrase "after December 31, 1969" removed.

Issued on: February 18, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-3760 Filed 2-18-87; 4:04 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 52, No. 35
Monday, February 23, 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

National Commission on Dairy Policy; Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy.

Time and date: 9:00 a.m., March 2, 1987 and 8:00 a.m., March 3, 1987.

Place: March 2—State Capitol Building, Room 4202, Sacramento, California 95814; March 3—California Farm Bureau Federation, Board of Directors Room, 1601 Exposition Boulevard, Sacramento, California 95815.

Status: Open.

Matters to be considered: On March 2, the Commission will hold a public hearing to receive testimony on the dairy price support program, new dairy technologies, and the impact of the program and technologies on the family farm. The meeting on March 3 is expected to review the public hearing, discuss Commission matters with the new Executive Director, review and revise Commission by-laws, and discuss legislation to extend the Commissions reporting date.

Written statements may be filed before or after the meeting with: Contact person named below.

Contact person for more information: Mr. Floyd Gaibler, Assistant to the Secretary, Office of the Secretary, United States Department of Agriculture, Washington, DC 20250. (202) 447–3631.

Signed at Washington, DC, this 18th day of February 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–3772 Filed 2–20–87; 8:45 am]

BILLING CODE 3410–02–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: Bureau of the Census

Title: Survey of Public Institutions of Higher Education

Form number: Agency—F–15; OMB—NA

Type of request: New collection

Burden: 1,333 respondents; 440 reporting hours

Needs and uses: This survey will secure financial data from public institutions of higher education. The data will supplement data collected by the Department of Education, and will be used in calculating the GNP and in a statistical series on state and local government finances.

Affected public: State or local governments

Frequency: Quarterly, annually

Respondent's obligation: Voluntary

OMB desk officer: Don Arbuckle, 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3721, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: February 13, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–3715 Filed 2–20–87; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–301–602 and A–223–602]

Certain Fresh Cut Flowers From Colombia and Costa Rica; Postponement of Final Antidumping Duty Determinations

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determinations involving certain fresh cut flowers from Colombia and Costa Rica are being postponed until not later than February 24, 1987.

EFFECTIVE DATE: February 23, 1987.

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

SUPPLEMENTARY INFORMATION: On October 28, 1986, we made affirmative preliminary antidumping duty determinations that certain fresh cut flowers from Colombia and Costa Rica are being, or are likely to be, sold in the United States at less than fair value (Colombia: 51 FR 39887, November 3, 1986, Costa Rica: 51 FR 39890, November 3, 1986). The notices state that we would issue our final determinations by January 12, 1987.

On November 3, 1986, counsel for the respondents in both investigations requested that the Department extend the period for the final determination for 30 days, *i.e.*, until not later than 105 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). On November 24, 1986, the extensions were granted (Colombia: 51 FR 43649, December 3, 1986, Costa Rica: 51 FR 43650, December 3, 1986).

On January 30, 1987, counsel for the respondents in the Colombian investigation requested that the Department extend the period for the final determination for eight additional days, *i.e.*, until not later than 113 days after the date of publication of the preliminary determination, in accordance with 735(a)(2)(A) of the Act.

On February 9, 1987, counsel for the respondents in the Costa Rican investigation also requested an extension of eight additional days. The respondents are exporters who account for a significant portion of the exports of the merchandise under investigation. If exporters who account for a significant portion of the exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, the period for the final determinations in these cases is hereby extended. We intend to issue the final determinations not later than February 24, 1987.

Scope of Investigation

The products covered by these investigations are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, standard and pompon chrysanthemums, alstroemeria, gerbera, and gyposophila, currently provided for in item 192.21 of the TSUS.

The United States International Trade Commission is being advised of these postponements in accordance with section 735(d) of the Act.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

February 17, 1987.

[FR Doc. 87-3784 Filed 2-20-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On January 13, 1987, the Department of Commerce published the preliminary results of its administrative review, tentative determination to revoke in part, and intent to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The review covers three manufacturers and/or exporters of this merchandise to the United States and generally the period December 1, 1981 through November 30, 1985.

We gave interested parties an opportunity to comment on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results and we revoke the finding with respect to merchandise produced and exported by Alps Electric Co., Ltd. and Mitsumi Electric Co., Ltd.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 1351) the preliminary results of its administrative review, tentative determination to revoke in part, and intent to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("The Tariff Act").

Scope of the Review

Imports covered by the review are shipments of tuners (of the type used in consumer electronic products) consisting primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly into the consumer electronic product for which they were designed. The term "consumer electronic products" includes television sets, radios, and other electronic products of the type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners. Tuners covered by the finding are currently classifiable under items 685.0200 and 685.3277 of the Tariff Schedules of the United States Annotated.

The review covers three manufacturers and/or exporters of Japanese tuners to the United States and generally the period December 1, 1981 through November 30, 1985.

Final Results of Review and Revocation in Part

We invited interested parties to comment on the preliminary results, tentative determination to revoke in part, and intent to revoke in part. We received no comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review, and we determine that no margins exist during the periods indicated:

Manufacturer-exporter	Time period
Alps Electric Co., Ltd.	12/01/82-06/22/84
Mitsumi Electric Co., Ltd.	[1] 12/01/82-06/22/84
Shin-Shirasuna Corp.	[1] 12/01/81-11/30/85

[1] No shipments during the period.

For the reasons set forth in the preliminary results of review, tentative determination to revoke in part, and intent to revoke in part, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Alps or Mitsumi. Accordingly, we revoke the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with respect to Alps Electric Co., Ltd. and Mitsumi Electric Co., Ltd.

This partial revocation applies to all unliquidated entries of this merchandise manufactured and exported by Alps or Mitsumi and entered, or withdrawn from warehouse, for consumption on or after June 22, 1984, the date of our tentative determination to revoke with respect to these firms.

The Department will instruct the Customs service not to assess antidumping duties on all appropriate entries. Further, in accordance with section 751(a)(1) of the Tariff Act, the Department shall not require a cash deposit of estimated antidumping duties for Shin-Shirasuna. For any shipments from the remaining known manufacturers and /or exporters not covered by this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms. For any shipments from a new exporter, whose first shipments occurred after November 30, 1985 and who is unrelated to any reviewed firm, or previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese tuners (of the type used in consumer electronic products) entered, or withdrawn from warehouse, for consumption on or after

the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review, revocation in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1) and (c)) and sections 353.53a. and 353.54 of the Commerce Regulations (19 CFR 353.53a and 353.54).

Dated: February 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-3785 Filed 2-20-87; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a(a)(1), (a)(2), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews no later than February 29, 1988.

Antidumping duty proceedings and firms	Periods to be reviewed
Anhydrous Sodium Metasilicate from France: Rhone-Poulenc	1/1/86-12/31/86
Cell-site Transceivers from Japan: Kokusai	1/1/86-12/31/86
Potassium Permanganate from Spain: Asturquimica	1/1/86-12/31/86

Countervailing duty proceedings	Periods to be reviewed
Nonrubber Footwear from Argentina	1/1/86-12/31/86
Certain Red Raspberries from Canada	1/9/86-12/31/86
Roses and Other Cut Flowers from Colombia	1/1/86-12/31/86
Truck Trailer Axle-and-Brake Assemblies from Hungary	1/1/86-12/31/86
Fabricated Automotive Glass from Mexico	1/1/86-12/31/86
Stainless Steel Wire Rod from Spain	1/1/86-12/31/86
Carbon Steel Wire Rod from Trinidad/Tobago	1/1/86-12/31/86

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: February 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-3786 Filed 2-20-87; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held March 10, 1987, at 9:30 a.m. at the Department of Commerce, Room 5230, 14th and Constitution Avenue, NW., Washington, DC 20230. The Committee advises the Office of Technology and Policy Analysis, Export Administration, with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Introduction of public attendees and invited guests.
3. Reports of the Subcommittees.
4. Presentation by MiniScribe Corporation.
5. Discussion of:
   a. Public rulemaking;
   b. ECCN 1565 (graphic display equipment);
   c. Technical data regulations (Section 379 of the EAR);
   d. Strategic use of magnetic tape (including video and computer);
   e. Cipher Data proposal concerning decontrol parameters for one half inch streamer tape drives;
   f. When disc drives qualify for G-COM treatment and when they do not;
   g. How we control disc drive systems embedded in unembargoed systems;
   h. Recommendations concerning relaxation of export controls on commodities currently under control to the People's Republic of China—particularly ECCNs 1565 and 1572.
6. New Business.

Executive Session

7. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on January 10, 1986, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217. For further information or copies of the minutes contact Ruth Fitts at (202) 377-2583.

Dated: February 17, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-3757 Filed 2-20-87; 8:45 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China Concerning Cotton and Man-Made Fiber Textile Products in Categories 369-D and 604-A+W

February 18, 1987.

The Chairman of the Committee for the Implementation of Textile

Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 20, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, please call (202) 377–3715. For information on categories on which consultations have been requested call (202) 377–3740.

Background

On November 25, 1986, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton dish towels in Category 369–D (only T.S.U.S.A. numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440, and 366.2860) and man-made fiber acrylic spun yarn in Category 604–A+W (only T.S.U.S.A. numbers 310.5049 and 310.6045), produced or manufactured in China and exported to the United States.

Summary market statements concerning these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 369–D and 604–A+W under the agreement with the People's Republic of China, or in any other aspect thereof, or to comment on domestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs functions of the United States."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of cotton and man-made fiber textile products in the following categories during the ninety-day period which began on November 25, 1986 and extends through February 22, 1987 to the following levels:

Category	Ninety-day restraint level
369–D	2,216,913 pounds
604–A+W	319,994 pounds

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period (February 23, 1987–February 22, 1988) to the following levels:

Category	Twelve-month restraint level
369–D	7,543,914 pounds
604–A+W	260,546 pounds

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Categories 369–D and 604–A+W exported furing the ninety-day period at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limits established for Categories 369–D and 604–A+W for the ninety-day period are exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the levels defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 30, 1985 a letter to the Commissioner of Customs was published in the **Federal Register** (50 FR 53182) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986. The notice which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 369–D and 604–A+W, which are not subject to specific ceilings and for which levels may be established during the year. In the letter to the Commissioner of Customs which follows this notice, ninety-day levels are established for these categories.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—China

Category 369 Pt.—Cotton Dish Towels

November 1986.

Summary and Conclusions

United States imports of cotton dish towels—Category 369 Pt.—from China were 6,334 thousand pounds (3,720 thousand dozen) during the year ending September 1986, up 23 percent from the 5,144 thousand pounds (3,065 thousand dozen) imported a year earlier. China is the largest supplier of these dish towels, accounting for 38 percent of the total imports.

The sharp and substantial increase of low-valued imports of Category 369 Pt. dish towels from China is disrupting the U.S. market.

Production and Market share

U.S. production of cotton dish towels declined 19 percent from 8,149 thousand dozen in 1984 to 6,612 thousand dozen in 1985. this downward trend continued into 1986. During the first half of 1986, production dropped 12 percent below the level in the comparable period of 1985.

The U.S. producers' share of the market for domestically produced and imported dish towels declined sharply, dropping from 54 percent in 1984 to 45 percent in 1985. The U.S. market share fell to 36 percent in the first half of 1986.

Imports and Import Penetration

U.S. imports of Category 369 Pt. dish towels from all sources increased 73 percent in 1984 and another 34 percent in 1985 reaching a record level 14,016 thousand pounds (8,216 thousand dozen). Imports for the first nine months of 1986 were up 24 percent over the comparable period in 1985.

The ratio of imports to domestic production more than doubled, increasing from 58 percent in 1983 to 124 percent in 1985. The ratio continued to rise dramatically in the first half of 1986, reaching 177 percent.

Import Values

During the period January-September 1986, 72 percent of China's Category 369 Pt. dish towel imports entered under TSUSA 366.2860. The duty-paid landed values of Category 369 Pt. dish towels from China are well below the U.S. producers' prices for comparable dish towels.

Market Statement—China

Category 604 Part—Spun Plied Acrylic Yarns

November 1986.

Sumary and Conclusions

U.S. imports of Category 604 part—spun plied acrylic yarns—from China totaled 914,268 pounds during the period of January-September 1986, a sudden development considering that prior to 1986, there were no imports of these yarns from China. In less than a year, China has become the eighth largest supplier of these products to the United States.

The large and sudden increase in imports of Category 604 part from China is disrupting the U.S. market for spun plied acrylic yarns.

U.S. Shipments and Market Share

U.S. shipment of spun plied acrylic yarn has been on the decline since 1981. U.S. shipments in 1985, although up slightly from 1984, were down 5 percent from the 1982–83 average level and 18 percent below the 1981 level. The U.S. producers' share of the market fell to 60 percent in 1985, down from an average 67 percent in 1982–83 and 77 percent in 1981.

Imports and Import Penetration

During the period 1981–1985 imports of plied acrylic yarns increased by 80 percent, reaching 24.8 million pounds in the latter year, a record level. Imports continue to increase in 1986, up 40 percent in the first nine months over the same period in 1985. The ratio of imports to domestic shipments of plied acrylic yarns increased more than two-fold, from 30.8 percent in 1981 to 67.8 percent in 1985.

Import Values

Category 604 part imports from China are entered under TSUSA No. 310.5049, spun plied acrylic yarn. The duty-paid landed values of these imports from China are below the U.S. producer prics for comparable yarn.

Committee for the Implementation of Textile Agreements

February 18, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended and extended, between the Governments of the United States and People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 20, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 369-D [1] and 604-A+W [2], produced or manufactured in the People's Republic of China, and exported during the ninety-day period which began on November 25, 1986 and extends through February 22, 1987, in excess of the following levels of restraint [3]:

Category	Ninety-day restraint level
369-D	2,216,913 pounds
604-A+W	319,994 pounds

Textile products in Categories 369-D and 604-A+W which have been exported to the United States prior to November 25, 1986 shall not be subject to this directive.

Textile products in Categories 369-D and 604pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

[1] In Category 369, only TSUSA numbers 365.6615, 366.1720, 366.1740, 366.0220, 366.2040, 366.2420, 366.2440 and 366.2860.

[2] In Category 604, only TSUSA numbers 301.5049 and 310.6045.

[3] The limits have not been adjusted to account for any imports exported after November 24, 1986.

Sincerely,
Ronald I. Levin,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-3706 Filed 2-20-87; 8:45 am]
BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Acquisition Management Systems and Data Requirements Control List, 0704–0188

(AMSDL), DoD 5010.12–L

The AMSDL is a listing of data acquisition documents (information collection requests) utilized in DoD contracts. Information collection requests contained in these contracts number 2,095. These information collection requests from the public (contractors) are necessary for the Government to support the design, test, manufacture, training, operation, maintenance, and logistical support of items of defense materiel being acquired under the provisions of the Armed Services Procurement Act, Title 10, U.S.C.

Business or other for profit; non-profit institutions and small businesses/ organizations

Responses 1,598,485

Burden hours 175,833,350

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Carl L. Berry, DDMO, 5203 Leesburg Pike, Suite 1403, Falls Church, Virginia 22041–3466, telephone (703) 756–2554/5.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 18, 1987.

[FR Doc. 87–3710 Filed 2–20–87; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review.

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

DoD FAR Supplement—Part 4, Administrative Matters and Part 52.204 (0704–0225).

DoD FAR Supplement Part 204.202(c), 204.471, 204.72 and 52.204–7006.

Part 204 of the DoD FAR Supplement and the clause at 252.204–7006, Very High Speed Integrated Circuits Technology Security Program, require contractors to be certified that they are in compliance with special security procedures for VHSIC-sensitive information and/or program products. These procedures include notification requirements on subcontractors to be certified and recordkeeping requirements regarding training, personnel access and receipts for incoming and outgoing VHSIC-sensitive information and/or program products.

Businesses or other for profit.

Responses: 101,603.

Burden hours: 13,142.

ADDRESS: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, telephone (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Owen Green, DAR Council, ODASD(P)DARS, c/o OASD (A&L)(MRS), Room 3C841, The Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 18, 1987.

[FR Doc. 87–3711 Filed 2–20–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Computer Applications to Training and Wargaming; Change in Location of Meeting

ACTION: Change in Location of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Computer Applications to Training and Wargaming scheduled for February 17–19, 1987 as published in the **Federal Register** (Vol. 51, No. 15, Page 2578–9, Friday, January 23, 1987, FR Doc. 87–1580) will be held in Fort Lewis, Washington, and at the Boeing Aerospace Corporation, Seattle, Washington. In all other respects the original notice remains unchanged.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87–3712 Filed 2–20–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on LHX Requirements; Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on LHX Requirements will meet in closed session on April 27, 1987 at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defesne and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the Army's current requirements for the LHX helicopter.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense

February 18, 1987.

[FR Doc. 87–3714 Filed 2–20–87; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Low Observable Technology; Cancellation of Meeting

ACTION: Cancellation of Meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Low Observable Technology for February 25, 1987 as published in the **Federal Register** (Vol. 51, No. 205, Page 37629, Thursday, October 23, 1986, FR Doc. 86–23948.) has been cancelled. In all other respects the original notice remains unchanged.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 18, 1987.

[FR Doc. 87–3713 Filed 2–20–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Tuesday, 16 March 1987.

Times of meeting: 0900–1800 hours.

Place: Rockwell International Corporation, Advanced Systems Development, 2230 East Imperial Highway, El Segundo, California 90245.

Agenda: The Army Science Board Ad Hoc Subgroup for Effectiveness Review of ARDEC

will meet for the purpose of preparing the report on the Effectiveness Review of ARDEC in Dover, New Jersey. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–3674 Filed 2–20–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of meeting: 12–13 March 1987.

Times of meeting: 0900–1700 hours, 12 March 1987; 0800–1200 hours, 13 March 1987.

Place: Lincoln Labs, MIT, Boston, Massachusetts.

Agenda: The Army Science Board Ad Hoc Subgroup for Ballistic Missile Defense Follow-On will meet for briefings and discussions on Lincoln Lab Overview, Free Electron Laser, Replica Decoys, and KREMS. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–3673 Filed 2–20–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board.

Dates of Meeting: 11–13 March 1987.

Times of Meeting: 1800–2130, 11 March 1987; 0830–1630, 12 March 1987; 0830–1330, 13 March 1987.

Place: Headquarters, US Army Signal Center and School, Fort Gordon, Georgia.

Agenda: The Army Science Board's Ad Hoc Panel on Army Information Management Concepts and Architecture will meet to gather facts for its study. On the first day, the panel will conduct a working dinner with Commander, USASCS, to be held at the Fort Gordon Officers' Club. On the second and third days of the meeting the panel will hear briefings on Information Management, TRADOC IMA roles and functions, and tour facilities belonging to the Director of Information Management. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner Permitted by the committee. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–3672 Filed 2–20–87; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Cooperative Agreements Revised Procedures

AGENCY: Defense Logistics Agency, DoD.

ACTION: Cooperative Agreements; Proposed Revised Procedures.

SUMMARY: This proposed revised procedure implements Chapter 142, Title 10, United States Code, as amended, which authorizes the Secretary of Defense, acting through the Director Defense Logistics Agency (DLA), to enter into cost sharing Cooperative Agreements to support procurement technical assistance programs established by state and local governments and private non-profit organizations. Subpart III of this issuance establishes the administrative procedures proposed to be implemented by the Defense Logistics Agency (DLA) to enter into such agreements for this purpose.

DATES: Comments will be accepted until March 23, 1987. Proposed Effective Date: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Sim Mitchell, Program Officer, Office of Small & Disadvantaged Business Utilization (DLA–UM), Defense Logistics Agency, Alexandria, VA 22304–6100, Telephone (202) 274–6471.

I. Background Information

The Department of Defense (DoD) has developed programs designed to expand the industrial base and increase competition for its requirements for goods and services, thereby reducing the cost of maintaining a strong national security. Its efforts to increase competition among the private sector have been supplemented by many state and local governments and other entities where their interest in improving the business climate and economic development in their communities is compatible with these DoD objectives. To assist in furthering this mutual interest, a Cooperative Agreement Program has been established by which the DoD can share the cost of supporting existing procurement technical assistance programs being conducted by state and local governments and private non-profit organizations and encourage other state and local governments and private non-profit organizations to consider establishing similar programs in their communities.

The Fiscal Year (FY) 1985 DoD Authorization Act, Pub. L. 98–525, amended Title 10, United States Code, by adding a Chapter 142 which authorized the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cooperative agreements with state and local governments (hereinafter referred to as eligible entities as defined in Section 3 of this procedure) to establish and conduct a procurement technical assistance program during FY 85. Title 10, United States Code as amended provides for continuation of the program during FY 87.

The Congress has authorized a total of $6 million to support the program during FY 87. Of this total, $3,000,000 is to be divided between existing programs and new starts on a 75% and 25% basis, with the remaining $3 milion being available for either existing programs or new starts. Each of the nine Defense Contract Administration Services Regions (DCASRs) within DLA will be authorized to award approximately $633,333 of the $6 million authorized for FY 87 as its share of program costs to applicants within the geographic area under their cognizance to support existing programs and new starts. In cases where the area being or to be serviced by the eligible entity encompasses more than one DCASR's area of geographic cognizance, eligible entities are to submit their proposals to the one DCASR having cognizance over the preponderant part of the area being or to be serviced. Only one proposal will be accepted from a single eligible entity. The addresses and geographic areas under the cognizance of each of the DCASRs, together with the name of the Associate Director for Small Business who is designated the Cooperative Agreement Program Manager, follows:

State or Area	DCASR	Associate Diector for Small Business
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico.	DCASR Atlanta, 805 Walker Street, Marietta, GA 30060-2789, Room Number 104.	Mr. Harold Watson, Telephone (404) 429-6195, Toll Free: 1-800-331-6415 (GA Only): 1-800-551-7801
Connecticut (except Fairfield County) Maine, New Hampshire, Massachusetts, New York, (All Counties except Bronx, Dutchess, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester), Rhode Island, Vermont.	DCASR Boston, 495 Summer Street, Boston, MA 02210-2184, Located on 8th Floor.	Mr. Edward J. Fitzgerald, Telephone (617) 451-4318, Toll Free: 1-800-321-1861
Illinois, Indiana, Wisconsin	DCASR Chicago, O'Hare Int'l Airport, P.O. Box 66475, Chicago, IL 60666-0475, Room Number 107.	Mr. James L. Kleckner, Telephone (312) 694-6020, Toll Free: 1-800-637-3848 (IL Only): 1-800-826-1046
Kentucky, Michigan, Ohio, Pennsylvania (Crawford, Erie, and Mercer Counties only).	DCASR Cleveland, Federal Office Bldg., 1240 East 9th Street, Cleveland, OH 44199-2063, Room Number 1849.	Ms. Wilma R. Combs, Telephone (216) 522-5122, Toll Free 1-800-551-2785
Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, Texas	DCASR Dallas, 1200 Main Street, Dallas, TX 75202-4399, Room Number 640.	Mr. Kenneth E. Strack, Telephone (214) 670-9205
Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.	DCASR Los Angeles, 222 N. Sepulveda Blvd, EL Segundo, CA, 90045-4320, Room Number 302.	Ms. Maria R. Seckler (Actg), Telephone (213) 335-3260, Toll Free: 1-800-624-7372 (Alaska, Hawaii, Idaho, Nevada, Oregon, and Washington) (CA Only): 1-800-251-5285
Connecticut (Fairfield County Only), New Jersey (Northern 12 Counties), New York, (Bronx, Dutchess, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Ulster, and Westchester Counties only).	DCASR New York, 201 Varick St., New York, NY, 10014-4811, Room Number 1061.	Mr. John E. Mulreany, Telephone (210) 807-3050, Toll Free: 1-800-251-6969
Delaware, District of Columbia, Maryland, New Jersey (Except for Northern 12 Counties), Pennsylvania, (All counties except Crawford, Erie and Mercer), Virginia, West Virginia.	DCASR Philadelphia, 2800 South 20th St., P.O. Box 7478, Philadelphia, PA, 19101-7478, Room Number 129.	Mr. Roger C. Rhyner, Telephone (215) 952-4006, Toll Free: 800-258-9503 (New Jersey, Delaware, Maryland, Virginia, West Virginia, and District of Columbia) (PA Only): 800-843-7694
Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	DCASR St. Louis, 1136 Washington Ave., St. Louis, MO, 63101-1194, Third Floor.	Mr. Thomas G. Moore, Telephone (314) 263-6617, Toll Free: 800-325-3419

Additional Limitations placed on these funds follow:

(a) DoD cost sharing shall not exceed 50% of the total cost of a single program, excluding any Federal funds, except that the DoD share may be increased to no more than 75% for that portion of an existing program or new start that qualifies solely as a distressed area. In no event, shall the DoD share of the total program cost exceed $150,000.

(b) Eligible entities are not to subcontract more than 10% of their total costs for private consulting services to support the program.

The DoD presently provides procurement and technical assistance to business firms through its network of Small Business Specialists located in industrial centers around the country. The Associate Directors of Small Business located in these industrial centers at the DCASRs will be available to provide eligible entities such assistance as necessary to explain and interpret the solicitation requirements when issued and to provide general guidance in preparing proposals.

Procurement technical assistance given to clients for marketing their goods and services to other Federal Agencies and/or state and local governments will not be considered when evaluating proposals. However, eligible entities are encouraged to consider supplementing their DoD program to include those marketing opportunities for business firms located in the area being or to be serviced.

The purpose of this proposed revised procedure is to make available to all eligible entities the prerequisite requirements and policies which govern the award of cooperative agreements by the DLA. This procedure is necessary to establish a permanent procedure which governs the award and administration of cooperative agreements.

Although this procedure will affect all eligible entities desiring to enter into a cooperative agreement with DLA, the DLA has determined that this rule does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. This determination is based on the fact that this proposed Cooperative Agreement Procedure implements policies already published by the Office of Management and Budget pursuant to Chapter 63, Title 31, United States Code, Using Procurement Contracts and Grant and Cooperative Agreements. In addition, DLA Cooperative Agreements will be entered into pursuant to the authorities and restrictions contained in the annual DoD Authorization and Appropriation Acts.

II. Other Information

The language contained in the current Cooperative Agreement Procedure limited the period of coverage to the FY 86 Program in that it addressed the FY 86 Authorization Act requirements in specific terms, including the exact dollar amounts of funding applicable to the Program. This proposed revision to the procedure will provide general guidance for cooperative agreements entered into by the DLA and will become a permanent document for the duration of the FY 87 programs.

DLA has determined that the proposed procedure does not involve substantial issues of fact or law and the regulation is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. Therefore, public hearing were not conducted.

Since this is DLA's permanent procedure covering cooperative agreements pursuant to 31 U.S.C. 6301 et seq. using Procurement Contracts and Grant and Cooperative Agreements, additional comments are invited on the procedure and are to be submitted to the Defense Logistics Agency, ATTN: DLA-UM, Cameron Station, Alexandria, VA 22304-1600. All comments received by 23 March 1987 will be evaluated to determine if any revisions should be made to Subpart III.

Issued in Alexandria, VA on February 19, 1987.

For the Defense Logistics Agency.

Ray W. Dellas,

Staff Director, Office of Small and Disadvantaged Business Utilization.

III. Proposed Revision to DLA Procedure—Cooperative Agreements

1. Scope.

(a) This procedure implements Chapter 142 of Title 10, United States Code, as amended, and establishes requirements for the award and administration of Cost Sharing Cooperative Agreements entered into between the Defense Logistics Agency (DLA) and eligible entities. Under these agreements Department of Defense (DoD) financial assistance will be provided to recipients. Such assistance will cover the DoD share of the cost of establishing new and/or maintaining existing Procurement Technical Assistance (PTA) Programs for furnishing PTA to business entities.

(b) A cooperative agreement is a binding legal instrument which reflects a relationsip between the DLA and a

cooperative agreement recipient for the purpose of transferring money, property, services or anything of value to the recipient for the accomplishment of the requirements described therein. The requirement shall be authorized by Federal statute and substantial involvement shall be anticipated between the DLA and the recipient during performance of the agreement.

(c) When proposals for cooperative agreements are obtained through the issuance of a DLA Solicitaiton of Cooperative Agreement Proposals, hereinafter referred to as a SCAP, the contents of this regulation shall be incorporated in part or in whole, into the program solicitation for the purpose of establishing administrative provisions for the execution and administration of DLA Cooperative Agreements. Program solicitations may include additional administrative provisions when such provisions are required by program legislation or program regulations not included herein.

(d) The DoD share of an eligible entity's proposal and award recipient's total program cost (TPC) shall not exceed 50%, except in the case of a distressed area (as defined in paragrpah 3 (c) below) the DoD share may be increased to an amount not to exceed 75%. However, in no event is the DoD share of any single program cost to exceed $150,000.

(e) In order to qualify for the DoD share of 75% total program costs, an eligible entity is required to service clients exclusively in a distressed area. In the event an eligible entity plans to service both a distressed and a nondistressed area, it may segregate its TPC between the distressed area and nondistressed area (as detailed in paragraph 8 of this regulation) in submitting its application for a Cooperative Agreement, and request a maximum of 75% and 50% respectively. Absent such segregation, and if any part of the geographic area being or to be serviced includes a nondistressed area, the applicant will be entitled to a maximum of 50% DoD share.

(f) During each fiscal year (FY) for which funding is authorized for the PTA program at least one cooperative agreement for either an existing program or a new start shall be awarded within the geographic cognizance of each of the 9 Defense Contract Administration Services Regions (DCASRs) within the DLA. In cases where the area being or to be serviced by an eligible entity encompases more than one DCASR's areas of geographic cognizance, the eligible entity should submit its applications to the one DCASR having cognizance over the majority of the area being or to be serviced. Only one application will be accepted from a single eligible entity.

2. Policy.

(a) It is the DLA policy to encourage and maximize open and fair competititon when awarding cooperative agreements for establishing or maintaining existing PTA programs. Cooperative agreements will generally be awarded on a competitive basis as a result of the issuance of Solicitations for Cooperative Agreement Proposals (SCAPs). However, the DoD, through the DLA, reserves the right to make or deny an award to an applicant whose application is competitive based on other factors that would enhance competition for DoD goods and services, reduce or eliminate overlapping or duplicate coverage in selected geographic areas, or otherwise be in the best interests of the government.

(b) SCAPs inviting the submission of proposals shall be given the widest practical dissemination to all known eligible entities and to those that request copies of the SCAP subsequent to its issuance. All eligible entities that have advised the DCASR of their interest in submitting a proposal under the SCAP will be invited to participate in a presolicitation conference to be held at a location to be designated by the DCASR approximately 30 calendar days prior to the SCAP closing date.

(c) Any solicitation issued in accordance with this regulation shall not be considered to be an offer made by the DoD and will not obligate the DLA to make any awards under this program. The DoD is also not responsible for any monies expended or expense incurred by applications prior to the award of any cost sharing cooperative agreement.

(d) The award of a cooperative agreement under this program shall not in any way obligate the DoD to enter into a contract or give preference for the award of a contract to a concern or firm which becomes a client of the award recipient.

(e) The Federal Acquisition Regulation (FAR) contains numerous clauses and provisions which provide operational guidance and spell out rights and obligations of parties in Federal Procurement transactions. Although the regulation is not applicable per se to cooperative agreements, some of the provisions contained in the Regulation may be suitable for inclusion in cooperative agreements. Therefore, the clauses and provisions contained therein may be made a part of all cooperative agreement solicitations and awards with eligible entities other than those covered under Office of Management and Budget (OMB) Circulars A-102 (Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments) and A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations). Where appropriate, the language of the clauses will be modified to change "contract" to "cooperative agreement" and "contractor" to "participant" as necessary. Clauses and provisions specified as mandatory are not subject to negotiations. The clauses and provisions will only be used if the applicable dollar threshold is met. For example, if there is a $100,000 threshold for applying the clause, that particular clause will only be used in the cooperative agreement if the total cost of the project (including both the proposer's and DoD share of total costs) exceeds that threshold. However, the addition of any clauses and provisions not identified in the solicitation or the modification of clauses and provisions which are not designated as being mandatory will be subject to negotiations.

(f) Award recipient are not required to obtain or retain private consulting services for any extended period of time. Accordinlgy, any costs being proposed for such services are not to exceed 10% of the total program cost. Costs in excess of 10% included in the eligible entity's proposal will not be allowed.

(g) Reasonable quantities of government publications, such as "Selling to the Military" may be furnished to award recipients at no cost, subject to availability.

(h) For the purpose of executing cooperative agreements, the DCASR Associate Director of Small Business who has been delegated the authority to execute the cooperative agreement shall not require appointment as a contracting officer.

3. Definitions. The following definitions apply for the purpose of this regulation.

(a) *Client.* A recognized business entity, including corporations, partnerships, or sole proprietorships organized for profit, which are small and other than small, that have the potential or are seeking to market their goods or services to the DoD.

(b) *Cooperative Agreement Officer/ Application/Proposal.* An eligible entity's response to the SCAP describing their PTA program being operated or being planned. The offer binds the eligible entity to perform the services described therein if selected for an

award, and upon the proposal being incorporated into the cooperative agreement award document.

(c) *Distressed Area.* The geographic area being or to be serviced by an eligible entity in providing procurement technical assistance to business firms physically located within that area that:

(1) Has a per capita income of 80% or less of that State's average, or

(2) Has an unemployment rate at least 1% above the national average for the most recent 24-month period for which statistics are available from the U.S. Department of Labor in all of the geographic areas being or to be serviced. A distressed area cannot include any areas that do not meet this criteria.

(d) *Eligible Entities* include:

(1) *State Government.* A State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

(2) *Local Government.* A unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(3) *Private, non-profit organization.* Any corporation, trust, foundation, or institution which is entitled to exemption under Section 501 (c) (3)–(6) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(e) *Existing Program.* Includes any PTA type program that has been established and operated by an eligible entity for at least 12 months prior to the closing date for submission of proposals to the DLA, as well as all prior recipients of cooperative agreements with the DLA, regardless of the length of time their PTA program has been in operation.

(f) *In-kind Contributions.* Represent the value of noncash contributions provided by the eligible entity and non-Federal parties. Only when authorized by Federal legislation may property or services purchased with Federal funds be considered as in-kind contributions. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefitting and specifically identifiable to the project or program.

(g) *New Starts.* Includes all eligible entities that have not had an established and operating PTA program for a full 12-month period prior to the closing date for submission of proposals under a SCAP. It also includes any eligible entities' program that otherwise meets the definition of an existing program, but whose proposal anticipates expanded geographical coverage or a significant increase in the scope of operations. However, recipients of cooperative agreements with the DLA will not be eligible for consideration as a new start, regardless of how long their program has been in operation.

(h) *Private Consultant Services.* Services offered by private profit seeking individuals, organizations or otherwise qualified business entities to provide marketing and technical assistance to business firms seeking contracts with Federal, State and local government organizations.

(i) *Solicitation for Cooperative Agreement Proposals (SCAP).* A document issued by DLA containing provisions and evaluation criteria applicable to all applicants that apply for a PTA cooperative agreement.

(j) *Direct Cost.* Any cost that can be identified specifically with a particular final cost objective. No final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose in like circumstances have been included in any indirect cost pool to be allocated to that or any other final cost objective.

(k) *Indirect Cost.* Any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives or an intermediate cost objective. It is not subject to treatment as a direct cost.

4. Program Description.

The objective of the PTA Program is to assist eligible entities in providing marketing and technical assistance to businesses, hereinafter referred to as clients, in selling their goods and services to the DoD, thus assisting the DoD in its acquisition goals and at the same time enhancing the business climate and economies of the communities being served. Specific program requirements to accomplish this objective will vary, depending on locations, the types of industries and business firms within the community, the level of economic activity in the community, and many other factors. However, the SCAP will describe the minimum features that a comprehensive PTA Program should generally include, as follows:

(a) *Personnel.* Professional personnel qualified to counsel and advise clients regarding DoD procurement policies and procedures. The areas of consideration should relate to marketing techniques and strategies, pricing policies and procedures, preaward procedures, postaward contract administration, quality assurance, production and manufacturing, financing, subcontracting requirements, bid preparation, and specialized acquisition requirements for such things as construction, research and development and date processing.

(b) *Marketing.* Should include, as a minimum, the Commerce Business Daily, Federal Acquisition Regulation, DoD FAR Supplement, commodity listings from DoD contracting activities, Federal and military specifications and standards, and other Federal Government publications.

(c) *Networking.* Techniques for providing assistance throughout the area being serviced by locating assistance offices in areas of industrial concentration, arrangements with other entities or organizations, establishing data links, and through other appropriate means.

(d) *Fees and Service Charges.* In the event the applicant presently charges or plans to charge clients a fee or service charge, details as to the basis for and amount of the fee to be charged must be described. Any fees earned under the program are to be included as part of the total program costs.

(e) *Performance Measurement.* Should include a means of periodically measuring program effectiveness in achieving the objectives described above. Factors to consider in establishing this performance measurement system should include the number and types of clients assisted, including size and socioeconomic status; the types of assistance rendered, such as marketing and accounting; the number of clients added to the DoD and other Federal Agency bidders mailing lists, the Profile Business System of the Minority Business Development Agency, the Procurement Automated Source System (PASS) of the Small Business Administration, and the value of prime and subcontract awards received by clients resulting from the program.

5. Procedures for processing SCAPs and Award of Cooperative Agreement.

(a) The SCAP shall be prepared by the HQ DLA Cooperative Agreement Policy Council and will be issued through each DCASR. The Policy Council will be comprised of representatives from the HQ DLA Offices of General Counsel, Contracting, Comptroller, Congressional Affairs and Small Business. The Staff Director, Small and Disadvantaged Business Utilization shall serve as Policy Council Chairman and final appeal authority for disagreements

between the DCASR Associate Director of Small Business and the eligible entity and/or Cooperative Agreement recipient. The Council will be responsible for development of the SCAP, for reviewing the results of the DCASR's evaluations and recommendations, for assuring that adequate funds are made available to the DCASR and for considering other factors in the selection process necessary to fully protect the interests of the government.

(b) The evaluation of proposals submitted in response to the SCAP and the selection of award recipients shall be conducted as detailed below: (1) Proposals will be evaluated by a specially constituted evaluation panel established at each DCASR. The panel will be comprised of representatives from the DCASR offices of small business, contract management, comptroller, and other offices deemed appropriate by the DCASR Commander. However, the DCASR Associate Director of Small Business, who has been delegated the authority to execute the cooperative agreement, shall not serve as a panel member. A member of the Office of Counsel will be appointed on the panel, but shall serve in an advisory capacity only.

(2) Prior to making a comprehensive evaluation of a proposal, the evaluation panel shall make an initial evaluation to determine if the proposal contains sufficient technical, cost, and other information; has been signed by a responsible official authorized to bind the eligible entity and whether it generally meets all requirements of the SCAP. If the proposal does not meet those requirements, a comprehensive evaluation shall not be made. In such case, a prompt reply shall be sent to the proposer indicating the reason for its proposal not being acceptable. Revised proposals will not be accepted from applicants whose proposals are rejected after the initial evaluation unless the revised proposal is postmarked or is hand delivered prior to the closing date of the SCAP. Any proposal received which is unsigned will not be given additional review consideration and will be retained with other unsuccessful applications by the DCASR Associate Director of Small Business.

(3) The initial evaluation of acceptable proposals will include a review to verify the accuracy of the classification of the proposal concerning the entity's stated program status as existing or a new start. In the event the evaluation panel considers the proposal status misclassified, it will review the matter with the applicant. In the event of disagreement, the panel's determination of the applicant's classification shall be final and not subject to further review.

(4) Proposals which pass the initial evaluation phase will be subjected to a comprehensive evaluation. The basic purpose of the comprehensive evaluation is to assess the relative merits of the proposals to determine which offer the greatest likelihood of achieving the stated program objectives, considering technical, quality, personnel qualifications, estimated cost, and other relevant factors. Proposal evaluations shall consist of two steps. First, each proposal will be evaluated by the panel in accordance with stated criteria and ranked in order of excellence to determine which will best further specific program goals. Second, the Associate Director of Small Business will determine whether sufficient funds have been allocated to the DCASR to cover the DoD share of costs. All findings and recipient selections will be documented, signed, and retained to provide an adequate record to support the panel's decisions. Upon completion of its review, the evaluation panel will submit the panel results and its recommendations to the Associate Director of Small Business who will forward it to the HQ DLA Policy Council for review.

(c) The HQ DLA Policy Council will review the DCASR evaluation panels recommendations and submit the results of its review and its recommendations to the DCASR Commander for approval. In developing its recommendations the council may consider additional factors, such as the extent of geographic overlap among eligible entities, economic downturns in selected geographic areas resulting from base closures or terminations of major DoD contracts, and other factors necessary to fully protect the interests of the government.

(d) After approval by the DCASR Commander, the cooperative agreement will be executed by the DCASR Associate Director of Small Business.

6. Evaluation Criteria.

(a) The evaluation factors for an existing program and for a new start shall be specified in the SCAP, along with a narrative description of their relative importance.

(b) The following evaluation factors are listed in their order of relative importance and will be considered as the evaluation criteria for new starts: (1) The types and qualifications of personnel assigned or to be assigend to the program.

(2) The quality of the PTA Program.

(3) The number of clients in the geographic area being or to be serviced.

(4) The amount and percentage of total program costs to be shared by DoD.

(5) The level of unemployment in the area being or to be serviced.

(c) The evaluation criteria for an existing program will include factors 1,3,4, and 5 above, as well as the following factors: (1) The eligible entity's development, performance and effectiveness in conducting its PTA Program, including achievements against established goals. This factor will be given more weight than any other single factor during the evaluation of existing programs.

(2) The amount of subcontracting to private consultants. This factor will be given the least weight of any of the 6 factors applicable to an existing program.

(d) As this program applies both to existing PTA Programs and to those being planned, certain of these evaluation factors will be evaluated based upon stated implementation policy for programs being planned. For example, the types and qualifications of personnel assigned will require applicants that do not presently have established but are planning programs to identify the standards to be used in selecting the personnel.

(e) The amount of subcontracting to private consultants is limited to no more than 10% of total program costs for both existing programs and new starts. In evaluating this factor for existing programs the smaller the amount of such subcontracting the greater the weight that will be given. However, in the case of new starts, equal weight will be given to all offers, subject only to the 10% limitation.

7. DoD Funding.

(a) DoD Authorization and Appropriation Acts may authorize different amounts as the DoD share of costs to support the program each FY. Of the total amount authorized in any FY, a specific percentage is required to be allocated to support existing programs, with the balance being allocated to support new starts.

(b) Any funds authorized for the PTA program will be allocated approximately equally among the nine DCASRs to cover the DoD share of the PTA program cost for existing programs and for new starts. The SCAP will identify the total amount of funds authorized for the related FY, as well as the specific amounts of funds authorized for existing programs and new starts, and the amounts allocated to each DCASR.

(c) The SCAP will, as appropriate, also identify any funding being considered for the program in future years.

8. Cost Sharing Criteria and Limitations.

(a) This section sets for the policy on cost sharing by the Government under DLA Cooperative Agreements. Cost sharing is a generic term denoting any situation wherein the Government does not fully fund the participant's total allowable costs required to accomplish the defined project or effort. The term encompasses concepts such as cost participation, cost matching, cost limitations (direct or indirect), and participation in kind.

(b) The DoD share of program costs shall not exceed 50%, except in the case an eligible entity meets the criteria of a distressed area. When the prerequisite conditions to qualify as a distressed area are met, the DoD share may be increased to an amount not to exceed 75%.

(c) In no event shall the DoD share of program costs exceed $150,000 for any single proposal.

(d) Cost contributions may be to either direct or indirect costs, provided such costs are otherwise allowable in accordance with the cost principles applicable to the award. Allowable costs which are absorbed by the eligible entity as its share of costs may not be charged directly or indirectly or may not have been charged in the past to the Federal Government under other contracts, agreements, or grants.

(e) The SCAP will require applicants to submit an annualized estimated budget, which may include cash contributions, in-kind contributions, any fees and service charges to be earned under the program, and any other Federal Agency funding (including grants, loans, and cooperative agreements). The type and value of any in-kind contribution will be limited to no more than 25% of the total annual budget. However, any fees, service charges or Federal funds provided under another Federal financial assistance award, including loans (but not including loan guarantee agreements since these do not provide for disbursement of Federal funds) are not acceptable for calculating cost contributions of the eligible entity. The fees, service charges and other federal funds must be included in the annualized estimated budget. Inclusion of other federal funds is subject to the terms of the award instrument containing such funds or written advice being obtained from the Agency(s) authorizing such use. Any method used by the eligible entity in providing the required funds which relies upon Federal funds must be disclosed and identified in the eligible entity's proposal.

(f) In submitting its budget, an eligible entity that services, or plans to service clients exclusively in areas that qualify as distressed areas may submit a single budget and request a maximum of 75% DoD share of total program costs (TPC), subject to e. above. An entity that services or plans to service clients exclusively in nondistressed areas or in areas that include both distressed and nondistressed areas may submit a single budget and request a maximum of 50%. In those cases where the geographic area being or to be serviced includes both distressed areas and nondistressed areas, the budget may be divided based on a reasonable and logical distribution of TPC between these two discrete areas, and submitted as a single proposal. In such case, costs must also be divided betwen these two budget items as costs are incurred.

(g) Recipients of cooperative agreements shall be required to maintain records adequate to reflect the nature and extent of their costs and to insure that the required cost participation is achieved.

(h) The SCAP will also provided that indirect costs are not to exceed 100% of indirect costs.

(i) In the event the applicant charges or plans to charge a fee or service charge for PTA given to clients, or to receive any other income as a direct result of operating the PTA Program, the estimated amount of such reimbursement is to be clearly identified in the proposed budget and shall be included as part of the total budgeted costs.

(j) The Federal cost principles as stated in the regulations listed below will be used as guidelines to determine allowable costs in performance of the program: (1) OMB Circular A–21 for Educational Institutions.

(2) OMB Circular A–87 (FMC 74–4) Cost Principles for State and Local Governments.

(3) OMB Circular A–122. Cost Principles for Non-profit Organizations.

9. Administration.

(a) Cooperative agreements will be assigned to the cognizant DCASR for payment and for postaward administration by the Associate Director of Small Business.

(a) The Associate Director of Small Business at the cognizant DCASR will be responsible for periodically reviewing recipient performance, to include a review of budgeted versus actual expenditures, progress being made in meeting goals, compliance with certificates and representations, and other performance factors. The results of the periodic reviews will be furnished to the recipient.

(c) For eligible entities covered by OMB Circular A–102, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments, or OMB Circular A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations, the administrative requirements specified in those circulars will apply.

[FR Doc. 87–3579 Filed 2–20–87; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

Robert C. Byrd Honors Scholarship Program; Implementation of Proposed Procedures; Fiscal Year 1987

AGENCY: Department of Education.

ACTION: Notice of proposed procedures for implementing the Robert C. Byrd Honors Scholarship Program in Fiscal Year 1987.

SUMMARY: The Secretary proposes to implement the Robert C. Byrd Honors Scholarship Program (the Byrd Scholarship Program) in fiscal year 1987 in accordance with the provisions of the program statute (Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070d–31 *et seq.*), with certain exceptions. The exceptions are necessary in order to implement applicable statutory provisions enacted in the Fiscal Year 1987 Continuing Appropriations Act, Pub. L. 99–500 and Pub. L. 99–591. Because the Department has not issued specific regulations for this program, grant awards to the States for fiscal year 1987 will be governed by the General Education Provisions Act, the Education Department General Administrative Regulations, applicable provisions of the program statute, and the procedures proposed in this notice.

DATES: Comments must be received on or before March 25, 1987.

ADDRESSES: All written comments should be sent to Dr. Neil C. Nelson, Chief, State Student Incentive Grant Program (Room 4018, ROB#3), Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Neil C. Nelson, Telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION: Under the Byrd Scholarship Program, the Secretary makes available, through grants to the States, scholarships to outstanding high school graduates for the first year of study at institutions of higher education. In the Fiscal Year 1987 Continuing Appropriations Act, Congress appropriated $6 million for the Byrd Scholarship Program. Pursuant to the Continuing Appropriations Act, certain provisions of the program statute will not apply to the administration of the program in fiscal year 1987.

The Secretary proposes to establish the following procedures for fiscal year 1987 in order to implement, to the extent possible, the congressional intent conveyed in the Conference Committee Report on H.R. 5233, the Appropriations Act as reported out of conference, House Report 99–960. These procedures are necessary for the administration of those aspects of the program which, due to superseding statutory provisions in the Continuing Appropriations Act, are not governed by provisions of the program statute for fiscal year 1987.

1. The Secretary will allot to the States the funds appropriated for the Byrd Scholarship Program in fiscal year 1987 in accordance with the provisions of section 419D of the program statute, except that the amount allotted for scholarshp payments to each State will be $1,500 multiplied by the number of scholarships the Secretary has assigned to the State. The Secretary will assign to each State participating in the program the number of Byrd Scholarships which bears the same ratio to the total number of scholarships made available to all States as the State's school-aged population (ages five through seventeen) bears to the total school-aged population in all participating States, except that no State shall receive fewer than 10 scholarships. The population figures used to calculate the allotment of funds will be determined by the most recently available data from the United States Census Bureau.

2. States shall administer their fiscal year 1987 allotments under the Byrd Scholarship Program, for scholarships for academic year 1987–88, in accordance with the provisions of the program statute. However, due to the Continuing Appropriations Act, sections 419G(b) and 419I(a) of the program statute will not apply to the fiscal year 1987 appropriation. Thus, the Secretary proposes that States also administer their fiscal year 1987 allotments in accordance with the following procedures—

(a) Byrd Scholars shall be selected soley on the basis of a demonstrated outstanding acedemic achievement, promise of continued academic achievement, and the geographic consideration described in item 2(b) below.

(b) Byrd Scholars shall be selected in such a way that all parts of a State are fairly represented, and no part of the State has a disproportionate share of awards.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the procedures proposed in this notice. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4018, ROB–3, 7th & D Streets, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Authority: 20 U.S.C. 1070d–31 *et seq.*

(Catalog of Federal Domestic Assistance No. 84.145, Robert C. Byrd Honors Scholarship Program)

Dated: February 18, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–3759 Filed 2–20–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–C&E–87–07; OFP Case No. 50783–9334–01–12]

Order Granting to Detroit Edison Company Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a premanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Detroit Edison Company (Detroit Edison). The permanent exemption is based on lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on April 24, 1987.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal hoilidays.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–093, Washington, DC 20585, Telephone (202) 586–6769.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586–6947

SUPPLEMENTARY INFORMATION: On November 21, 1986, Detriot Edison petitioned ERA under section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas as the primary energy source for a water tube package-type boiler designed to produce steam at its River Rouge Power Plant in River Rough, Michigan. The unit for which the exemption is sought will be operated less than 1500 hours annually.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on December 18, 1986 (51 FR 45384), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on February 2, 1987; no comments were received and no hearing was requested.

Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined Detroit Edison has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent exemption to Detroit Edison, to permit the use of natural gas

as the primary energy source for its proposed auxiliary boiler located at their River Rouge Power Plant in River Rouge, Michigan.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC on February 12, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-3776 Filed 2-20-87; 8:45 am]

BILLING CODE 6450-01-M

Office of General Counsel

Intent to Grant Exclusive Patent License; Charles L. Chandler

Notice is hereby given of an intent to grant to Mr. Charles L. Chandler of Morgantown, West Virginia, an exclusive license under U.S. Patent No. 4,382,607, entitled "Steering System for a Train of Rail-less Vehicles," and counterparts in Canada, Great Britain, France, and West Germany. The invention is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed licenses; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on February 13, 1987.

J. Michael Farrell,

General Counsel.

[FR Doc. 87-3777 Filed 2-20-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-245-000 et al.]

Carolina Power & Light Company et al.; Electric Rate and Corporate Regulation Filings

February 13, 1987.

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Company

[Docket No. ER87-245-000]

Take notice that Carolina Power & Light Company ("Company") on February 6, 1987, tendered for filing a Contract, dated January 23, 1987, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration (SEPA) and Carolina Power & Light Company, which supersedes and cancels Rate Schedule FERC No. 125, for the transmission of power from a reservoir project in the Roanoke River Basin known as the John H. Kerr Dam and Reservoir (Kerr Project).

Under the provisons of the Contract, Company will receive from the Kerr Project approximately forty-two percent (42%) of the Project's total capacity of which 76,400 kilowatts is for delivery to SEPA's preference customers in Company's control area. Preference customers located within Company's control area but not served directly from Company's transmission and distribution system will receive 6,000 of these kilowatts. SEPA will make a monthly payment to Company for transmitting the power to the preference customers. Preference customers are any municipality or cooperative located within company's control area or any other public body determined by the Government to be a preference entity. A preference customers's point of delivery must be located within 165 miles of the interconnection point with Virginia Power at the Virgina-North Carolina State line. It is proposed that the Contract Submitted herewith to become effective at 12:01 a.m., on February 1, 1987.

Comment date: February 27, 1987, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER87-216-000]

2. The Dayton Power & Light Company

Take notice that on February 4, 1987, The Dayton Power and Light Company (DP &L) tendered for filing in this docket amendments to page 2 of the schedule C of the Agreement between DP&L and The City of Piqua, Ohio (Piqua). DP&L states in this filing that it is renewing its request for a waiver of noitce requirements so that the filing may become effective January 1, 1987.

Comment date: February 27, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER87-244-000]

Take notice that on February 4, 1987, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number one to St. Lucie Delivery Service Agreement between Florida Power & Light Company and Orlando Utilities Commission (OUC).

FPL states that Amendment Number One provides for the delivery of OUC's power and energy entitlements from FPL's St. Lucie Unit No. 1 and Unit No. 2 in those instances in which there are interruptions or reductions in the capability of the transmission systems of the parties.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed Amendment Number One be made effective February 1, 1987 to correspond with OUC's desire to perform extended maintenance of the OUC delivery point.

Comment date: February 27, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Tucson Electric Power Company

[Docket No. ER87-4-000]

Take notice that Tucson Electric Power Company ("Tucson") on February 6, 1987, tendered for filing a supplement of explanation and/or amendment to the Interchange Agreement between Tucson and State of California, Department of Water Resources ("DWR") originally tendered for filing on October 2, 1986, under Docket Number ER87-4-000. The primary purpose of that Agreement is to provide the terms and conditions

relating to the interconnection of the electrical systems of Tucson and DWR and the exchange of capacity, energy and non-firm transmission Service." The "compensation" to be paid to Tucson by DWR for non-firm transmission service under the Agreement shall not exceed one mill per kilowatt hour.

Tucson states that copies of the filing were served upon DWR.

Tucson hereby requests a waiver of the sixty-day notice period for the supplement so that the Agreement, as supplemented, will have an effective date of February 15, 1987.

Comment date; February 27, 1987, in accordance with Standard Paragraph E at end of this notice.

5. Utah Power & Light Company

[Docket No. ER87-247-000]

Take notice that on February 9, 1987, Utah Power & Light Company (UP&L) tendered for filing a Notice of Cancellation of the Loop Flow Agreement between the Western Systems Coordinating Council (WSCC) and its participating members and UP&L FERC Rate Schedule No. 129.

UP&L requests termination of said Agreement as of August 31, 1985, pursuant to its terms and also requests waiver of the notice requirements of 18 CFR § 35.16.

Copies of this filing have been served upon the Utah Public Service Company, the Idaho Public Utilities Commission, the Wyoming Public Service Commission and all of WSCC's participating members.

Comment date: February 27, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3753 Filed 2-20-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-4-51-000, 001]

Great Lakes Gas Transmission Co.; Filing

February 17, 1987.

Take notice that Great Lakes Transmission Company ("Great Lakes"), on February 9, 1987, tendered for filing Sixth Revised Sheet Nos. 57(i) and 57(ii) ot its FERC Gas Tariff, First Revised Volume No. 1.

Sixth Revised Sheet Nos. 57(i) and 57(ii) reflect changes in the gas purchase prices applicable to Michigan Consolidated Gas Company ("Mich Con"). The most significant price change is a reduction in the overrun rate, from $1.60 per MMBtu to $1.40 per MMBtu, which results from recent negotiations between TransCanada PipeLines Limited and Mich Con, which Great Lakes has been requested to implement. Other incidental price changes for Mich Con Result from application of indicies from agreements which have previously received regulatory approval. Effective February 1, 1987, for purchases up to 62.5% of daily contract quantity ("DCQ"), the price of the commodity component of the purchase gas cost of the rate changes from $1.96330 per MMBtu to $1,96460 per MMBtu; for purchases in excess of 62.5% DCQ up to 100% DCQ such price changes from $1.82420 per MMBtu to $1,82550 per MMBTU; and for purchases in excess of 100% of contract quantity such price change is from $1.60 per MMBtu to $1.40 per MMBtu.

Great Lakes requests wavier of the 30 day notice requirement of the Commission's Regulations and any other necessary waivers so as to permit the above tariff sheets to become effective as requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 24, 1987. 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. 87-3756 Filed 2-20-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-523-001 et al.]

Iroquois Gas Transmission System et al.; Natural gas certificate filings

February 13, 1987.

Take notice that the following filings have been made with the Commission:

1. Iroquois Gas Transmission System

[Docket No. CP86-523-001]

Take notice that on January 30, 1987, Iroquois Gas Transmission System (Iroquois), Two Enterprise Drive, Shelton, Connecticut 06484, filed in docket No. CP86-523-001 an amendment to its pending application filed in Docket No. CP86-523-000 pursuant to Section 7 of the Natural Gas Act and Subpart E of Part 157 of the Commission's Regulations for an optional expedited certificate of public convenience and necessity, so as to reflect revisions to its cost-of-service, rate structure, and FERC gas tariff, all as more fully set forth in the notice of amendment which is on file with the Commission and open to public inspection.

Iroquois states that the amendment (referred to as the "First Amendment") is occasioned principally by Iroquois' negotiation structure in order to conform the tariff and rates to the guidelines, including risk requirements, set forth by the Commission in its decision in *Great Lakes Gas Transmission Company, et al.*, Docket No. CP86-423-000, isssued December 22, 1986, (37 FERC ¶ 61,270). Iroquois asserts that the Commission's *Great Lakes* decision would preclude the use of a modified fixed-variable methodology in designing transportation reservation fees for optional expedited certificate (OEC) pipelines. It is stated that Iroquois' maximum reservation rates were originally designed on a modified fixed-variable basis; Iroquois thus now proposes to adjust its original rate design by shifting 100 percent of the equity portion of its depreciation charge into its maximum transportation commodity rate. Iroquois explains that it would therefore assume 100 percent of the risk of recovering the return on and of its investors' equity (as well as associated income taxes) through commodity charges.

Iroquois further states that, as a result of both changing economic conditions and negotiations with its non-investor shippers, Iroquois has reduced its proposed rate of return on equity for the project to 15.75 percent. It is stated that the revised *pro forma* rates also reflect a reduction in the projected cost of debt to 10.0 percent, due to declining interest rates. Iroquois asserts that, when service commences, the rates would reflect the actual debt costs incurred in financing the pipeline.

It is also stated that, as a result of the completion of Iroquois' October 1986 Final Environmental Report and a general review of its cost estimates, Iroquois' estimated construction and operating costs have been revised. The revised exhibits K and N included in the amendment reflect an increase in the length of the original route (by approximately thirteen miles) as a result of changes that were made for environmental reasons. The application also includes exhibits K, L, N, and P for Alternative 7 (the highest cost alternative route) in order to demonstrate a range of Iroquois' probable costs, rates, and revenues.

Iroquois further states that its *pro forma* rates have been reformulated to take into account the expected impact of the Tax Reform Act of 1986 and that its tariff has also been modified to include a tax bracket tracker of the type approved in *High Island Offshore System*, 32 FERC ¶ 61,164 (1985).

Iroquois proposes to revise the nomination of two of its shippers, the Brooklyn Union Gas Company (Brooklyn Union) and Consolidated Edison Company of New York, Inc. (Consolidated Edison). Iroquois asserts that the two distribution companies have agreed to shift 15,000 Mcf of natural gas per day from Brooklyn Union to Consolidated Edison, thus decreasing Brooklyn Union's nomination from 85,000 Mcf of natural gas per day to 70,000 Mcf of natural gas per day and increasing Consolidated Edison's nomination from 5,000 Mcf of natural gas per day to 20,000 Mcf of natural gas per day.

In addition, Iroquois proposes to add an eleventh gas distribution company, New York State Electric and Gas Corporation (NYSEG), as an Iroquois shipper with a nomination of 17,000 Mcf of natural gas per day of firm reserved service. Iroquois asserts that the transportation agreement with NYSEG, which is not an investor nor does it have any other affiliation with Iroquois, was negotiated at arm's length. Iroquois proposes to deliver these volumes, at NYSEG's request, at the point of interconnection between Iroquois and Algonquin Gas Transmission Co., Inc. (Algonquin) with an additional potential delivery point at an interconnection to be established with the facilities of Consolidated Gas Supply Corporation (Consolidated). Iroquois thus proposes to construct interconnect facilities for delivery points at the following points of interconnection:

Company	Point of interconnection
Consolidated	MP 178, Duanesburg, NY
Algonquin	MP 287, Southbury, CT

Iroquois states that its revised exhibit K includes these interconnect facilities. Iroquois further states that NYSEG has not yet concluded final arrangements for transportation of its volumes; however, it is expected that such arrangements will be completed expeditiously.

It is stated that Iroquois and St. Lawrence Gas Company (St. Lawrence), who is not an investor in Iroquois, have agreed to establish an interconnection between their two systems. Iroquois thus requests authority to establish a delivery point and to construct interconnect facilities with St. Lawrence at MP 7.8 Lisbon, New York. Iroquois avers that the primary purpose of the interconnection would be to provide access to a back-up transportation system in the event St. Lawrence experiences an emergency and that St. Lawrence has not sought to enter into an interruptible transportation contract with Iroquois and has not arranged for a gas supply to be transported by Iroquois.

Iroquois further states that the proposed delivery points have changed slightly due to the realignment of the route for environmental reasons. Iroquois thus requests authority to establish delivery points to the following companies at the respective points of interconnection:

Company	Points of interconnection
TransCanada PipeLines Limited.	MP 0.0, Waddington, NY
St. Lawrence Gas Company	MP 7.8, Lisbon, NY
Consolidated Gas Supply Corporation.	MP 178.0, Duanesburg, NY
Tennessee Gas Pipeline Company.	MP 181.0, Wright, NY
	MP 304.4, Stratford, CT
Algonquin Gas Transmission Co., Inc.	MP 287.1, Southbury, CT
The Connecticut Light and Power Company.	MP 276.5 + 26.9 mi., Farmington, CT
	MP 286.9, Roxbury, CT
	MP 300.2, Huntington, CT
Connecticut Natural Gas Corporation:	MP 276.5 + 26.9 mi., Farmington, CT
Southern Connecticut Gas Company.	MP 306.0, Chapel St., Stratford, CT
	MP 306.9 Milford, CT
Long Island Lighting Company.	MP 343.8, South Commack, NY

At the present time, Iroquois proposes to construct interconnect facilities for all delivery points except Waddington and Wright, New York, and Stratford, Connecticut. It is stated that exhibits G, G–I, and G–II reflect the revisions in volumes and delivery points.

The application describes the additional transportation agreements made by the four New Jersey shippers: New Jersey Natural Gas Company (New Jersey Natural), Public Service Electric and Gas Company (Public Service), Elizabethtown Gas Company (Elizabethtown), and South Jersey Gas Company (South Jersey). Iroquois states that deliveries for these four shippers would occur at the terminus of the Iroquois system at South Commack, New York. It is stated that New Jersey Natural, Public Service, and Elizabethtown are finalizing arrangements with Texas Eastern Transmission Corporation (Texas Eastern) for delivery of the volumes shipped on Iroquois to specified delivery points in New Jersey. Those arrangements would involve each of three shippers transferring title to their Iroquois volumes to Texas Eastern at South Commack with Texas Eastern in turn delivering equivalent volumes to the specified New Jersey delivery points. It is stated that, to effect this arrangement, Texas Eastern would establish South Commack, New York, as an additional delivery point to Brooklyn Union, Consolidated Edison, and Long Island Lighting Company (LILCO) (all of which are served by the New York Facilities System) pursuant to Texas Eastern's blanket certificate authorization issued in Docket Nos. CP86–378–000, *et seq.*, on December 19, 1986. It is further stated that the volumes delivered by the New Jersey shippers to Texas Eastern at South Commack would physically be delivered by Texas Eastern to the New York City customers that volumes otherwise destined for those New York City customers via the Texas Eastern mainline system would instead be delivered to the specified New Jersey delivery points. Iroquois states that this service would be rendered by Texas Eastern pursuant to additional authorization to be sought by Texas Eastern.

Iroquois states that no specific arrangements have yet been proposed for the delivery of South Jersey's Iroquois volumes from South Commack to its New Jersey delivery points. Iroquois explains that South Jersey is not presently served by Texas Eastern and is thus not in a position to participate in the arrangements made for the other New Jersey Iroquois

shippers. Iroquois states that various alternatives are under active consideration.

The application further states that Iroquois' projected level of reservations has been increased to 352,000 Mcf of natural gas per day in recognition of NYSEG's reservation of 17,000 Mcf of natural gas per day. Iroquois states that it has retained a projected 80 percent load factor in its rate design because the addition of NYSEG is not expected to improve the overall level of throughput. Iroquois asserts that NYSEG plans to utilize firm transportation service on the Iroquois system to develop a new, physically isolated service territory and that NYSEG is not expected to achieve more than a 40 percent load factor in the initial years of Iroquois' operation.

Iroquois states that, since the filing of Iroquois's tariff, the Commission has considered several Order No. 436 settlements and has clarified a number of the details involved in providing open-access transportation on a first-come, first-served basis. Iroquois states that, while its original tariff generally complies with the requirements of Order No. 436, Iroquois proposes a number of revisions to its tariff in order to conform it to the Commission's most recent decisions. It is stated that those revisions include reducing the minimum reservation fees to zero and clarifying that service is available to all classes of shippers, including, for example, producers. Iroquois also proposes to eliminate its proposed firm unreserved service.

Comment date: March 9, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP85–710–005]

Take notice that on February 6, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85–710–005, a Petition to Amend the Commission's Order of July 24, 1986, to permit a three-year extension of Northern's limited-term abandonment authorization, and the accompanying producer-suppliers certificates of public convenience and necessity to make or abandon sales for resale in interstate commerce.

Northern requests an extension of the term of such authorization until March 31, 1990, from the current termination date of March 31, 1987 as set by the Commission in its Order in Docket No. CP85–710–000, *et al.*, on July 24, 1986, and its January 28, 1987 order on rehearing.

Comment date: March 2, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Panhandle Eastern Pipe Line Company Trunkline Gas Company

[Docket No. CP87–174–000]

Take notice that on January 27, 1987, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), hereinafter referred to as Applicants, P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP87–174–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation service for Mid-Louisiana Gas Company (Mid-Louisiana), all as more fully set forth in application on file with the Commission and open to public inspection.

Applicants explain that the transportation service to be abandoned includes gas that Panhandle receives on behalf of Mid-Louisiana from Kansas-Nebraska Natural Gas Company, Inc. (K–N), at an existing point of interconnection between K–N and Panhandle in Dewey County, Oklahoma, and delivers to Trunkline in Douglas County, Illinois, for redelivery by Trunkline to Mid-Louisiana in Richland Parish, Louisiana.

Mid-Louisiana requested by letter dated May 1, 1986, that it wishes to terminate the transportation agreement with Applicants, effective May 3, 1987. The request for the termination is in accordance with Mid-Louisiana's tariff, it is asserted.

Applicants indicate that upon such authorization, each would cancel the appropriate Rate Schedules T–20 and T–27, respectively.

Comment date: March 6, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Texas Eastern Transmission Corporation

[Docket No. CP87–175–000]

Take notice that on January 27, 1987, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP87–175–000 an application pursuant to section 7(b) of the Natural Gas Act for authorization of partial abandonment of natural gas purchases from United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authority to reflect the contractual reduction of the Maximum Daily Quantity (MDQ) under the October 28, 1985, service agreement pursuant to United's Rate Schedule PL–N. Specifically, Applicant seeks to reduce its MDQ from 500,000 Mcf of natural gas per day to 400,000 Mcf of natural gas per day effective November 1, 1987, and to reduce its minimum billing demand from 477,000 Mcf of Natural gas per day to 300,000 Mcf of natural gas per day. United was authorized to sell this gas to Applicant by a Commission order issued on September 30, 1985, in Docket No. CP85–368–000 (32 FERC ¶ 61,477). Applicant states that Paragraph 2 of an October 25, 1985, Letter Agreement provides that United or Applicant may exercise its right to reduce the MDQ and either party may make the appropriate filings with the Commission. The current service agreement provides United sales authority at nine points in Louisiana, Texas, and Mississippi, it is stated. Applicant further states that on October 14, 1986, it gave written notice to United that Applicant wanted to reduce its MDQ by 100,000 Mcf of natural gas per day. In this notice Applicant informed United that if United did not make the appropriate filings by December 1, 1986, Applicant would make such filings. Applicant also states that no facilities would be abandoned.

Comment date: March 6, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filling 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3755 Filed 2-20-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-252-000 et al.]

Vermont Electric Power Company, Inc., et al.; Electric rate and corporate regulation filings

February 18, 1987.

Take notice that the following filings have been made with the Commission:

1. Vermont Electric Power Company, Inc.

[Docket No. ER87-252-000]

Take notice that on February 11, 1987, Vermont Electric Power Company (VELCO) tendered for filing a change in rate under FERC Rate Schedule No. 10 and FERC Rate Schedule No. 236.

VELCO states that these rate changes are provided for in Paragraph 5 of FERC Rate Schedule No. 10 and Article IV of FERC Rate Schedule No. 236.

VELCO further states that the percentage rate used in computing montly charges from 18.31% to 19.72%.

VELCO requests that the effective date for the proposed change in rate be January 1, 1987.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Power Service Corporation

[Docket Nos. ER87-188-000, ER87-189-000, ER87-192-000, ER87-193-000, ER87-194-000, ER87-195-000 and ER87-196-000]

Take notice that on February 9, 1987, Allegheny Power Service Corporation (APS) tendered for filing additional information concerning various modifications of APS Interconnection Agreement filings.

Copies of this additional information have been served upon appropriate regulatory authorities of Maryland, Ohio, Pennsylvania, Virginia and West Virginia.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Appalachian Power

[Docket Nos. ER87-105-002 and ER87-106-002]

Take notice that in compliance with the Commission's order issued January 13, 1987 in these consolidated dockets (38 FERC ¶ 61,010), on February 12, 1987, Appalachian Power Company (APCO) tendered for filing two sets of revised rates for its Electric Service Rate Schedule FPC No. 23 applicable to service to Kingsport Power Company and for its FERC Rate Schedules for service to its twenty-three wholesale customers in the States of Virginia and West Virginia. The revised rates and related cost-of-service statements have been filed to recognize the Commission's ratemaking policy of using a split rate of a 46% Federal income tax rate for rates collected June 30, 1987 and a 34% Federal income tax rate for rates collected after that date. As part of its filing APCO has requested that the LEVEL B rates which are based upon a 34% tax rate be made effective January 1, 1988.

Copies of the filing were served upon Kingsport Power Company and APCO's jurisdictional customers and the Virginia State Corporation Commission and the Public Service Commission of West Virginia and the Tennessee Public Service Commission.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER87-93-001]

Take notice that on February 2, 1987, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) tendered for filing a response to the Commission deficiency letter, issued to CPL and WTU on January 9, 1987.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corporation

[Docket No. ER87-212-000]

Take notice that on February 2, 1987, Central Vermont Public Service Corporation tendered for filing a Certificate of Concurrence to be attached to the rate schedule previously filed in the above-captioned Docket.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Dayton Power and Light Company

[Docket No. ER87-216-000]

Take notice that on February 4, 1987, Dayton Power and Light Company (DP&L) tendered for filing a revision to Service Schedule C-Emergency Service of the Agreement between DP&L and the city of Piqua, Ohio (Pigua). DP&L states that this revision changes the demand charge stated in section 2.2 from 2.16 mills per kilowatt hour to 2.00.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER87-167-000]

Take notice that Illinois Power Company ("the Company") on February 12, 1987 tendered for filing certain changes in the following rate schedule which was previously filed with the Commission on December 15, 1986.

Rate Schedule FERC No. 100, Partial Requirements Wholesale Service Agreement applicable to the City of Highland.

The revised language clarifies the provisions of section 3(c) Rates and Charges of Exhibit A, Wholesale Electric Service Schedule, as it pertains to the purchase of Excess Energy by the City of Highland and section 2(a) of Exhibit D, Supplemental Interruptible Electric Service.

The Company proposes the increased rates become effective on September 1, 1986 as agreed to by the Company and the City of Highland, and the Company requests that the Commission grant a waiver of its notice requirement pursuant to § 35.11 of the Commission's Regulations.

Copies of this filing were served upon the City of Highland and the Illinois Commerce Commision, Springfield, Illinois.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Iowa Electric Light and Power Company

[Docket No. ER87-249-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on February 10, 1987, tendered for filing proposed changes in its FERC Electric Service Tariff, Original Volume I. The proposed changes would increase revenues from jurisdictional sales and service by $999,469, based on the 12-month period ending December 31, 1985.

A revision to the definition of Production Billing Demand is proposed. Filing requirements are submitted under § 35.13(a)(2) of the Commission's Rules and Regulations.

Iowa Electric states that, under rates currently in effect, its overall rate of return realized from service to its resale customers is inadequate and below the level of the FERC generic bench mark. The proposed rates are designed to enable Iowa Electric to increase earnings by $994,469 based on calendar year 1985.

Copies of the filing were served upon the public utility's jurisdictional customers and the Iowa State Utilities Board.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER82-410-000]

Take notice that on February 9, 1987, New York State Electric & Gas Corporation tendered for filing a compliance report responding to orders conveyed in Opinion No. 254.

Comment date: March 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3754 Filed 2-20-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Period of January 12 Through January 23, 1987

During the period of January 12 through January 23, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application 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 this proposed decision and order 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.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

February 12, 1987.

Kelley Williamson Company, Rockford, Illinois; KEE-0089, Reporting Requirement

Kelley Williamson Company filed and Application for Exception from the reporting requirements of the EIA. If granted, the firm would no longer be required to file Form EIA-782B. In considering the exception request, the DOE determined that the firm had not shown that the filing requirement imposed and inordinate burden. Accordingly, on January 21, 1987, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-3774 Filed 2-20-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of January 12 Through January 30, 1987

During the week of January 26 through January 30, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application 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 this proposed decision and order 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.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

February 12, 1987.

Waldo Oil Company, Waldo Wisconsin; KEE-0104, Reporting Requirements

Waldo Oil Company filed for relief from the requirements to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The firm argued that it is too small to be relevant for EIA's statistical analysis concerning oil distribution in Wisconsin, and that none of its competitors are required to file the Form. The Office of Hearings and Appeals of the Department of Energy determined, however, that Waldo had not met the standards for exception relief. The OHA found that neither Waldo's size for the possibility that none of

its competitors is required to file the Form establishes that Waldo was more burdened by the reporting requirement than similar firms. Consequently, on January 27, 1987 the OHA issued a Proposed Decision and Order to deny Waldo's request for relief.

[FR Doc. 87-3775 Filed 2-20-87; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-3159-3]

Assessment of Copper as a Potentially Toxic Air Pollutant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of copper assessment results and solicitation of information.

SUMMARY: This notice announces the results of EPA's assessment of copper as a candidate for regulation under the Clean Air Act (CAA). The Agency has concluded that the health data for copper is insufficient to determine its carcinogenic, mutagenic, or teratogenic potential following inhalation exposures. Adverse respiratory effects have been associated with inhalation exposure to copper dusts and mists. Similarly, exposure to total particulate matter, which may or may not contain copper, has been associated with adverse respiratory effects. Primary national ambient air quality standards (NAAQS) have been established to protect the general public from such adverse respiratory effects; and, regulations exist to control particulate emissions in order to attain the NAAQS. Therefore, no regulation under the CAA directed specifically at controlling emissions of copper is appropriate at this time.

Given the limited opportunity for public review of the health and exposure information incorporated in this notice, the Agency is soliciting comment and information pertinent to the determination made today. A further notice will be published only if public comments or additional information suggest a need to revise EPA's present conclusion. This finding has no effect on the regulation of copper as particulate matter to attain the NAAQS for particulate matter. In addition, this notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of copper.

DATES: Written comments pertaining to this notice must be received on or before May 26, 1987.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-86-14, 401 M Street, SW., Washington, DC 20460.

Availability of related information: Information on the availability of the document "Summary Review of the Health Effects Associated with Copper: Health Issue Assessment," EPA 600/8-87/001, can be obtained from ORD Publications, CERI-FR, U.S. Environmental Protection Agency, Cincinnati, OH, 45268 (Telephone: 513-569-7562). The above document and other information on the sources, emissions, and environmental fate of copper are summarized in several reports which are found in Docket No. A-86-14. Docket No. A-86-14 is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Robert M. Schell, Pollutant Assessment Branch (MD-12), Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (Telephone: 919-541-5645/commercial; 629-5645/FTS).

SUPPLEMENTARY INFORMATION: The EPA initiated an assessment of copper (Cu) based on the large production volume and the potential for adverse health effects associated with exposure to copper in ambient air. In the course of this assessment, the Agency collected relevant information currently available and today's notice provides a summary of this information on the following topics: production and uses, emissions, health effects, monitored ambient air concentrations, and exposure and risk estimates.

Production and Uses

In 1981, United States copper production was approximately 1.5 million metric tons, an estimated 0.76 million metric tons were imported, and approximately 0.60 million metric tons were refined from old scrap (EPA, 1985a). Copper metal and copper products are used in a variety of applications including electrical equipment and supplies, construction materials, machinery, etc. (EPA, 1985a).

Sources and Emissions

Copper is emitted to the ambient air from a variety of sources. Table 1 presents a summary of source categories which emit copper and their estimated emissions (EPA, 1985a). The emission ranges that are presented indicate the large variability of estimates in the data found in the literature. In addition to the anthropogenic sources listed in Table 1, copper is naturally emitted, with windblown dusts as the primary natural source of copper. Based on the available information, primary copper smelters and ore processing facilities appear to be the largest sources of anthropogenic air emissions of copper.

TABLE 1.—SOURCES AND EMISSIONS OF ATMOSPHERIC COPPER[1]

Source category	[2]Estimated copper emissions to the atmosphere (Mg/year)
Primary copper smelters	45-6,000[3]
Copper and iron ore processing	480-660
Iron and steel production	110-240
Combustion sources	45-360
Municipal incineration	3-270
Secondary copper smelters	160
Miscellaneous [4]	100-510
Total	940-8,200 Mg/year

[1] EPA, 1985a.
[2] A number of emission estimates were available to the Agency and this column reflects the range of estimates.
[3] Most probable emission estimate is 2,100 Mg/year.
[4] Includes copper mining and milling, gray iron foundries, miscellaneous copper metals and alloys, and miscellaneous copper chemicals and products.

Health Effects

The Agency has prepared a document entitled "Summary Review of the Health Effects Associated with Copper: Health Issue Assessment" (EPA, 1986a) which discusses the relevant data available for assessing the health effects associated with exposure to copper and some copper-related compounds in the ambient air. Its contents are summarized below.

Copper is an essential element required for proper nutrition. It is distributed throughout the body and may accumulate in the liver, serum, brain, or kidneys. Following environmental exposure to copper, absorption may occur via the gastrointestinal or respiratory tracts. The highest rates of absorption occur in the gastrointestinal tract following oral exposures (32-70 percent for adults; 42-85 percent for children, 3-6 years of age). It is estimated that only 20 percent of inhaled copper is eventually absorbed by the human lung. Another 20 percent is estimated to be retained in the lung tissue. An unknown percent of this may be cleared via respiratory transport mechanisms, swallowed, and possibly absorbed through the gastrointestinal tract. Dermal absorption of copper is though to be a minor pathway as very little copper is absorbed through the skin.

Experiments designed to evaluate the carcinogenicity and mutagenicity of copper compounds in animals have

produced equivocal results. Some short-term *in vitro* mutagenicity assays have indicated that certain copper salts may have characteristics suggestive of carcinogenicity, however, to date, bioassays that have been conducted show no evidence of animal carcinogenesis. EPA's Carcinogen Assessment Group (CAG) has concluded that the overall weight-of-evidence for copper suggests that data are not sufficient to determine its carcinogenic potential. Therefore, based on EPA's Guidelines for Carcinogen Risk Assessment (EPA, 1986b), CAG has classified copper in Group D (not classifiable as to human carcinogenicity).

Copper can cross the placental barrier and be absorbed by the fetus. Animal studies to evaluate the teratogenic potential of copper indicate limited positive evidence of teratogenicity in two rodent species following exposure to certain copper salts via oral, intravenous, and intraperitoneal routes of administration. A deficiency in copper has also been observed to produce teratogenic responses in many animal species.

Two subchronic inhalation studies in rabbits exposed to 60 μg Cu/kg/day as copper chloride ($CuCl_2$) for 28–42 days indicated a statistically significant increase in alveolar type II cells in one study and no change in lung lysozyme levels in the second study. These studies only involved examination of tissues directly exposed to copper chloride and no further analysis was conducted to assess systemic toxicity which might result from inhalation exposure.

A chronic inhalation toxicity study to evaluate the effects on guinea pigs exposed to air saturated with Bordeaux mixture (1.5% copper sulfate neutralized by hydrated calcium carbonate), a compound used to prevent the development of mildew on grapevines, 3 times/day for 6.5 months (duration of each exposure was not reported), revealed micronodular lesions and small histiocytic granulomas upon examination of the lungs. Only a small number of animals were tested and a daily copper exposure level cannot be derived from the information reported. Also, the contribution of calcium carbonate to the formation of these lesions cannot be assessed with present data.

Adverse health effects associated with occupational exposures to airborne copper fumes, dusts, or mists are primarily manifested by respiratory and dermatologic symptoms. Copper fumes as well as fumes of many other heavy metals have been shown to cause an acute illness called metal fume fever in workers exposed to high concentrations of metallic fumes in confined occupational settings. This condition is typically characterized by influenza-like symptoms (e.g., fever, stuffiness of the head, sensations of chills or warmth, and general aches and pains). A similar condition has been reported in workers exposed to fine dusts containing copper (120 μg Cu/m^3, unspecified exposure time, assumed less than 24 hours) and copper oxide and copper acetate dusts (unspecified concentrations and exposure times).

Chronic occupational exposure to dusts and mists of copper salts may result in irritation of the nasal mucous membranes and the pharynx. Additional effects observed following chronic industrial exposures to copper include contact dermatitis (rare occurences), mild anemia (600–1000 μg Cu/m^3, averaged over several months), and vineyard sprayer's lung. This latter condition has been reported in vineyard sprayers exposed to Bordeaux mixture. Dyspnea, weakness, decreased appetite, weight loss, radiographic lung opacities and copper deposits in the lungs have been reported in patients with vineyard sprayer's lung.

Monitored Ambient Concentrations

Data contained in the EPA's National Aerometric Data Bank indicate the highest annual average concentration of copper monitored is approximately 7.2 μg/m^3(Faoro, 1986). additional information in the literature show annual atmospheric copper concentrations in remote locations range from 0.01–12 ng/m^3; in rural locations from 5–50 ng/m^3; and from 30–200 ng/m^3 in urban and suburban areas (EPA, 1986a). The highest available ambient air concentration of copper measured for a 24-hour period was approximately 100 μg/m^3 located within one-half mile of a major point source (Raisch, 1985, Faoro et al., 1986).

Exposure Estimates

Estimates of long-term human exposure to atmospheric copper emitted from representative facilities for each source category identified in EPA's source assessment for copper (EPA, 1985a) were calculated using the Human Exposure Model (HEM). The HEM estimated concentrations to which populations living within 50 kilometers of specific sources may be exposed. As indicated in Table 1, a broad range of emission estimates were available for sources emitting copper to the atmosphere. For all sources, the maximum reported emission estimates were used in the modeling exercise. The results of these modeling analyses indicated a maximum annual copper concentration of 30 μg/m^3 (Hassett, 1987).

In order to assess the potential for adverse non-cancer health effects from short-term exposure to copper, a conservative screening modeling analysis was performed using time-adjusted most probable annual emission rates for two primary copper smelters. Worst case assumptions for source location, meteorological conditions and terrain effects were applied. The highest predicted concentrations, however, would exceed the 24-hour primary NAAQS for particulate matter by greater than one order of magnitude. While available monitoring data for particulate matter indicate that there are exceedances of this standard in the vicinity of copper smelters, actual total particulate matter measured (containing copper as well as other particulates) do not confirm ambient concentrations as high as those predicted by the screening technique (Hassett, 1987).

Existing Regulations

Particulate matter, which may or may not contain copper, has been associated with an increased incidence of adverse respiratory effects in both occupationally-exposed people and in the general public. An analysis of the health effects associated with exposure to particulate matter and the concentrations required to elicit these effects is contained in the EPA staff paper (EPA, 1982a) and the criteria document on particulate matter (EPA, 1982b). Primary NAAQS have been established under section 109 of the CAA to protect the general public from adverse respiratory effects for both short-term (24-hours) and long-term (annual) exposure periods. These levels are 260 μg/m^3 and 75 μg/m^3, respectively. The NAAQS for particulate matter are presently undergoing review and the Agency has proposed changes to the primary (health-based) standards that would focus on particles having diameters of less than or equal to 10 microns (PM_{10}) (EPA, 1984).

The National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration and the American Conference of Governmental Industrial Hygienists (ACGIH) have adopted regulations or have made recommendations for an occupational time weighted average level of 1 μg/m^3 for copper dusts and mists. This level is designed to protect the average healthy worker that may be repeatedly exposed to copper, day after day, from adverse health effects (ACGIH, 1986).

The Office of Drinking Water has recommended a one day health advisory based on acute toxicity of 1.3 mg copper/liter of drinking water and proposed a recommended maximum contaminant level (RMCL) at the same level to protect against adverse gastrointestinal effects (EPA, 1985b). A secondary drinking water standard of 1 mg/liter adopted for organoleptic reasons currently exists. Copper and some copper compounds are currently listed as hazardous substances under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Further, under section 101(14) of CERCLA, Reportable Quantities (RQs) are established for substances specified in the CERCLA, as well as substances listed or designated under certain sections of the Clean Water Act, CAA (section 112), the Resource Conservation and Recovery Act and the Toxics Substances Control Act (EPA, 1985c). Section 103(a) of the CERCLA requires that any release to the environment (including the air) in any 24-hour period that is equal to or greater than 5000 pounds for copper, 10 pounds for cupric chloride, 10 pounds for cupric sulfate, 100 pounds for cupric tartrate, 10 pounds for copper cyanide, 100 pounds for copper acetate, 100 pounds for cupric acetoarsenite, 100 pounds for cupric nitrate, 100 pounds for cupric oxalate, and 100 pounds for cupric sulfate ammoniated (EPA, 1985c; EPA, 1986c) must be reported to the National Response Center (NRC) (telephone 800–414–8802 or 202–426–2675 for the Washington, DC metropolitan area). The 24-hour period refers to the period within which a reportable quantity of a hazardous substance is released in order for the release to be considered reportable; it does not refer to the time available for a person to report a release. Such reporting must occur immediately.

Conclusions

The Agency concludes that the data available at this time are insufficient to indicate health concerns that require further regulation of copper emissions under the Clean Air Act. Target levels identified for protection against adverse respriatory effects associated with exposure to copper were the primary NAAQS for particulate matter. These levels were selected on the basis that the respiratory effects elicited by particulate matter containing or not containing copper are equivalent. As indicated previously, the particulate matter NAAQS are currently undergoing review. Proposed changes to the primary (health-based) standards focus on PM_{10}. Available ambient monitoring data indicate that the mass median diameter (MMD) of copper particles ranges from <0.4–10 μm with an average MMD of 1.3 μm (EPA, 1986a). Therefore, when standards for PM_{10} are promulgated, the levels identified to protect public health will still be appropriate for protecting against adverse effects associated with exposure to copper.

Protective levels were not identified for metal fume fever. Available information indicates that metal fume fever is an acute occupational hazard confined to the immediate work place. It is associated with exposure to fumes or fine dusts of many heavy metals (e.g., copper, zinc, manganese) which are generated during certain work practices (e.g., welding or cutting metals, galvanizing iron). Metal fume fever is a transitory acute effect and appears to be more a function of the physical form(s) of a metal rather than a specific metal. One study associated fine dusts containing copper at a short-term concentration (duration unspecified, assumed less than 24 hours) of 120 $\mu g/m^3$ with mild metal fume fever-like symptoms in three individuals. Due to the limited number of air samples collected, the limited number of individuals studied, and simultaneous exposure to other compounds, this data does not permit broad generalizations about the toxicological aspects of fine, airborne dusts containing copper (Gleason 1968). In a review of occupational exposures to copper, ACGIH acknowledged this study but concluded that the weight-of-evidence did not support lowering their current occupational level (1 mg/m^3, for hours) (ACGIH, 1986). Consequently, the 120 ug/m^3 concentration was not considered sufficiently reliable to use as an effect level for purposes of this analysis. As noted above, the most appropriate benchmark for this decision on copper was judged to be the NAAQS for particulate matter.

Given the findings presented here, the long-term (annual) copper concentrations measured or estimated to be present in the ambient air are below the non-cancer health effects levels associated with exposure to copper. In contrast, the concentrations predicted from the short-term modeling exercise indicate a potential cause for concern, since these concentrations exceed the 24-hour primary NAAQS for particulate matter. Criteria air pollution control programs have been established to control particulate matter emissions in order to attain the NAAQS for particulate matter in all areas. Appropriate revisions to these plans will be made once the NAAQS revisions for particulate matter are promulgated. Copper, as particulate matter, is controlled under these efforts. Therefore, Federal regulatory activity specifically directed at regulating copper under the CAA is not warranted at this time. This present conclusion has no effect on the regulation of particulate matter, which may include copper.

The EPA invites comments and submission of information pertinent to the determination made today. A further notice will be published if public comments or other additional information suggest a need to reevaluate today's findings and revise EPA's present conclusions.

Dated: February 10, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

References

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Reportable Quantity Adjustments; Final Rule. September 29, 1986. 51 F.R. 34534.

Faoro, R.B. (1986). Personal communication R. B. Faoro, U.S. EPA, Office of Air Quality Planning and Standards, Monitoring and Data Analysis Division, with B. Hassett. Ambient copper monitoring data. September 10, 1986.

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Gleason, R. C. (1968). Exposure to Copper Dust. Journal of the American Industrial Hygienists Association. Vol. 29, p. 461.

Hassett, Beth M. (1987). Memorandum to the Files. Copper Exposure and Risk Analysis. January 6, 1987.

Raisch, Bob (1985). Letter from Bob Raisch, Supervisor, Operations Section, State of Montana to John Vandenberg, Office of Air Quality Planning and Standards. Ambient copper monitoring data. November 25, 1985.

[FR Doc. 87–3720 Filed 2–20–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3158–9]

Meeting of the Advisory Committee Negotiating the Hazardous Waste Injection Restrictions Rulemaking

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of an open two day meeting of the Advisory Committee negotiating Hazardous Waste Injection Restrictions.

The meeting will be held on Monday and Tuesday, March 9 and 10, 1987, at the Conservation Foundation, 1255 23rd Street, NW., First Floor Library, Washington, D.C. On both days the meeting will start at 9:30 a.m. and will run until completion. The purpose of the meeting is to continue working on the substantive issues which the Committee has identified for resolution.

If interested in more information, please contact Kathy Tyson at (202) 382–5479.

Dated: February 12, 1987.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 87–3721 Filed 2–20–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3159–2]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a meeting of the Lead Benefits Analysis Subcommittee of the Clean Air Scientific Advisory Committee of the Science Advisory Board. The meeting will be held on March 10, 1987 at the U.S. Environmental Protection Agency, Room 1103 West Tower, 401 M Street, SW., Washington, DC 20460. The meeting will begin at 9:30 a.m. and adjourn at approximately 5:00 p.m.

The purpose of the meeting is for the Subcommittee to review EPA's lead benefit valuation methodology as presented in the document *Methodology for Valuing Health Risk of Ambient Lead Exposure*, December 1986 (Draft), and to provide its advice to the Agency on the following issues, among others: (1) the valuation of changes in health endpoints, (2) presentation of the uncertainty in the benefits estimates, and (3) appropriateness of the benefit category aggregation procedures.

For further information and copies of the draft EPA Document, please contact: Dr. David McLamb, U.S. EPA, Office of Air Quality Planning and Standards (MD–12), Economic Analysis Branch, Research Triangle Park, NC 27711, (919) 541–5611. Written comments may be submitted to Dr. McLamb at the above address until March 20, 1987.

The meeting is open to the public, however, due to the size of the conference room, seating is very limited. Persons wishing to attend must contact Mr. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board (A–101F), U.S. EPA, 401 M Street, SW., Washington, DC 20460 (202) 382–2552, prior to the meeting to be assured of seating. Opportunity will be provided for members of the public to make brief oral statements concerning the document. Persons wishing to make statements at the meeting must contact Mr. Flaak no later than close of business on March 4, 1987 to obtain space on the agenda. Written statements of any length may be submittee to Mr. Flaak up to the day of the meeting. These oral and written statements will be considered by the Subcommittee in preparing its report to the Agency. The Subcommittee will not accept comments after March 10, 1987, however, comments may still be submitted to the Agency until March 20, 1987. The Agency will consider the Subcommittee report and the public comments in its revision of the document.

Dated: February 13, 1987.

Dr. Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87–3722 Filed 2–20–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

February 13, 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: 3060–0323

Title: Section 97.36(c), Reimbursement for expenses

Action: Extension

Respondents: Volunteer examiners and volunteer examiner coordinators

Frequency of Response: Annually

Estimated Annual Burden: 3,500 Respondents; 3,500 Recordkeepers; 42,585 Hours

Needs and Uses: The Commission uses volunteer examiners and volunteer examiner coordinators to administer examinations to applicants for amateur radio licenses. Volunteer examiners or volunteer examiner coordinators seeking reimburement for expenses incurred in preparing, processing, or administering examinations must keep records of their expenditures. They must also certify annually to the Commission that all expenses for which they were reimbursed were necessary and prudent. These requirements are necessary to prevent fraud and abuse in the volunteer examination program.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–3730 Filed 2–20–87; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-REP-5-IL-7]

Illinois Plan for Radiological Accidents (Volumes I and VII)

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of plan.

SUMMARY: For operation of nuclear power plants, the Nuclear Regulatory Commission requires approved license and State and local governments' radiological emergency response plans. Since FEMA has the responsibility for reviewing the State and local government plans, the State of Illinois has submitted its plan for radiological accidents to the FEMA Regional Office. Volumes I and VII of this plan provide the required offsite emergency response to an accident at the Braidwood Nuclear Power Station location in Will County, Illinois, which impacts on Will, Grundy and Kankakee Counties within the State of Illinois.

DATES:

Date Plans Recieved: January 26, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Connor, Acting Regional Director, FEMA Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois, 60606, (312) 353–1500.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for emergency response plans, FEMA Rule 44 CFR 350.12 (FEMA Headquarters Review and Approval) describes the procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to the Rule, the Illinois Plan for Radiological Accidents (Volumes I and VII) were received by FEMA Region V. Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zone. For the Braidwood Nuclear Power Station, plans are included for Will, Grundy and Kankakee Counties.

Copies of the plans are available for review at the FEMA Region V Technological Hazards Branch, Natural and Technological Hazards Division, 300 South Wacker Drive, 24th Floor, Chicago, Illinois, 60606. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in FEMA Rule 44 CFR 5. There are 292 pages in Volume I and 718 pages in Volume VII of the document; reproduction fees are $.10 a page payable with the request for copy. Comments on the Illinois Plan for Radiological Accidents (Volumes I and VII) may be submitted in writing to Mr. Robert E. Connor, Acting Regional Director, at the above address within thirty days of this Federal Register Notice.

FEMA Rule 44 CFR 350.10 calls for a public meeting prior to approval of the plan. A public meeting will be held on the Illinois Plan for Radiological Accidents for the Braidwood Nuclear Power Station on May 20, 1987, at 7:00 p.m., at the Reed-Custer High School, 225 Conet Drive, Braidwood, Illinois.

Dated: February 6, 1987.

Robert E. Connor,

Acting Regional Director.

[FR Doc. 87–3700 Filed 1–20–87; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.: 2587
Name: M.I.T. Shipping Incorporated
Address: 22706 Aspan Street, #307, Lake Forest, CA 92630
Date revoked: December 17, 1986
Reason: Failed to maintain a valid surety bond

License No.: 1494
Name: Jetero International Services, Inc.
Address: P.O. Box 60612 AMF, Houston, TX 77205
Date revoked: December 18, 1986
Reason: Failed to maintain a valid surety bond

License No.: 1652
Name: Osborne International, Inc.
Address: P.O. Box 52370, Houston, TX 77052
Date revoked: January 5, 1987
Reason: Requested revocation voluntarily

License No.: 29
Name: Berry & McCarthy Shipping Co., Inc.
Address: 1350 Marin Street, San Francisco, CA 94124
Date revoked: January 9, 1987
Reason: Requested revocation voluntarily

License No.: 2721
Name: ABCO Freight Forwarders, Inc.
Address: 7371 N.W. 54th Street, Miami, FL 33166
Date revoked: January 10, 1987
Reason: Failed to maintain a valid surety bond

License No.: 1398
Name: Wilson Shipping, Incorporated
Address: 5702 Saxon Drive, Houston, TX 77092
Date revoked: January 12, 1987
Reason: Requested revocation voluntarily

License No.: 2930
Name: World Shipping Inc.
Address: 316 Main Street, East Rutherford, NJ 07073
Date revoked: January 14, 1987
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87–3689 Filed 2–20–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

February 17, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTRACT: Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822).

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–6880).

Approval under OMB delegated authority of the extension without revision of the following reports:

1. *Report title:* Application for Employment with the Board of Governors of the Federal Reserve System:

Agency form number: N.A.
OMB Docket number: 7100–0181
Frequency: On occasion
Reporters: Individuals

Small businesses are not affected.

General description of report:

This information collection is required to obtain a benefit [12 U.S.C. 244 and

248(1)] and is given confidential treatment [5 U.S.C. 552a and 552(b)].

Form is used to seek benefit of employment with the Board of Governors of the Federal Reserve System.

2. *Report title:* Request for Proposal; Request for Price Quotations:

Agency form number: N.A.
OMB Docket number: 7100–0180
Frequency: On Occasion
Reporters: Venders, suppliers

Small businesses are affected.

General description of report:

This information collection is required to obtain a benefit [12 U.S.C. 244] and is not given confidential treatment, unless requested otherwise by the respondent.

Forms are used for obtaining competitive proposals/contracts for procurement of goods and services and sale property. These requirements are prapared is correspondence format:

Board of Governors of the Federal Reserve System, February 17, 1987.

William W. Wiles,

Secretary of the Board

[FR Doc. 87–3675 Filed 2–20–87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N–0240; DESI 12836]

Dipyridamole; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) amends a notice of opportunity for hearing which proposed to withdraw approval of new drug applications for drug products containing dipyridamole. As amended, the proposal names sixteen more products.

EFFECTIVE DATE: February 23, 1987.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drugs and Biologics (HFN–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 15, 1987 (52 FR 1663), FDA revoked the temporary exemption that has allowed drug products containing dipyridamole to remain on the market beyond the time limits scheduled for implementation of the Drug Efficacy Study. FDA reclassified the drug to lacking substantial evidence of effectiveness for long term therapy of chronic angina pectoris, proposed to withdraw approval of the new drug applications insofar as they provide for the indication reclassified to lacking substantial evidence of effectiveness, and offered an opportunity for a hearing on the proposal.

The notice listed products that had been permitted to continue marketing under the terms of exemption. The following conditionally approved abbreviated new drug applications (ANDA's) should have been included in the list:

1. *ANDA 86–908;* Dipyridamole Tablets containing 25 milligrams (mg) of the drug per tablet; Lemmon Co., P.O. Box 630, Sellersville, PA 18960.

2. *ANDA 87–432;* Dipyridamole Tablets containing 75 mg of the drug per tablet; Danbury Pharmacal, 131 West St., Danbury, CT 06810.

3. *ANDA 87–492;* Dipyridamole Tablets containing 25 mg of the drug per tablet; Barr Laboratories, Inc., 265 Livingston St., Northvale, NJ 07647.

4. *ANDA 87–830;* Dipyridamole Tablets containing 75 mg of the drug per tablet; Boehringer-Ingelheim Pharmaceuticals, Inc., 90 East Ridge, Ridgefield, CT 06877.

5. *ANDA 87–831;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Boehringer-Ingelheim.

6. *ANDA 88–018;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Barr Laboratories, Inc.

7. *ANDA 88–019;* Dipyridamole Tablets containing 75 mg of the drug per tablet; Barr Laboratories, Inc.

8. *ANDA 88–416;* Dipyridamole Tablets containing 25 mg of the drug per tablet; Barr Laboratories, Inc.

9. *ANDA 88–417;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Barr Laboratories, Inc.

10. *ANDA 88–418;* Dipyridamole Tablets containing 75 mg of the drug per tablet; Barr Laboratories, Inc.

11. *ANDA 88–800;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Danbury Pharmacal.

12. *ANDA 88–822;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Pharmaceutical Basics, Inc. P.O. Box 9327, Denver CO 80209.

13. *ANDA 88–945;* Dipyridamole Tablets containing 25 mg of the drug per tablet; Danbury Pharmacal.

14. *ANDA 89–348;* Dipyridamole Tablets containing 25 mg of the drug per tablet; Colmed Laboratories, P.O. Box 1148, Fort Collins, CO 80522.

15. *ANDA 89–349;* Dipyridamole Tablets containing 50 mg of the drug per tablet; Colmed Laboratories.

16. *ANDA 89–350;* Dipyridamole Tables containing 75 mg of the drug per tablet; Colmed Laboratories.

The products identified above are subject to the provision of the notice published January 15, 1987 except that the dates are changed as follows:

The revocation of the temporary exemption is effective February 23, 1987;

Requests for hearing are due on or before March 25, 1987;

Data in support of hearing requests are due April 24, 1987.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Acting Director of the Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: February 7, 1987.

Gerald F. Meyer,

Acting Deputy Director, Center for Drugs and Biologics.

[FR Doc. 87–3734 Filed 2–20–87; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Veterinary Medicine Advisory Committee

Date, time, and place. April 21 and 22, 8:15 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, April 21, 8:15 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 1 p.m., unless public participation does not last that long; open committee discussion, 1 p.m. to 4:30 p.m.; closed committee deliberations, April 22, 8:15 a.m. to 12 m.; Max L. Crandall, Center for Veterinary Medicine (HFV–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3450.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on

issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss (1) phasing NADA review, (2) CVM compliance programs, (3) classification of Rx and OTC products, (4) new tissue residue compliance program, and (5) CVM research program plans.

Closed committee deliberations. The committee will review and discuss trade secret and/or confidential commercial information relevant to pending new animal drug applications (NADA's) and investigational new animal drugs (INAD's). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: February 17, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-3735 Filed 2-20-87; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1987:

Name: Council on Graduate Medical Education.

Date and Time: March 17-18, 1987, 8:30 a.m.

Place: Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, VA 22204.

The entire meeting is open.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteophathic schools, public and private hospitals and accrediting bodies regarding matters in (A),

(B), and (C) above; and (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: On March 17 the agenda includes the review of previous minutes, discussion of Draft Council Action Plan I, and subcommittee meetings. On March 18, report on HRSA developments; update on legislative developments; discussions of issues for Council consideration; presentation on FMG issues; and reports from the subcommittees on Physician Manpower, FMG, and GME Programs and Financing.

Anyone requiring information regarding the subject Council should contact Mr. Paul Schwab, Executive Secretary, Council on Gradute Medical Education, Health Resources and Services Administration, Room 14–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2033. Agenda items are subject to change as priorities dictate.

Dated: February 17, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–3731 Filed 2–20–87; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–080–07–6332–02: GP7–120]

Oregon; Closures and Restrictions; Yaquina Head Outstanding Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closures and restrictions, Yaquina Head Outstanding Natural Area, Oregon.

SUMMARY: To fulfill the specific administrative mandate set forth in the Act of Congress dated March 5, 1980 (Pub. L. 96–199), and in accordance with 43 CFR 8364.1, notice is hereby given that the closures and restrictions listed below apply to lands within the Congressionally established Yaquina Head Outstanding Natural Area. This 100-acre area is located in Lincoln County, Oregon, along the Pacific Coast in sections 29 and 30, T. 10 S., R. 11 W., Willamette Meridian.

(1) The area is open to public visitation and use during daylight hours and closed at night;

(2) Motorized travel is limited to developed interior access roads and parking areas;

(3) Walking and hiking are limited to developed interior access roads, parking areas and foot-trails;

(4) Hunting, shooting firearms, and igniting fireworks or other explosive devices are prohibited;

(5) Damaging or removing plant and animal specimens or cultural resources are prohibited;

(6) Overnight camping is prohibited;

(7) Flying radio-controlled model airplanes or kites is prohibited;

(8) Domesticated pets are not permitted on lands west of the centralized parking area at the tip of the headland (seeing-eye and hearing-ear dogs excepted). Elsewhere on the headland, domesticated pets must be physically restrained at all times.

(9) Hang gliding set up, launch and flying activities are restricted to historically used sites located east of the prominent ridge which forms the western wall of the upper quarry. North of Ocean Drive, hang gliding activity is not regulated seasonally and use may continue throughout the year. South of Ocean Drive, hang gliding activity is regulated annually during the critical portion of the sea bird nesting period; and

(10) Research projects and scientific studies are regulated by permit.

This closure and restriction order does not apply to:

(1) Any Federal, state or local official or member of an organized rescue, medical or fire fighting unit while in the performance of fire, emergency, law enforcement or other similar duty;

(2) Any Bureau of Land Management, U.S. Coast Guard or U.S. Fish and Wildlife Service employee, agent, contractor or cooperator while in the performance of an official duty; and

(3) Any person or member of a group or institution expressly authorized by permit, license, agreement or other similar authorization while in the performance of activities covered by the authorization.

A copy of this closure and restriction order, and a map showing the exact location of the Yaquina Head Outstanding Natural Area boundaries, are posted at the Bureau of Land Management, Salem District Office, 1717 Fabry Road S.E., Salem, Oregon, and at the centralized parking area near the western tip of the headland.

Any person who violates this closure and restriction order may be subject to a maximum fine of $1,000 and/or imprisonment not to exceed 12 months under authority of 43 CFR 8360.0–7.

This closure and restriction order is in effect immediately and shall remain in effect unless revised, revoked or amended.

SUPPLEMENTARY INFORMATION: The Act of Congress dated March 5, 1980 (Pub. L. 96–199), directed the Secretary of the Interior to administer the Yaquina Head Outstanding Natural Area in such a manner as will best provide for:

(1) The conservation and development of the scenic, natural and historic values of the area;

(2) The continued use of the area for purposes of education, scientific study and public recreation which do not substantially impair the purposes for which the area is established; and

(3) Protection of the wildlife habitat of the area.

The purpose of this closure and restriction order is to provide a means by which the Secretary of the Interior, through the Bureau of Land Management, can control and manage public use of the area to effectively carry out the specific mandate set forth in the Act. Each of the closures and restrictions listed in this order are addressed in the December 27, 1983, Management Plan Decision for the Yaquina Head Outstanding Natural Area, a document approved after completion of an environmental assessment with full public participation.

FOR FURTHER INFORMATION CONTACT: Richard C. Prather, Area Manager, Yamhill Resource Area, Bureau of Land Management, Salem District Office, 1717 Fabry Road S.E., Salem, Oregon 97306. (503) 399–5646.

Dated: February 12, 1987.

Van W. Manning,

District Manager, Salem District.

[FR Doc. 87–3679 Filed 2–20–87; 8:45 am]

BILLING CODE 4310–33–M

[OR–090–07–4212–2: GP7–111]

Oregon; Realty Action—Noncompetitive Lease of Public Lands for Commercial Occupancy Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—noncompetitive occupancy lease of public lands in Lane County, Oregon.

SUMMARY: The following described acquired land has been examined and determined to be suitable for lease under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) at not less than the fair market rental:

Willamette Meridian, Oregon

T. 17 S., R. 4 W.,
Sec. 33: Metes and Bounds within SW¼NE¼.
Containing 8.2 acres, more or less.

The proposed lease would authorize use of the site for construction of a Bureau of Land Management District Office complex under the terms and conditions of a contract to be awarded and administered by the General Services Administration (GSA). The GSA contract will provide for construction of the District Office and lease of the facilities back to the government for a term of 15 years. The proposed lease of the land will be linked directly to the GSA contract. At the end of the GSA contract/BLM lease period, the improvements will become the property of the United States.

The site is located within the City of Eugene, Oregon and was acquired in 1979 specifically for construction of a BLM office complex.

The lease will be issued noncompetitively to the contractor selected by GSA for award of the construction/lease contract. The GSA selection process is competitive. The lease term will be 15 years and it will be nonrenewable.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Coast Range Area Manager at the address shown below. Any objections will be reviewed by the Eugene District Manager, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Detailed information concerning this lease, including the land report and draft lease, is available for review at the Eugene District Office, P.O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Ronald Wold, Eugene District Office, at (503) 687–6895.

Date of issue: February 11, 1987.

Wayne E. Elliott,

Area Manager.

[FR Doc. 87–3682 Filed 2–20–87; 8:45 am]

BILLING CODE 4310–33–M

[CA–940–07–4520–12; Group 803]

California; Filing of Plat of Survey

February 11, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 7 S., R. 4 W.

2. This plat representing the corrective dependent resurvey of a portion of Lot 38, Rancho Santa Rosa, a portion of the west boundary, and the east and west center line of fractional section 18, Township 7 South, Range 4 West, San Bernardino Meridian, California, under Group No. 803, California, was accepted February 3, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Forest Service, Cleveland National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 87–3680 Filed 2–20–87; 8:45 am]

BILLING CODE 4310–40–M

[CO–940–07–4220–11; C–043548]

Colorado; Notice of Proposed Continuation of Withdrawal

February 10, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for use as various recreation areas and campgrounds, be modified and the withdrawal be continued for 20 years insofar as it affects 579.60 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received by May 26, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 236–1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 2625, dated March 9, 1962, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. This order affects lands in T. 11 S., R. 93 W., Tps. 11 and 12 S., R. 94 W., T. 12 S., R. 95 W., and T. 11 S., R. 96 W., Sixth Principal Meridian, Colorado. This area aggregates approximately 579.60 acres of land in the Grand Mesa National Forest, Delta and Mesa Counties, Colorado.

The purpose of this withdrawal is for the administration and protection of various recreation areas and campgrounds. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register.** The existing withdrawal will continue until such determination is made.

Richard D. Tate,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–3678 Filed 2–20–87; 8:45 am]

BILLING CODE 4310–JB–M

[NM–010–07–4410–08]

New Mexico; Albuquerque District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of District Advisory Council meeting.

SUMMARY: The Bureau of Land Management's Albuquerque District Advisory Council will meet on Monday, March 16, 1987, at 10 a.m., in the BLM District Office Building located at 435 Montano NE., in Albuquerque, New Mexico.

The Council will address the following issues:

1. The future of BLM and New Mexico State Land Office Exchanges.

2. Status Report—National Academy of Sciences Committee on Guidelines for Paleontological Collecting. Review of Draft Recommendations.

3. Brief Overview of the Farmington Resource Management Plan.

4. Reports from Council Subcommittees.

—Taos RMP Land Disposal Issue
—De-Na-Zin Wilderness Management Plan
—Rio Puerco ORV Implementation

5. Program Updates

—Lee Acres Hazardous Waste
—Statewide Wilderness Study Process.

Time will be provided for public comments during the appropriate agenda items. The Albuquerque District Advisory Council is managed in accordance with the Federal Land Policy and Management Act of 1979. Minutes of the meeting will be made available for review within 30 days following the meeting. For additional information, contact Alan Hoffmeister, Public Affairs Specialist, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 766–4504.

L. Paul Applegate,

District Manager.

[FR Doc. 87–3681 Filed 2–20–87; 8:45 am]

BILLING CODE 4310-FB-M

[ID-940-07-4211-08]

Availability of the Final Environmental Impact Statement; Elgin-Hamer Road Plan, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the final environmental impact statement (EIS) and proposed decision for the Elgin–Hamer road plan amendment.

DATE: Protests of the proposed plan amendment will be accepted until March 23, 1987.

ADDRESS: Protests of the proposed plan amendment should be sent to: Director, Bureau of Land Management, 18th and "C" Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lloyd Ferguson, District Manager, Idaho Falls District Office, BLM, 940 Lincoln Road, Idaho Falls, ID 83401. Telephone 208–529–1020.

A limited number of the final EISs are available from this address.

SUPPLEMENTARY INFORMATION: Fremont and Jefferson Counties in eastern Idaho have applied for a right-of-way across public land to construct a year-round gravel road approximately 10 miles long. The right-of-way would cross the Nine Mile Knoll Area of Critical Environmental Concern (ACEC). Management constraints established by designation of the ACEC include prohibition of new roads or major rights-of-way. Granting a right-of-way would require an amendment of the Medicine Lodge Resource Management Plan (RMP). The draft plan amendment/EIS was distributed to the public in June 1986.

The proposed decision is to amend the Medicine Lodge RMP to allow the right-of-way, with the stipulation that the road be closed every year from December 1 through March 31. Failure to effect the closure would cause revocation of the right-of-way. The RMP would also be amended to increase the size of the Nine Mile Knoll ACEC from 31,600 acres to 40,090 acres. The management contraints on the ACEC would remain as in the existing plan. The reason for enlarging the ACEC is to include all of the most important parts of the crucial winter habitat of the Sand Creek elk herd.

Anyone who participated in the planning process and has an interest that may be adversely affected by this amendment may protest. The protest shall be in writing and filed with the Director at the address given above. The protest shall contain the name, mailing address, telephone number, and interest of the person filing the protest; a statement of the issue being protested; a statement of the part of the amendment being protested; a copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and a concise statement explaining why the State Director's decision is believed to be wrong.

Dated: February 12, 1987.

Pieter J. Van Zanden,

Associate State Director.

[FR Doc. 87–3676 Filed, 2–20–87; 8:45 am]

BILLING CODE 4310-GG-M

[Alaska AA-48615-F]

Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48615–F has been received covering the following lands:

Copper River Meridian, Alaska

T. 13 N., R. 4 W.,
Sec. 20, N½SW¼
(80 acres).

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16 2/3 percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from June 1, 1985, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48615–F 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 June 1, 1985, subject to the terms and conditions cited above.

Dated: February 12, 1987.

Kay F. Kletka,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 87–3705 Filed 2–20–87; 8:45 am]

BILLING CODE 4310-JA-M

[A-22594]

Community Pit and Common Use Area; Realty Action; Mohave County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, Mohave County, Arizona.

SUMMARY: The following described public land has been determined to be available to provide mineral materials for public use under the authority of the Act of July 31, 1947 as amended (30 U.S.C. 601 *et. seq.*)

Gila and Salt River Meridian, Mohave County, AZ

40 Acres

T. 40 N., R. 15 W.,
Sec. 9, NW¼SW¼

Under the provisions of 43 CFR 3604.1(b) this Notice of Realty Action shall segregate the lands from appropriation under the mining laws and mineral leasing laws subject to valid existing rights or leases. This segregation shall terminate upon publication in the **Federal Register** of a termination notice or after two years and the community pit is not established, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770.

Raymond D. Mapston,

Acting Arizona Strip District Manager.

February 17, 1987.

[FR Doc. 87–3773 Filed 2–20–87; 8:45 am]

BILLING CODE 4310-32-M

[F-020174, F-35871, F-35872]

Public Land Withdrawals; Fort Greely Maneuver Area et al., Alaska

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the legal descriptions of the Fort Greely Maneuver Area, the Fort Greely Drop Area and the Fort Wainwright Maneuver Area withdrawals as required by section 2(a) of Pub. L. 99–606, enacted November 6, 1986.

EFFECTIVE DATE: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271–5477.

The legal descriptions of the public land withdrawals for the Fort Greely Maneuver Area, the Fort Greely Drop Area and the Fort Wainwright Maneuver Area effected by Pub. L. 99–606 are as follows:

Fairbanks Meridian

Fort Greely Maneuver Area

A track of land located in the Big Delta Area, and more particularly described as:

Beginning at the U.S.C. and G.S. Monument "Big Delta Airport," Latitude 63°59'35" N., Longitude 145°43'40" W.,

Thence N. 04°55'47.3" E., 11,997.64 feet to Mile Post 270 on the Richardson Highway;

Thence due West to the mean high water line on the east bank of Delta River, which point is the true point of beginning for this description;

Thence southerly along the west boundary of the Fort Greely Military Reservation (withdrawn by Public Land Order (PLO) No. 255) to the southwest corner thereof;

Thence due East along the south boundary of the Fort Greely Military Reservation to the north ¼ corner monument of section 28, T. 11 S., R. 10 E., Fairbanks Meridian (F.M.);

Thence South along the north-south centerlines of sections 28 and 33, T. 11 S., R. 10 E., F.M., and sections 4, 9, and 16, T. 12 S., R. 10 E., F.M., to the corner section monument of section 16, thence east to the west ¼ corner monument of section 15, T. 12 S., R. 10 E. F.M.;

Thence S. 0°05' E., to the west section corner monument common to sections 15 and 22; thence east to the ¼ corner monument common to sections 15 and 22;

Thence South along the north-south centerline of sections 22, 27, and 34, T. 12 S., R. 10 E., F.M., to the south ¼ corner of section 34;

Thence East 74 feet more or less, along the south boundary of section 34 to a point one-half mile west of the centerline of the existing Richardson Highway;

Thence southerly, parallel to and one-half mile west of said centerline to a point one-half mile due west of Donnelly, Alaska;

Thence N. 75°30' W., 190,740 feet, more or less, to the east bank of Buchanan Creek;

Thence northerly along the east bank of Buchanan Creek and the east bank of Little Delta River to a point 11,560 feet, southerly from the point of confluence of Little Delta River and the Tanana River, which point is also located at Latitude 64°15' N., Longitude 146°43' W., approximately;

Thence S. 52°40' E., 160,843 feet, more or less, to a point identical with a point located at Latitude 63°59' N., Longitude 145°55' W., approximately;

Thence N. 60°43' E., 31,705 feet, more or less, to the point of beginning, excepting therefrom a five-acre tract of land embraced in U.S. Survey No. 5633 (Trade and Manufacturing Patent 50–75–0116), located at the confluence of the Little Delta River East and West Forks.

The area described contains approximately 571,995 acres.

Fort Greely Air Drop Area

A parcel of land situated approximately 2.5 miles southeast of Delta Junction, being located between the Richardson and Alaska Highways and more particularly described as: Beginning at a point 1.08 miles, east of U.S.C. and G.S. Station "Pillsbury," Latitude 63°47'00.309" N., Longitude 145°47'24.713" W., said point of beginning being 150 feet east of the centerline of the Richardson Highway;

Thence due East approximately 4.5 miles to the west bank of Granite Creek;

Thence in a generally northeasterly direction approximately 11.83 miles to a point which is situated on the west bank of the Granite Creek and further identified as being situated one mile southerly at right angles to the centerline of the Alaska Highway;

Thence northerwesterly, parallel with and one mile southerly at right angles to the centerline of the Alaska Highway to a point situated approximately 1,394 feet due south of the southeast corner of section 13, T. 11 S., R. 11 E., F.M.;

Thence North approximately 1,394 feet to said southeast corner of section 13, T. 11 S., R. 11 E., F.M.;

Thence West one mile, North one mile, West two miles, North one mile, West one mile, and North one mile following the south and west boundaries of sections 13, 11, 10, and 4, T. 11 S., R. 11 E., F.M.;

Thence West one mile along the south boundary of section 32, T. 10, S., R. 11 E., F.M.;

Thence West 1,172.8 feet approximately along the south boundary of section 31, T. 10 S., R. 11 E., F.M., to a point on the east boundary of the Fort Greely Military Reservation (PLO No. 255), which point is situated approximately 7,062 feet due South of the centerline of the Alaska Highway;

Thence due South approximately 8,628 feet to the point of intersection of the north line bounding a 160-acre parcel of land reserved by PLO No. 1153 for the use of Department of the Army;

Thence East along the north line of said parcel 1,000 feet;

Thence South along the east line of said parcel 7,000 feet;

Thence West along the south line of said parcel 1,000 feet to the point of intersection of said boundary with the east boundary of the parcel of land reserved by PLO No. 255;

Thence South along said east boundary 6,000 feet;

Thence West along the south boundary of said reserve approximately 2.74 miles (14,479 feet) to the northeast corner of section 27, T. 11 S., R. 10 E., F.M.;

Thence South two miles along the east boundary of sections 27 and 34, T. 11 S., R. 10 E., F.M.;

Thence South two miles, East one mile and South two miles along the east boundary of sections 14 and 23, T. 12 S., R. 10 E., F.M.;

Thence West approximately 0.75 mile to a point which is situated 150 feet easterly at right angles from the centerline of the Richardson Highway thence southerly parallel to and 150 feet easterly from the centerline of the Richardson Highway approximately 4.75 miles to the point of beginning, excepting therefrom that portion of the W½ of section 26, T. 12 S., R. 10 E., F.M., lying east of the Richardson Highway.

The area described contains approximately 51,590 acres.

Fort Wainwright Maneuver Area

A parcel of land situated approximately 20 miles southeast of Fairbanks, Fourth Judicial District, State of Alaska:

T. 1 S. R. 3 E. (Unsurveyed)
- Sec. 22, E1½SE¼;
- Sec. 23, S½;
- Sec. 24, S½;
- Secs. 25 and 26;
- Sec. 27, E½E½;
- Sec. 34, E½E½;
- Secs. 35 and 36.

T. 2 S., R. 3 E. (Unsurveyed)
- Secs. 1 and 2;
- Sec. 3, E½E½;
- Sec. 10, E½E½;
- Secs. 11 and 12;
- Sec. 14, N½, W½SW¼;
- Sec. 15, E½E½;
- Sec. 22, E½NE¼, N¼SE¼;
- Sec. 23, W½NW¼, S½SE¼, NE¼SE¼;
- Sec. 24, S½;
- Sec. 25;
- Sec. 26, E½, SW¼, S½NW¼, NE¼NW¼.

T. 1 S., R. 4 E. (Unsurveyed)
- Sec. 19, S½;
- Sec. 21, SE¼;
- Sec. 22, S½;
- Sec. 23, S½;
- Sec. 24, S½;
- Secs. 25 to 36, inclusive.

T. 2 S., R. 4 E. (Unsurveyed)
- Secs. 1 to 16, inclusive;
- Sec. 17, E½;
- Sec. 19, S½;
- Sec. 20, E½, SW¼;
- Secs. 21 to 30, inclusive;
- Secs. 34, 35 and 36.

T. 3 S., R. 4 E. (Unsurveyed)
- Secs. 1, 2 and 3;
- Secs. 10 to 15, inclusive;
- Secs. 22 to 27, inclusive;
- Secs. 34, 35 and 36.

T. 4 S., R. 4 E. (Unsurveyed)
- Sec. 1;
- Sec. 2, E½, NW¼, N½SW¼;
- Sec. 3, NE¼, N½NW¼;
- Sec. 12, NE¼, N½NW¼.

T. 1 S., R. 5 E. (Unsurveyed)
- Sec. 19, S½;

Sec. 20, S½;
Sec. 21, S½;
Sec. 22, S½;
Sec. 23, S½
Sec. 24, S½;
Secs. 25 to 36, inclusive.
T. 2 S., R. 5 E. (Unsurveyed)
Secs. 1 to 36, inclusive.
T. 3 S., R. 5 E. (Unsurveyed)
Secs. 1 to 36, inclusive, excepting therefrom that parcel of land withdrawn by Public Land Order (PLO) No. 1345 (F-012866) dated October 16, 1956 as amended by PLO No. 1523 dated October 8, 1957.
T. 4 S., R. 5 E. (Surveyed)
Secs. 1 to 6, inclusive;
Sec. 7, lots 1, 2 and 3, E½, W½NW¼, NE¼SW¼;
Secs. 8 to 15, inclusive;
Sec. 16, N½, SE¼, N½SW¼;
Sec. 17, NE¼, N¼NW¼, excepting therefrom that parcel of land withdrawn by PLO NO. 1345 (F-012867) dated October 16, 1956 as amended by PLO No. 1523 dated October 8, 1957.
T. 1 S., R. 6 E. (Surveyed)
That portion of Tract A, more particularly described as (protracted):
Sec. 19, S½;
Sec. 20, S½;
Sec. 21, S½;
Secs. 28 to 33, inclusive.
T. 2 S., R. 6 E. (Unsurveyed)
Secs. 1 to 36, inclusive.
T. 3 S., R. 6 E. (Unsurveyed)
Secs. 1 to 36, inclusive.
T. 4 S., R. 6 E. (Surveyed)
Secs. 1 to 18, inclusive.
T. 2 S., R. 7 E. (Unsurveyed)
Secs. 1 to 36, inclusive.
T. 3 S., R. 7 E. (Unsurveyed)
Secs. 1 to 36, inclusive.
T. 4 S., R. 7 E. (Surveyed)
Secs. 1 to 5, inclusive;
Sec. 6, lots 1, 2, 3 and 4, E½, E½W½;
Sec. 7, lots 1, 2, 3 and 4, E½, E½W½;
Secs. 8, 9, 10 and 11;
Sec. 12, N½, N½SW¼;
Sec. 14, N½NW¼, NW¼NE¼, SW¼NW¼;
Sec. 15, N½, N½SW¼, SW¼; SW¼;
Secs. 16 and 17;
Sec. 18, lots 1, 2, 3 and 4, E½, E½W½.
T. 2 S., R. 8 E. (Unsurveyed)
Sec. 5, W½, W½E½;
Secs. 6 and 7;
Sec. 8, W½,W½E½;
Sec. 17, W½, W½E½;
Secs. 18, and 19;
Sec. 20, W½, W½E½;
Sec. 29, W½, W½E½;
Secs. 30 and 31;
Secs. 32, W½, W½E½.
T. 3 S., R. 8 E. (Surveyed)
Sec. 5, W½, W½E½;
Sec. 6, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 7, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 8, W½, W½E½;
Sec. 17, W½, W½E½;
Secs. 18 and 19;
Sec. 20, W½, W½E½;
Sec. 29, W½, W½E½;
Secs. 30 and 31;
Sec. 32, W½, W½E½.
T. 4 S., R. 8 E. (Surveyed)
Sec. 5,NE¼, W½NE¼, NW¼SW¼;
Sec. 6, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 7, lot 1 and NE¼NW¼.

The area described contains approximately 246,266 acres.

Total areas described aggregate approximately 869,851 acres.

Copies of the legal description and maps of each area are available for public inspection in the following offices:

Office of the Director (322), Bureau of Land Management, Room 3643, Interior Building, 18th and C Streets NW., Washington, DC 20240
State Director, Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513
Office of the Secretary, Department of Defense, The Pentagon, Washington, DC 20301-1000
Commander, 6th Infantry Division (Light), U.S. Army Garrison, Alaska, Attn: Directorate of Engineering and Housing, Building 730, Fort Richardson, Alaska 99505-5500
Commander, 6th Infantry Division (Light), U.S. Army Garrison, Alaska/ADEH, Building 3015, Fort Wainwright, Alaska 995703-5500
Commander, 6th Infantry Division (Light), U.S. Army Garrison, Alaska/ADEH, Building 603, Fort Greely, Alaska 98733-5500

Wayne A. Boden,

Deputy State Director for Lands and Renewable Resources.

[FR Doc. 87-3703 Filed 2-20-87; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf Advisory Board; North, Mid, and South Atlantic Regional Technical Working Groups

AGENCY: Minerals Management Service, Interior.

ACTION: Recruitment of Discretionary Members for North, Mid, and South Atlantic Regional Technical Working Groups.

SUMMARY: The Atlantic Outer Continental Shelf (OCS) Region is accepting nominations to fill discretionary member vacancies on the North, Mid, and South Atlantic Regional Technical Working Group (RTWG) Committees. Technical expertise is needed in the areas of commercial fishing, oil and gas exploration, nonenergy minerals, marine biology/oceanography, and environment/conservation.

Nomination packages should consist of a letter explaining the nominee's qualifications and how the individual would contribute to the effectiveness of the RTWG Committees, and a current resume or biographical profile.

DATES: The deadline for receipt of nominations is April 17, 1987.

ADDRESSES: Nominaiton packages should be submitted to RTWG Coordinator, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

FOR FURTHER INFORMATION CONTACT: Marsha Polk, RTWG Coordinator, Atlantic OCS Region at the above address; telephone 703/285-2165, (FTS) 285-2165.

SUPPLEMENTARY INFORMATION: The RTWG's are part of the OCS Advisory Board and were established to advise the Minerals Management Service (MMS) Director on technical matters of Regional concern regarding offshore prelease and postlease sale activities. RTWG membership consists of representatives from Federal Agencies, the Coastal States of Maine through Florida, the petroleum industry, and other private interests. Appointments will be made by the Secretary of the Interior with the objective of achieving a balance of viewpoint and a range of technical expertise on Regional OCS activities.

Dated: February 11, 1987.

Bruce G. Weetman,

Regional Director, Atlantic OCS Region.

[FR Doc. 87-3683 Filed 2-20-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; McCarter's Riding Stables, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with McCarter's Riding Stables, Inc., authorizing it to continue to provide saddle horse livery and guide services for the public at Great Smoky Mountains National Park, Tennessee for a period of five (5) years from January 1, 1987, through December 31, 1991.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, Atlanta, Georgia, for information as to the requirements of the proposed permit.

Dated: December 9, 1986.

Frank Captroppa,

Acting Regional Director, Southeast Region.

[FR Doc. 87-3781 Filed 2-20-87; 8:45 am]

BILLING CODE 4310-70-M

Notice of Intent To Negotiate Concession Contract; Smokemont Riding Stables, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Smokemont Riding Stables, Inc., authorizing it to continue to provide saddle horse livery and guide services for the public at Great Smoky Mountains National Park, Tennessee for a period of five (5) years from January 1, 1987, through December 31, 1991.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, Atlanta, Georgia, for information as to the requirements of the proposed permit.

Dated: December 9, 1986.

Frank Captroppa,

Acting Regional Director, Southeast Region.

[FR Doc. 87-3782 Filed 2-20-87; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 86-60]

Dewey G. Archambault, M.D.; Revocation of Registration

On July 1, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Dewey G. Archambault, M.D. (Respondent) of 45 Princeton Street, N. Chelmsford, Massachusetts 01863, proposing to revoke his DEA Certificate of Registration AA1955220 and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The statutory basis for the proposed action was Respondent's controlled substance-related felony conviction. 21 U.S.C. 824(a)(2).

By letter dated August 4, 1986, Respondent requested a hearing on the issues raised by the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young. The hearing was scheduled to be held in Washington, DC on January 9, 1987. In a letter dated January 6, 1987, Respondent withdrew his request for a hearing and requested an extension of time to file a written statement regarding his position on the matters of fact and law raised by the Order to Show Cause pursuant to 21 CFR 1301.54(c). This request was granted and Respondent submitted such a statement on January 17, 1987. In an order dated January 27, 1987, Judge Young terminated the proceedings before him. The Administrator now enters his final order in this matter based on the investigative file and Respondent's written statement. 21 CFR 1301.57.

The Administrator finds that in April 1983, the Massachusetts State Police—Diversion Investigation Unit initiated an investigation into Respondent's controlled substance handling practices. Between April 7, 1983, and January 20, 1984, three undercover Michigan State Police troopers went to Respondent's office on ten separate occasions to attempt to purchase prescriptions for controlled substances from Respondent. On each occasion, Respondent wrote a prescription for the trooper for either Ionamin, Didrex or Valium, all controlled substances. Before issuing these prescriptions, Respondent performed cursory physical examinations of the troopers.

These prescriptions were not written for a legitimate medical purpose. The troopers told Respondent that they wanted a prescription. Respondent would then say that he could write them a prescription if he put them on his weight program. One trooper specifically told Respondent that, "what ever you have to do to cover yourself, that will be alright. Put me on your weight program—as long as I get the script for the 'Speed'."

On January 20, 1984, Respondent was arrested and charged with ten counts of illegal dispensing and distribution of controlled substances in violation of the laws of the Commonwealth of Massachusetts. On February 19, 1986, following a jury trial in Middlesex Superior Court, Commonwealth of Massachusetts, Respondent was found guilty of all ten counts, and was sentenced on March 19, 1986, to two years in the House of Corrections to run concurrently on all ten counts, which was suspended. In addition, Respondent was placed on two years probation and fined $13,000.00. These are felony offenses relating to controlled substances. Therefore, lawful grounds exist for the revocation of Respondent's registration. 21 U.S.C. 824(a)(2).

In his statement, dated Janaury 17, 1987, Respondent states that he has appealed his criminal conviction. The Administrator has long and consistently maintained that a revocation of registration or denial of application is lawful even if a conviction is on appeal. See, *Ronald Wardell Andrews, M.D.*, 47 FR 56744 (1982); *Lamar T. Zimmerman, M.D.*, 45 FR 3405 (1980); *Joseph J. Godorov, D.O.*, Docket No. 78-8, 43 FR 36702 (1978), and cases cited therein.

Throughout his statement, Respondent questions the veracity of the evidence presented by the prosecution during his criminal trial. The jury at the trial in this matter found the evidence to be persuasive beyond a reasonable doubt. It found Respondent guilty of all ten counts. The Administrator will not question such a finding.

Having considered the record in this matter, the Administrator concludes that

Respondent's DEA Certificate of Registration should be revoked and any pending applications for registration should be denied. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b), orders that DEA Certificate of Registration AA1955220, previously issued to Dewey G. Archambault, M.D., be, and it hereby is revoked. In addition, the Administrator orders that any pending applications, submitted by Dewey G. Archambault, M.D., for registration under the Controlled Substances Act, be, and they hereby are denied. This order is effective March 25, 1987.

Dated: February 17, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-3736 Filed 2-20-87; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Connecticut Yankee Atomic Power Company (the licensee), for the Haddam Neck Plant located in Middlesex County, Connecticut.

Environmental Assessment

Identification of Proposed Action: The exemption would grant relief from the separation requirements of 10 CFR Part 50, Appendix R, Section III.G. 2 for safe shutdown equipment in the service building men's locker room (Fire Area 5-9). This exemption is responsive to the licensee's appications for exemption dated March 1, 1982 and January 6, 1987.

The need for the proposed action: The proposed exemption is needed because the features described in the licensee's requests regarding the existing fire protection at the plant for these items appear to be the most practical method for meeting the intent of Appendix R; and literal compliance would not significantly enhance the fire protection capability.

Environmental impacts of the proposed action: The proposed exemption will provide a degree of fire protection that does not increase the risk of fires at this facility. Consequently, the probability of fire has not increased, post-fire radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect the radiological plant effluent. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

The proposed exemption involves features located entirely within the restriction area, as defined in 10 CFR Part 20, and does not affect non-radiological plant effluents or have any other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative use of Resources: This action involves no use of resources not previously considered in the Draft and Final Environmental Statements for the Haddam Neck Plant.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for the exemption dated March 1, 1982 and January 6, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Russell Library, 124 Broad Street, Middleton, Connecticut 06457.

Dated at Bethesda, Maryland this 13th day of February, 1987.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 87-3743 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison of New York, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Consolidated Edison Company of New York (the licensee) for the Indian Point Nuclear Generating Unit No. 2 located at Westchester County, New York.

Environmental Assessment

Identification of proposed action: The exemption relieves the technical requirements concerning redundant primary auxiliary building and auxiliary feedwater pump room heating, ventilation and air condition (HVAC) exhaust fans, to the extent that the HVAC circuits are not separated and protected in accordance with the requirements of Section III.G.2 of Appendix R to 10 CFR Part 50. The exemption is responsive to the licensee's application for exemption dated July 13, 1983, as supplemented by letters dated December 7, 1984, January 10, 1986 and December 17, 1986.

The need for the proposed action: The proposed exemption is needed because the features described in the licensee's requests regarding the existing fire protection at the plant for these items are the most practical means for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental impacts of the proposed action: The proposed exemption will provide a degree of fire protection that is equivalent to that required by Appendix R for the affected areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative use of resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Indian Point Nuclear Generating Unit No. 2.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated July 13, 1983 and supplements dated December 7, 1984 and January 10, 1986 and December 17, 1986 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Bethesda, Maryland, this 17th day of February 1987.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Project Directorate No. 3, Division of PWR Licensing-A.

[FR Doc. 87-3744 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Environmental Assessment and Finding of no Significant Impact, Oconee Nuclear Station, Units 1, 2 and 3

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix J, III.A.3, to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2 and 3, located in Oconee County, South Carolina.

Environmental Assessment

Identification of proposed action: The licensee is requesting an exemption from 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors", paragraph III.A.3. In 1973, Appendix J was issued to establish requirements for primary containment leakage testing and incorporated, by reference, ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors". This Standard requires that containment leakage calculations be performed by using either the point-to-point method or the total time method The total time method was used the most by the nuclear industry until about 1976. As noted in N45.4, the point-to-point method is suited to uninsulated containments where atmospheric stability is affected by outside diurnal changes, while the total time method is appropriate for insulated containments that are relatively unaffected by diurnal changes. In 1976, an article "Containment Leak Rate Testing: Why the Mass-Plot Analysis Method is Preferred," Power Engineering, February 1976, was written which compared the results of test analyses that were performed using point-to-point, total time and mass-plot techniques. Subsequently, the mass-plot method received the Commission's endorsement and a conforming change to Appendix J was proposed. A revision to the Standard (reference: ANSI/ANS 56.8-1981, "Containment System Leakage Testing") specifies the use of mass-plot, to the exclusion of the two older methods. However, at this time, licensees who wish to use mass-plot must submit an application for exemption from the Appendix J requirement that containment integrated leak rate tests will conform to N45.4. The exemption proposed by Duke Power Company would be granted for each of the three units until pending changes to Appendix J become effective. The exemption applies only to the method of calculating leakage by use of the mass-plot and not to any other aspect of the tests.

The mass-plot is a newer and more accurate means of calculating containment leakage. In the mass-plot method, the mass of air in containment is calculated and plotted as a function of time. Leakage is calculated from the slope of the Linear Least Squares.

The Commission's staff believes that the mass-plot method was not specified in ANSI N45.4-1972 because the other more conservative methods (point-to-point and total time) were adequate and suitable for the sensitivity levels of the instrumentation in use at that time. However, with the present developments in technology, the mass-plot method has gained recognition as the proper one to use. The superiority of the mass-plot method becomes apparent when it is compared with the two other methods. In the total time method, a series of leakage rates are calculated on the basis of air mass differences between an initial data point and each individual data point thereafter. If for any reason (such as instrument error, lack of temperature equilibrium, ingassing or outgassing) the initial data point is not accurate, the results of the test will be affected. In the point-to-point method, the leak rates are based on the mass difference between each pair of consecutive points which are then averaged to yield a single leakage rate estimate. Mathematically, this can be shown to be the difference between the air mass at the beginning of the test and the air mass at the end of the test expressed as a percentage of the containment air mass. It follows from the above that the point-to-point method ignores any mass readings during the test and thus the leakage rate is calculated on the basis of the difference in mass between two measurements taken at the beginning and at the end of the test, which are 24 hours apart.

The licensee's request for exemption and the bases therefore are contained in a letter dated August 13, as superseded on August 20, 1986. In the same letter, the licensee proposed an amendment to the Technical Specifications (TSs) to maintain consistency between the TSs and Appendix J. The Commission will respond to the proposed amendment by separate correspondence.

The need for proposed action:. The exemption is needed to allow continued use of the mass-plot analysis method at Oconee.

Environmental impact of the proposed action: The proposed exemption will have no incremental environmental impact relative to current practice because the exemption will allow testing to be conducted in the same manner as it is currently performed.

The erraticism of the total time method creates a higher probability of unnecessarily failing a containment integrated leak rate test (note that the calculational procedure is independent of containment tightness) possibly resulting in increased test frequency, critical path outage time, and exposure to test personnel.

Thus, radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the proposed action: It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative use of resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of Oconee Nuclear Station," dated March 1972.

Agencies and persons consulted: The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of no Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an enviromental impact statement for the proposed exemption.

For further details with respect to the proposed action, see the licensee's request for exemption dated August 13, as superseded August 20, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, Washington, DC 20555 and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Dated at Bethesda, Maryland, this 17th day of February, 1987.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate #6, Division of PWR Licensing-B.

[FR Doc. 87-3745 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

Lindsay Audin; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated January 10, 1987, Lindsay Audin requested that the Director, Office of Nuclear Material Safety and Safeguards, review the Safety Analysis report for the GE-700 container in order to reevaluate the puncture test analysis for this cask, and that the cask be used only in its non-extended mode until it can be shown that the extended mode complies with all of the requirements of 10 CFR Part 71. The Petition alleges that the puncture test analysis was based on the testing of a much smaller cask, the GE-100, and that this resulted in a deficient analysis of the GE-700 cask with its extension.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by § 2.206, appropriate action will be taken on this request within a reasonable time.

Copies of the Petition are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

For the Nuclear Regulatory Commission.

John G. Davis,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 87-3746 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Surry Power Station, Units 1 and 2; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that, by mailgram dated December 11, 1986, and by supplemental petition dated January 20, 1987, Citizen Action for a Safe Environment (CASE) requested the Nuclear Regulatory Commission to require Virginia Electric and Power Company to take a number of actions before the Surry facility restarts. The bases for the requested action were: (1) The December 9, 1986 pipe-break accident at the facility, (2) an alleged ongoing pattern of violations in areas such as plant operations, surveillance, fire protection, radiological controls, emergency preparedness, security and safeguards, quality assurance and administrative control of quality assurance at the station, (3) alleged deficiences in welder certification and welding quality assurance at the station, and (4) alleged inadequacies in the siren warning system and evacuation plans for the Surry plant.

The petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the petition and the supplement are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room for the Surry facility located at Swem Library, Documents Department, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland, this 13th day of February, 1987.

For the Nuclear Regulatory Commission.

Richard H. Vollmer,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87-3747 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Company (Big Rock Point Plant)

Exemption

I.

Consumers Power Company (CPC, the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant (the facility) at steady-state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of one boiling water reactor located at the licensee's site in Charlevoix County, Michigan. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II.

Section III.J of Appendix R to 10 CFR Part 50 specifically requires emergency lighting units with at least an 8-hour battery power supply be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

By letter dated July 1, 1986, the licensee requested an exemption from the requirements of section III.J of Appendix R to 10 CFR Part 50 to install emergency lights for areas outside of the Service Building, Turbine Building and Containment (i.e., power block) and for operation of the Stand-By-Diesel Generator for which access and egress is required.

Specifically, the licensee has stated that access and egress routes to safe shutdown equipment outside the power block and for operation of the Stand-By Diesel Generator do not meet the requirements of section III.J of Appendix R because 8-hour battery-powered emergency lighting is not installed.

Safe shutdown components are located within several buildings that require exterior access. These buildings are the Intake Structure, Emergency Diesel Generator building and the Alternate Shutdown Building (ASB).

For the following reasons, the licensee has determined that the use of portable battery-powered lanterns is equivalent, and therefore is an acceptable alternative, to the installation of permanent 8-hour emergency lighting in the plant yard and Stand-By Diesel Generator areas.

(a) Emergency lighting of the plant yard area is needed for short periods of time to allow travel to and from shutdown equipment; no longer than 5 minutes of lighting per occurrence is necessary for access to and egress from

the ASB, Screenhouse, and Emergency Diesel Generator Building. No longer than 15 minutes of lighting per occurence is needed to access, start, and egress the Stand-By Diesel Generator.

(b) A sufficient number of portable lanterns are maintained by administrative controls in or near the Control Room to assure adequate lighting is available to operators during an 8-hour period for the purpose of shutting down the plant during periods of darkness.

(c) The use of portable lanterns to illuminate plant yard areas affords more flexibility than permanently installed emergency lighting since the lanterns can illuminate alternate routes of access/egress if the need arises.

(d) The ability of an operator to start and operate the Stand-By Diesel Generator using portable lantern for light was demonstrated by the licensee in the presence of the NRC Senior Resident Inspector and subsequently documented in IER 155/86014 (DRP).

Portable battery-powered lanterns are stored under administratively controlled conditions for use in emergencies, such as an Appendix R event. The lanterns are under the periodic test program to assure that the proper number is available and that they are all in working condition.

NRC staff evaluation of the existing emergnecy lighting for the areas discussed above has provided for the conclusion that an acceptable level of emergency lighting exists at the facility to assure access and egress to emergency control stations. This includes dedicated, controlled, and maintained portable lanterns. The location and control of the portable lanterns assures emergency lighting will be available for access and egress to areas required to achieve and maintain safe shutdown.

NRC staff has determined that there is reasonable assurances, with the features described above, that adequate lighting for all required areas is provided such that the underlying purpose of the rule is achieved and that the lack of 8-hour battery power supplied emergency lighting units will not prevent the facility from safely shutting down.

Thus, the NRC staff concludes that the existing lighting, combined with the location and controls of dedicated portable lanterns, provides a level of fire protection equivalent to the technical requirements of section III.J of Appendix R, such that an exemption to section III.J of Appendix R to 10 CFR Part 50 should be granted and that the 8-hour battery powered emergency lights in the specific areas discussed above, need not be installed.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule—to require emergency lighting units with at least an 8-hour battery power supply in all areas needed to operation of safe shutdown equipment and in access and egress routes thereto. Requiring emergency lighting units is not necessary to assure sufficient emergency lighting exists for achieving safe shutdown and that implementing additional modifications to provide emergency lighting units would require an expenditure of engineering and construction resources as well as the associated capital costs which would represent an unwarranted burden on the licensee's resources.

The Commission hereby grants an exemption from the requirements of section III.J of Appendix R to 10 CFR Part 50 that emergency lighting units be installed for all areas outside the power block and for operation of the Stand-By Diesel Generator at the facility in which access and egress is needed for the operation of safe shutdown equipment.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (January 15, 1987, 52 FR 1678).

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 17th day of February 1987.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 87-3748 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 73, Physical Protection of Plants and Materials; Survey of Licensees Employing Security Guards, to Protect Special Nuclear Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One-time survey.

5. Who will be required or asked to report: NRC licensees who, pursuant to 10 CFR Part 73, Appendix B, employ a security force to protect the special nuclear material in their possession from diversion and sabotage.

6. An estimate of the number of responses: 58.

7. An estimate of the total number of hours needed to complete the requirements or request: 24 hours for each response, for an industry total of 1,392 hours.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC will survey licensees who are required to employ a security force in order to obtain their views on training requirements for security force personnel. The survey will be sent to 58 licensees including 52 power reactor utilities, two storage-only facilities, and four Category I fuel cycle facilities.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Rick Otis, (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 17th day of February 1987.

Patrica G. Norry,

Direcor, Office of Administration.

[FR Doc. 87-3742 Filed 2-20-87; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: New.

2. The title of the information collection: Diagnostic Misadministration Report.

3. The form number if applicable: NRC Form 473.

4. How often the collection is required: Upon the occurrence of a specified diagnostic medical misadministration.

5. Who will be required or asked to report: Holders of NRC medical licenses under which the diagnostic misadministration of a radiopharmaceutical occurs.

6. An estimate of the number of responses: 500.

7. An estimate of the total number of hours needed to complete the requirement or request: One hour per report, for an industry total of 500 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC Form 473 will be used by NRC medical licensees to report diagnostic misadministrations of radiopharmaceuticals pursuant to 10 CFR Part 35.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Rick Otis, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8585.

Dated at Bethesda, Maryland, this 17th day of February 1987.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 87–3741 Filed 2–20–87; 8:45 am]

BILLING CODE 5790–01–M

[Docket No. 50–346; License No. NPF–3; EA 85–107]

Toledo Edison Company (Davis-Besse Nuclear Power Station); Order Imposing Civil Monetary Penalties

I

Toledo Edison Company (the "licensee") is the holder of Operating License No. NPF–3 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the licensee to operate the Davis-Besse Nuclear Power Station in accordance with the conditions specified therein. The license was issued on April 22, 1977.

II

Special inspections of the licensee's activities were conducted during the period March 26-September 9, 1985. The results of these inspections indicated that the licensee has not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated December 13, 1985. The Notice states the nature of the violations, the applicable provisions of the Atomic Energy Act, the requirements of the Nuclear Regulatory Commission regulations or license conditions that were violated, and the amount of civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with a letter dated January 27, 1986.

III

Upon consideration of Toledo Edison Company's response (January 27, 1986) and the statements of fact, explanation, and argument regarding mitigation contained therein, the Director of the Office of Inspection and Enforcement has determined, as set forth in the Appendix to this Order, that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties as amended in the Appendix to this Order should be mitigated in the amount of 50 percent and imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1984, as amended, 42 U.S.C. 2282, Pub. L. 96–295, and 10 CFR 2.205, It Is Hereby Ordered That:

The licensee pay civil penalties in the amount of Four Hundred Fifty Thousand Dollars ($450,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Assistant General Counsel for Enforcement, Office of the General Council, USNRC, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above as amended in the Appendix to this Order, and

(b) Whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland this 12th day of February 1987.

For The Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

APPENDIX—EVALUATION AND CONCLUSION

The licensee's January 27, 1986 response to the December 13, 1985 Notice of Violation and Proposed Imposition of Civil Penalties for the Davis-Besse Nuclear Power Station admits that all violations, except Violations II.E and IV.A.2, occurred as stated in the Notice. The NRC staff evaluation included the licensee's Course of Action (COA) program submitted on September 10, 1985, Revisions 1 through 6. The licensee requested that the NRC consider mitigation of the civil penalties in whole or in part with the provision that the mitigated amount be applied to further improvements in the operation and maintenance of the Davis-Besse facility. The contested violations are restated below, followed by a summary of the licensee's reponse, the NRC evaluation, and the conclusion.

Restatement of Violation II.E

10 CFR 50.55a(h), "Protection Systems" requires that for construction permits issued after January 1, 1971, protection systems must meet the requirements set forth in editions or revisions of the Institute of Electrical and Electronics Engineers Standard, "Criteria for Protection Systems for Nuclear Power Generating Stations" (IEEE–279). The Licensee's Updated

Safety Analaysis Report (USAR), Chapter 7, section 7.4.2.3.1, "Compliance with IEEE Standard 279–1971," discussed adherence to section 4 of IEEE–279 and in Paragraph (4.2) requires that no single failure prevent the Steam and Feedwater Rupture Control System (SFRCS) from performing its protective function.

Contrary to the above, as of June 9, 1985, single failure of an auxiliary feedwater containment isolation valve to reopen in response to an SFRCS actuation signal following a main steam line break accident which initially depressurizes both steam generators below the SFRCS setpoint as shown in the licensee's USAR Chapter 15, Figure 15.4.3, would prevent either auxiliary feedwater train from feeding the unaffected steam generator.

Summary of Licensee's Response

The licensee denies the violation and provides an analysis it believes demonstrates that the SFRCS and the Auxiliary Feedwater (AFW) systems conform with the single failure criterion of the IEEE–279 Standard. The licensee references its analysis in the Course of Action (COA) program, Appendix (IV.C.3.3 and assets that the SFRCS and AFW systems meet the single failure criterion. The analysis is found in Appendix III.2, "NRC Questions and TED Responses," and in response to NRC Question 18 of an NRC request for information dated October 30, 1985.

The licensee believes its COA analysis shows that the USAR Chapter 15 analysis is overly conservative. The USAR analysis states that the AFW supply lines to both steam generators would be automatically isolated following a main steam line break. With both steam generators isolated, the AFW system does not conform with the single failure criterion of IEEE–279. However, in the licensee's view, the COA analysis shows that, following a main line break, the AFW supply line to the steam generator unaffected by the break would not be automatically isolated.

NRC Evaluation of Licenses's Response

The NRC has carefully reviewed the licensee's COA analysis and it appears, following a main steam line break event, for the two cases analyzed, auxiliary feedwater to the unaffected steam generator would not be isolated. In one case, a turbine stop valve closes within one second which prevents pressure in the unaffected steam generator from going below 730 psia, thus preventing complete AFW system isolation. In the other case analyzed, a turbine stop valve was assumed not to close, the main steam isolation valve was assumed to close within six seconds, and the steam generators were assumed to be depressurized sufficiently to close both AFW system isolation valves. In this case, the licensee concludes that the repressurization of the unaffected steam generator would cause the AFW system isolation valve to reopen. Since a single failure, the failure of the turbine stop valve to close, has already been hypothesized, no other failure can be assumed. Therefore, the licensee asserts that the failure of the AFW isolation valve of the unaffected steam generator to reopen cannot be assumed.

The NRC staff recognizes that only one failure can be hypothesized for a design basis accident. However, the licensee has analyzed only two cases of turbine stop valve operation, closure with one second and a failure to close. The assumption of the one second closure time of the turbine stop valve in the licensee's analysis is inconsistent with the closure time of six seconds allowed by the Technical Specifications and has not been proven to be actually achieved in the plant. The licensee has neither demonstrated by test or analyses that, if the turbine stop valve closes between one and six seconds, steam generator pressures would remain above the AFW system isolation setpoint [600 psia (from the SFRCS)]. Should the steam generator pressures fall below the AFW system isolation setpoint, the AFW system isolation valves would receive automatic closure signals. Assuming a single failure of the AFW system isolation valve of the unaffected steam generator, this valve would not reopen and would therefore prevent AFW system flow to the unaffected steam generator. Therefore, because the basis of a turbine stop valve closure time of one second after a main-steam line break has not been provided, the NRC staff considers it possible that AFW system flow could be prevented assuming a single failure of the AFW isolation valve to reopen.

Conclusion

Because the turbine stop valve closure time of one second was not consistent with the closure time specified by the Technical Specification nor actually proven by test, the licensee has not provided an adequate basis for its assertion that Violation II.E did not occur and that the design of the SFRCS and AFW systems meets the single failure criterion of IEEE–279.

Restatement of Violation IV.A.2.

10 CFR Part 50, Appendix B, Criterion XV, "Nonconforming Materials, Parts, or Components," requires measures be established to control materials, parts, or components which do not conform to requirements in order to prevent their inadvertent use or installation.

The Toledo Edison Quality Assurance Manual, sections 15.0 and 15.1.3 which implement Criterion XV of 10 CFR 50, Appendix B, require that nonconformances be documented on Nonconformance Reports to prevent their inadvertent use.

Contrary to the above, In March 1985, Toledo Edison Company Facility Engineering Department personnel used controlled sketches to document damaged Auxiliary Feedwater Pump Turbine Steam Supply hangers rather than Nonconformance Reports as required and, as a result, failed to prevent their inadvertent use or installation.

Summary of Licensee's Response

The licensee admits to the events that are described in NRC Inspection Report No. 50–346/85013 and should be considered a violation of 10 CFR Part 50, Criterion XV. However, the licensee states "the violation, as written, is in error," but does not provide an explanation as to why.

NRC Evaluation of Licensee's Response and Conclusion

The licensee is correct that the violation, as written, contains an error. Specifically, the statement that the failure to use Nonconformance Reports resulted in inadvertent use or installation of hangers is erroneous. Inspection Report 50–346/85013 described the failure of engineering personnel to document conditions adverse to quality on Nonconformance Reports in accordance with Toledo Edison procedure. Sketches were used instead to document identified nonconforming conditions that were forwarded to the architect/engineer for evaluation. The use of these sketches could not ensure that materials, parts, or components which did not conform to requirements were inadvertently used or installed. The inspection report did not identify any instances where the use of these uncontrolled sketches resulted in the inadvertent use or installation of materials, parts, or components and this is apparently the licensee's basis for stating that the violation was in error. Therefore, Violation IV.A.2 is modified to read as follows:

10 CFR Part 50, Appendix B, Criterion XV, "Nonconforming Materials, Parts, or Components," requires measures be established to control materials, parts, or components which do not conform to

requirements in order to prevent their inadvertent use or installation.

The Toledo Edison Nuclear Quality assurance Manual, sections 15.0 and 15.1.3 which implement Criterion XV of 10 CFR Part 50, Apendix B, require that nonconformances be documented on Nonconformance Reports to prevent their inadvertent use.

Contrary to the above, in March 1985, Toledo Edison company Facility engineering department personnel used sketches to document damaged Auxiliary Feedwater Pump Turbine Steam Supply hangers rather than Nonconformance Reports as required.

The violation, as rewritten, focuses on the licensee's failure to follow procedures which required the use of Nonconformance Reports to document nonconforming conditions as opposed to the inadvertent use or installation of materials, parts, or components. The NRC staff has concluded that this violation, as rewritten, occurred.

Conclusion

This violation, as rewritten, occurred, and no basis for withdrawing this violation has been provided.

Licensee's Request for Mitigation of Proposed Civil Penalties

The licensee stated in its January 27, 1985 response that after the June 9, 1985 event there was a rapid commencement of corrective actions and that the magnitude and quality of the effort expended since the June 9, 1985 event to set the operation of Davis-Besse on the road to excellence has few parallels if any, in the history of the nuclear industry in the United States. Further, Toledo Edison is committed to the continued and unabated achievement of the goal of excellence. If the civil penalty is mitigated in whole or in part, Toledo Edison will use the mitigated amount to accelerate such programs as the configuration management effort and improvements in the maintenance program to further improve the operation of Davis-Besse.

NRC Evaluation of Licensee's Request

The NRC staff has reviewed the licensee's January 27, 1986 response as well as the ongoing results of the Course of Action program. The staff agrees that Toledo Edison has expended and is continuing to expend considerable financial and personnel resources in their attempt to resolve the problems identified in the December 13, 1985 Notice of Violation and Proposed Imposition of Civil Penalties (Notice) as well as in other recent escalated enforcement actions. It appears that the licensee has made significant progress in its effort to identify and correct these problems and the staff acknowledges Toledo Edison's progress in these efforts.

The NRC staff believes extraordinary enforcement actions were required as a result of the series of problems that formed a long history of ineffective and inadequate attention and direction in the operation and maintenance of the Davis-Besse facility. However, the Enforcement Policy allows mitigation of civil penalties by as much as 50 percent for unusually prompt and extensive corrective action. Therefore, the NRC staff also believes that mitigation of the civil penalties in the amount of 50 percent is appropriate because such extensive actions were taken and because Toledo Edison has been aggressive in establishing an extensive, indepth corrective action program to address the problems that existed at Davis-Besse.

Conclusion

The amount of the civil penalties proposed in the December 13, 1985 Notice of Violation and Proposed Imposition of Civil Penalties is mitigated in the amount of 50 percent. Accordingly, an Order imposing a $450,000 civil penalty will be issued.

[FR Doc. 87-3749 Filed 2-20-87; 8:45 am]

BILING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Information Collection Activities Under OMB Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Management Improvement Division, OMB has submitted to OMB (OIRA) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and form number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Contractor Social Security (OASDI) and Thrift Plan costs for use in OMB Circular A-76 cost comparisons.

Pub. L. 99-335, Federal Employees Retirement System Act of 1986, section 307 prohibits the inclusion of both the Government's and contractor's employer contributions to the OASDI portion of social security and retirement thrift plan costs in A-76 cost comparisons. Contractors will be asked to provide a separate breakout of these costs to the contracting officer so they can be entered on the cost comparison form and subtracted from the contractors bid price for the cost comparison. Contractors, Responses 500, Burden hours 500.

ADDRESS: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the information collection proposal may be obtained from Mr. David Muzio, Office of Management and Budget, Room 9013, New Executive Office Building, Washington, DC 20503, telephone (202) 395-6810.

Joseph Wright, Jr.,

Deputy Director, Office of Management and Budget.

[FR Doc. 87-3599 Filed 2-20-87; 8:45 am]

BILLING CODE 3110-01-M

OMB Information Technology Advisory Committee

AGENCY: Office of Management and Budget.

ACTION: Notice of establishment of an advisory committee.

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the establishment of the Office of Management and Budget Information Technology Advisory Committee. The Advisory Committee will provide views on issues affecting the use of information technology by Federal agencies, including but not limited to, the following:

The opportunities for the productive application of information technology to government operations,

The impediments to effective use of technology, and

The remedies to mutual problems experienced by the Federal Government and the commercial sector.

The OMB Information Technology Advisory Committee will be composed

of representatives of a cross-section of the information technology community. Membership will be drawn from providers and manufacturers of computer hardware and software products, computer industry trade associations, technology services, and private sector information technology users.

FOR FURTHER INFORMATION CONTACT: Franklin S. Reeder, Office of Management and Budget, Office of Information and Regulatory Affairs, Information Policy Branch (202) 395–3785.

Wendy L. Gramm,

Administrator for Information and Regulatory Affairs.

[FR Doc. 87–3704 Filed 2–20–87; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of SF 50–A Submitted to OMB For Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), this notice announces the proposed extension of SF 50–A, Notice of Short-Term Employment, which was submitted to OMB for clearance. SF 50–A is completed by applicants for temporary Federal employment for 1 year or less. For copies of this proposal, call William Duffy, Agency Clearance Officer, on (292) 632–7714.

DATE: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Office, U.S. Office of personnel Management, Room 6410 1900 E Street, NW., Washington, DC 20415.

and

Timothy J. Sprehe, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Carol E. Porter, (202) 632–4453.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–3763 Filed 2–20–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreement Filed During the Week Ending February 13, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date filing.

Docket No. 44674 R–1—R–10

Parties: Members of International Air Transport Association
Date Filed: February 09, 1987
Subject: So. Atlantic Africa Fares
Proposed Effective Date: April 1, 1987

Docket No. 44675 R–1—R–15

Parties: Members of International Air Transport Association
Date Filed: February 09, 1987
Subject: Canada Europe Fares
Proposed Effective Date: April 1, 1987

Docket No. 44679

Parties: Members of International Air Transport Association
Date Filed: February 12, 1987
Subject: Amend Zloty Exchange Rate
Proposed Effective Date: April 1, 1987

Docket No. 44680 R–1 & R–2

Parties: Members of International Air Transport Association
Date Filed: February 12, 1987
Subject: Europe Mid-East Cargo Rates
Proposed Effective Date: April 1, 1987

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 87–3690 Filed 2–20–87; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ending February 13, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412 and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44682

Parties: American Airlines, Inc.
Date Filed: February 13, 1987.
Subject: Application of American Airlines, Inc., pursuant to Section 412 of the Act, for Discussion Authority With Antitrust Immunity with respect to Scheduling Adjustments.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 87–3691 Filed 2–20–87; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Proposed Revocation of Certificates Issued Under Sections 401 and 418 of the Federal Aviation Act; Bay Air, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause (Order 87–2–31), Dockets 42748, 34007, 43129, 43130, 39103 and 39104.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue orders revoking certain certificates issued to Bay Air, Inc., Burlington Northern Air Freight, Inc., UCC Charter Company and Zantop Airlines, Inc.

DATES: Persons wishing to file objections should do so no later than March 11, 1987.

ADDRESSES: Responses should be filed in Docket 42748, 34007, 43129, 43130, 39103 and 39104, as appropriate, and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: James A. Lawyer, Special Authorities Division, Office of Aviation Operations, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590 (202) 366–1064.

Dated: February 17, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87–3692 Filed 2–20–87; 8:45 am]

BILLING CODE 4910–62–M

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held March 30, 1987, at 5:30 p.m. at the Hyatt Regency Washington on Capitol Hill "Conference Theater", 400 New Jersey Avenue, NW., Washington, DC 20001. The agenda for the meeting is as follows:

—Review of Financial Assistance Programs
—Overview of OSDBU Program Initiatives
—Role of Women-owned Business Enterprises in Transportation-related Activities

—Procurement Opportunities for Disadvantaged Business Enterprises in the Transportation Industry

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Josie Graziadio, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–1930. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on February 17, 1987.

Amparo B. Bouchey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 87–3780 Filed 2–20–87; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for renewal or modification of exemptions or application to become a party to an exemption; correction.

SUMMARY: This document corrects a notice published in the **Federal Register** on *Thursday, February 12, 1987 on page 4563.* Exemption Number 8236 applicant name should have been Talley Defense Systems instead of Manager, Advanced Project.

Issued in Washington, DC, on February 17, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87–3716 Filed 2–20–87; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 12, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB No. 1545–0810
Form No. IRS Form TD 7533
Type of Review: Reinstatement
Title: Time for Filing Returns and Other Documents

Internal Revenue Service

OMB No. 1545–0807
Form No. IRS Form TD 7533
Type of Review: Reinstatement
Title: Time for Filing Returns and Other Corporations

Internal Revenue Service

OMB No. 1545–0808
Form No. None
Type of Review: Reinstatement
Title: Time and Manner of Making Certain Elections Under the Tax Equity and Fiscal Responsibility Act of 1982
Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Office.

[FR Doc. 87–3709 Filed 2–20–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

February 12, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB No. 1545–0902
Form No. IRS Forms 8288 and 8288–A
Type of Review: Resubmission
Title: Withholding Upon Dispositions of U.S. Real Property Interests by Foreign Persons (CC: INTL–51–86 (FINAL), LR–151–84 (NPRM), LR–218–84 (TEMP)
Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Office.

[FR Doc. 87–3708 Filed 2–20–87; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Application for Recordation of Trade Name; Snyder Laboratories, Inc.

ACTION: 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 "SNYDER LABORATORIES, INC." used by Snyder Laboratories, Inc., a corporation organized under the laws of the State of Delaware, located at 200 West Ohio Avenue, Dover, Ohio 44662.

The application states that the trade name is used in connection with the developing and marketing of medical devices and equipment, including wound drainage devices and any parts, developments, extensions and accessories, including tubing, sterile needles and sterile connectors, 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 April 24, 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: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–5765).

Dated: February 13, 1987.

Steven I. Pinter,

Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87–3758 Filed 2–20–87; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, February 26, 1987, at 2:30 p.m.
Thursday, March 12, 1987, at 2:30 p.m.
Thursday, March 26, 1987, at 2:30 p.m.

The meetings will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

This notice does not appear 15 days prior to the meeting due to delays in administrative processing.

Dated: February 6, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–3750 Filed 2–20–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 35
Monday, February 23, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, February 25, 1987.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: *Field Plan Review.*

The Commission will consider issues related to reorganization for Field Operations.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

January 19, 1987.

[FR Doc. 87–3847 Filed 2–19–87; 2:12pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, February 17, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of CapeBank, a Massachusetts Co-operative Bank, an operating noninsured co-operative bank located at 450 South Street, Hyannis, Massachusetts, for Federal deposit insurance.

Requests for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 18, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–3862 Filed 2–19–87; 3:34 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, February 17, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,878–L (Amendment)
American City Bank Los Angeles, California

Case No. 46,921–L
The First National Bank of Midland Midland, Texas

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: February 18, 1987.

Federal Deposit Insurance Corporation

Hoyle L. Robinson

Executive Secretary.

[FR Doc. 87–3863 Filed 2–19–87; 3:34 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 3:26 p.m. on Wednesday, February 11, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Accept the bid submitted by The First National Bank of Seiling, Seiling, Oklahoma, for the purchase of certain assets of and the assumption of the liability to pay deposits made in Community Bank, Seiling, Oklahoma, which was expected to be closed by the Bank Commissioner for the State of Oklahoma on Wednesday, February 11, 1987; and (2) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B)(1) Accept the bid submitted by The Atoka State Bank, Atoka, Oklahoma, an insured State nonmember bank, for the purchase of certain assets of and the assumption of the liability to pay deposits made in First City Bank of Atoka, Atoka, Oklahoma, which was expected to be closed by the Bank Commissioner for the State of Oklahoma on Thursday, February 12, 1987; (2) approve the application of The Atoka State Bank, Atoka, Oklahoma, for consent to purchase certain assets of and assume the liability to pay deposits made in First City Bank of Atoka, Atoka, Oklahoma, and for consent to establish the sole office of First City Bank of Atoka as a branch of The Atoka State Bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(C)(1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for a purchase and assumption transaction, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accept the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, make funds available for the payment of the insured deposits of the closed bank, with respect to each of the following: (a) Federated National Bank, Live Oak (P.O. San Antonio), Texas, which was expected to be closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, February 12, 1987; (b) First State Bank of King City, Missouri, King City, Missouri, which was expected to be closed by the Commissioner of Finance for the State

of Missouri on Friday, February 13, 1987; and (c) The County Bank, Manatee County (P.O. Palmetto), Florida, which was expected to be closed by the State Comptroller for the State of Florida on Friday, February 13, 1987; and

(D)(1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for an insured deposit transfer transaction, or (2) in the event no acceptable bid for an insured deposit transfer transaction is submitted, make funds available for the payment of the insured deposits of Security National Bank of Midland, Midland, Texas, which was expected to be closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, February 13, 1987.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 17, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-3864 Filed 2-19-87; 3:34 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 52, No. 35
Monday, February 23, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, 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.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1641]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

Correction

In notice document 87–2402 appearing on page 3702 in the issue of Thursday, February 5, 1987, make the following correction:

On page 3702, in the third column, in the first and second lines, "(insert date 16 days after date of publication)" should have read "February 23, 1987".

BILLING CODE 1505–01–D

Reader Aids

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Monday, February 23, 1987

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.