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Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

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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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Revision of Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts its interim rule published April 2, 1986 (51 FR 11298). This action is being taken to add an exception authority to its regulation for the section 502 rural housing program. The amendment is necessary to authorize the Administrator of FmHA, in individual cases, to make an exception to any requirement in the regulation which is not inconsistent with the authorizing statute if the Administrator determines that application of the requirement would adversely affect the Government's interest or would endanger the immediate health and/or safety of applicants/borrowers or the community if there is no adverse effect on the Government's interest. The intended effect is to facilitate actions within current statutes which are not now authorized by the regulations but which are needed to protect the interests of the applicant/borrower, the community and the Government.

EFFECTIVE DATE: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Chief, Homeownership Branch, Single Family Housing Processing Division, or Dale Alling, Loan Specialist, at Farmers Home Administration, USDA, Room 5334–S, South Agriculture Building, 14th and Independence Avenue SW, Washington, DC 20250, Telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical region or significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Only one comment was received on the April 2, 1986, interim rule. The respondent indicated that the rule as written restricts the right to request an exception to the State Director and does not adequately protect the rights of applicants/borrowers. The respondent requested that the rule be changed to allow citizens to be able to initiate a request for an exception when (1) there is a clear need, (2) published regulations prohibit FmHA actions to meet that need, (3) the action requested is a practical response to the need, (4) the action and exception do not conflict with law or adversely affect the government's interest, and (5) the State Director refuses to make a request in their behalf or fails to initiate same within 30 days of their petition. We did not adopt the changes recommended. The intent of rule is to expand the authority of the FmHA Administrator within the underlying law, to further facilitate actions in providing housing assistance. The rights of applicants/borrowers are not hampered by their exclusion from the rule as originators of the request for exceptions as there are other means provided by the regulations for the protection of such rights and there are no restrictions on direct communication between applicants/borrowers and the Administrator. In fact, the exclusion only means that applicants/borrowers will not participate in the Agency's chain of in-house communications.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the Scope of Executive Order 12372 which requires intergovernmental consultation with the State and local officials.

This document has been reviewed in accordance with 7 CFR Part 1940 Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan program, Housing and community development, Low and moderate income housing, Rental, Mortgages, Rural housing, Subsidies.

Accordingly, the interim rule published in the **Federal Register** on April 2, 1986 (51 FR 11298) affecting Chapter XVIII, Title 7, CFR Part 1944 is adopted as a final rule.

Dated: January 12, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–6574 Filed 3–25–87; 8:45 am]
BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40, 70, 73, and 110

Implementation of the Convention on the Physical Protection of Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to bring them into accord with the Provisions of the Convention on the Physical Protection of Nuclear Material. The amendments will result in strengthened protection of shipments of Convention-defined materials during international transport. The amendments will affect licensees and carriers who import, export, or transport international shipments of Convention-

defined materials in four specifically defined situations.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: William C. Floyd, Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–427–4033.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1980, the United States signed the Convention on the Physical Protection of Nuclear Material (the Convention) (Exec. H, Senate, 96th Cong., 2d Sess.). The Convention is the result of a U.S. proposal originally made by the Secretary of State in 1974. Its purpose is to provide for the establishment and maintenance of adequate physical security with respect to international shipment of significant quantities of source or special nuclear material. The Senate ratified the Convention on July 30, 1981 and the implementing legislation was enacted by the Congress and signed by the President on October 18, 1982 (Pub. L. 97–351, 96 Stat. 1663). The Convention entered into force on February 8, 1987, the thirtieth day following the date on which the twenty-first country formally ratified it. Accordingly, this final rule will be immediately effective on publication in the **Federal Register.**

A review of NRC regulations and procedures disclosed that they are in accord with the Convention except for four specific situations: (1) The physical protection of transient shipments of special nuclear material of moderate and low strategic significance and irradiated reactor fuel; (2) advance notification to the NRC regarding the export of Convention-defined nuclear materials; (3) advance notification and assurance of protection to NRC concerning transient shipments of Convention-defined nuclear material between countries that are not parties to the Convention; and (4) advance notification and assurance of protection to the NRC regarding the importation of Convention-defined nuclear materials from countries that are not parties to the Convention. Convention-defined material includes natural uranium (other than in the form of ore or ore residue) in a quantity exceeding 500 kilograms, plutonium, uranium-233, uranium enriched in uranium-235, and irradiated fuel. A transient shipment is one originating and terminating in foreign countries, that is transported on a vessel or aircraft which stops at a United States port.

On July 14, 1983, the NRC published a **Federal Register** notice (FRN) (43 FR 32182) inviting public comment on a proposed rule that would bring NRC regulations into accord with the Convention in the four situations cited above. The 90-day comment period ended on October 13, 1983.

Five letters of comment were received, each containing several comments and suggestions. A summary of the public comments along with their impact on the regulation was discussed in the March 28, 1985 FRN (50 FR 12221), notice of rulemaking for information only.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval numbers 3150–0002, 3150–0009, and 3150–0020.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits and environmental implications of the regulation. Interested persons may examine a copy of the regulatory analysis at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from William C. Floyd, Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–427–4033.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal Action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The rule would improve the physical protection of nuclear materials during international transport and would result in no negative environmental impacts. The environmental assessment and finding of no significant impact on which this determination is based are part of the Regulatory Analysis prepared in connection with this rulemaking.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The NRC reviewed data on import and export shipments made during the period between December 1, 1983 and February 29, 1984, and found that no small entities in the U.S. were among the importers or exporters. Additionally, public comments did not indicate significant economic impact on a large number of small entities. (One letter of comment is from a company identifying itself as a small entity. The objective of the letter, however, is judged to be to present constructive comment for improving the proposed rule rather than to demonstrate that, because of its size, the company is likely to bear a disproportionate adverse economic impact.) The data reviewed shows no transient shipments of spent fuel or formula quantities of strategic special nuclear material; such shipments are very rare. Currently, there are no reporting requirements for transient shipments of natural uranium or special nuclear material of low or moderate significance. Such shipments, if they are regularly made, are not expected to affect a substantial number of small entities.

List of Subjects

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

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

10 CFR Part 73

Hazardous materials—transportation, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and 5 U.S.C. 553, the NRC is

making effective and republishing the following amendments to Parts 40, 70, 73, and 110 except item 16 which is a revision of Appendix F and item 18, as they appeared on March 28, 1985 at (50 FR 12221).

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), 40.41(b) and (c), 40.46, 40.51(a) and (c), and 40.63 are issued under sec. 161b., 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 40.5, 40.25(c), (d)(3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 40.1, paragraph (a) is revised to read as follows:

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct materials, as defined in this part, and establish and provide for the terms and conditions upon which the Commission will issue such licenses. The regulations in this part also establish certain requirements for the physical protection of import, export, and transient shipments of natural uranium. (Additional requirements applicable to the import and export of natural uranium are set forth in Part 110 of this chapter.) The regulations in this part do not establish procedures and criteria for the issuance of licenses for materials covered under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021).

* * * * *

3. In § 40.4, a new (r) is added to read as follows:

§ 40.4 Definitions.

* * * * *

(r) "Transient shipment" means a shipment of nuclear material, originating and terminating in foreign countries, on a vessel or aircraft that stops at a United States port.

4. Section 40.12 is revised to read as follows:

§ 40.12 Carriers.

(a) Except as specified in paragraph (b) of this section, common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and the requirements for a license set forth in section 62 of the Act to the extent that they transport or store source material in the regular course of the carriage for another or storage incident thereto.

(b) The exemption in paragraph (a) of this section does not apply to a person who possesses a transient shipment (as defined in § 40.4(r)), an import shipment, or an export shipment of natural uranium in an amount exceeding 500 kilograms, unless the shipment is in the form of ore or ore residue.

5. A new § 40.23 is added to read as follows:

§ 40.23 General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue.

(a) A general license is hereby issued to any person to possess a transient shipment of natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms.

(b)(1) Persons generally licensed under paragraph (a) of this section, who plan to carry a transient shipment with scheduled stops at a United States port, shall notify the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

(2) The notification must include the following information:

(i) Location of all scheduled stops in United States territory;

(ii) Arrival and departure times for all scheduled stops in United States territory;

(iii) The type of transport vehicle;

(iv) A physical description of the shipment;

(v) The numbers and types of containers;

(vi) The name and telephone number of the carrier's representatives at each stopover location in the United States territory;

(vii) A listing of the modes of shipments, transfer points, and routes to be used;

(viii) The estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered;

(ix) For shipment between countries that are not party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in Appendix F to Part 73 of this chapter), a certification that arrangements have been made to notify the Division of Safeguards and Transportation when the shipment is received at the destination facility.

(c) Persons generally licensed under this section making unscheduled stops at United States ports, immediately after the decision to make an unscheduled stop, shall provide to the Division of Safeguards and Transportation the information required under paragraph (b) of this section.

(d) A licensee who needs to amend a notification may do so by telephoning the Division of Safeguards and Transportation at 301–427–4033.

6. A new § 40.66 is added to read as follows:

§ 40.66 Requirements for advance notice of export shipments of natural uranium.

(a) Each licensee authorized to export natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, shall notify the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

(b) The notification must include the following information:

(1) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);

(2) A physical description of the shipment;

(3) A listing of the mode(s) of shipment, transfer points, and routes to be used;

(4) The estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered; and

(5) A certification that arrangements have been made to notify the Division of Safeguards and Transportation when the shipment is received at the receiving facility.

(c) A licensee who needs to amend a notification may do so by telephoning

the Division of Safeguards and Transportation at 301–427–4033.

7. A new § 40.67 is added to read as follows:

§ 40.67 Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) Each licensee authorized to import natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material (see Appendix F of Part 73 of this chapter) shall notify the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

(b) The notification must include the following information:

(1) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);

(2) A physical description of the shipment;

(3) A listing of the mode(s) of shipment, transfer points, and routes to be used;

(4) The estimated date and time that shipment will commence and that each nation along the route is scheduled to be entered.

(c) The licensee shall notify the Division of Safeguards and Transportation by telephone at 301–427–4033 when the shipment is received at the receiving facility.

(d) A licensee who needs to amend a notification may do so by telephoning the Division of Safeguards and Transportation at 301–427–4033.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C 2273); §§ 70.3, 70.19(c), 70.21(c), 70.22 (a), (b), (d)–(k), 70.24 (a) and (b), 70.32 (a) (3), (5), (6), (d) and (i), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c), and (d), 70.58 (a)–(g)(3), and (h)–(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a (a) and (d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (a)(6), (c), (d), (e) and (g), 70.36, 70.51(c)–(g), 70.56, 70.57 (b) and (d) and 70.58 (a)–(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.20b (d) and (e), 70.38, 70.51 (b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58 (g)(4), (k), and (l), 70.59, and 70.60 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C 2201(o)).

9. Section 70.20b is revised to read as follows:

§ 70.20b General license for carriers of transient shipments of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel.

(a) A general license is hereby issued to any person to possess transient shipments of the following kinds and quantities of special nuclear material:

(1) A formula quantity of special nuclear material of the types and quantities subject to the requirements of §§ 73.20, 73.25, 73.26, and 73.27 of this chapter.

(2) Special nuclear material of moderate and low strategic significance of the types and quantities subject to the requirements of § 73.67 of this chapter.

(3) Irradiated reactor fuel of the type and quantity subject to the requirements of § 73.37 of this chapter.

(b) Persons generally licensed under this section are exempt from the requirements of Parts 19 and 20 of this chapter and the requirements of this part, except §§ 70.32 (a) and (b), 70.52, 70.55, 70.61, 70.62, and 70.71.

(c) Persons generally licensed under this section to possess a transient shipment of special nuclear material of the kind and quantity specified in paragraph (a)(1) of this section shall provide physical protection for that shipment in accordance with or equivalent to §§ 73.20(a), 73.20(b), 73.25, and 73.71(b) of this chapter from the time a shipment enters a United States port until it exits that or another United States port.

(d) Persons generally licensed under this section to possess a transient shipment of special nuclear material of moderate or low strategic significance of the kind and quantity specified in paragraph (a)(2) of this section shall provide physical protection for that shipment in accordance with or equivalent to § 73.67 of this chapter and shall comply with the requirements of § 73.71(b) of this chapter.

(e) Persons generally licensed under this section to possess a transient shipment of irradiated reactor fuel of the kind and quantity specified in paragraph (a)(3) of this section shall provide physical protection for that shipment in accordance with or equivalent to § 73.37 of this chapter and shall comply with the requirements of § 73.71(b) of this chapter.

(f)(1) Persons generally licensed under this section, who plan to carry transient shipments with scheduled stops at United States ports, shall notify in writing the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) A person generally licensed under this section shall assure that:

(i) The notification will be received at least 10 days before transport of the shipment commences at the shipping facility;

(ii) The Division of Safeguards and Transportation has been notified by telephone at 301–427–4033, at least 10 days before transport of the shipment commences at the shipping facility, that an advance shipping notice has been sent by mail; and

(iii) The Division of Safeguards and Transportation will be notified by telephone at 301–427–4033 of any changes to the shipment itinerary.

(3) Persons who are generally licensed under paragraph (a)(1) of this section must include the information listed in paragraphs (f)(3)(i) through (ix) of this section. Persons who are generally licensed under § 70.20b(a)(2) and § 70.20b(a)(3) must include the information listed in paragraphs (f)(3) (i) through (viii) of this section.

(i) Location of all scheduled stops in United States territory;

(ii) Arrival and departure times for all scheduled stops in United States territory;

(iii) The type of transport vehicle;

(iv) A physical description of the shipment (elements, isotopes, and enrichments);

(v) The number and types of containers;

(vi) The name and telephone number of the carrier's representative at each stopover location in United States territory;

(vii) The estimated time and date that shipment will commence and that each country (other than the United States) along the route is scheduled to be entered;

(viii) For shipments between countries that are not party to the Convention on the Physical Protection of Nuclear Material, provide assurances, as far as is practicable, that this nuclear material will be protected during international transport at levels described in Annex I to that Convention (see Appendices E and F of Part 73 of this chapter); and

(ix) A physical protection plan for implementing the requirement of § 70.20b(c), which will include the use of armed personnel to protect the shipment during the time the shipment is in a United States port.

(g) Persons generally licensed under this section making unscheduled stops at United States ports, immediately after the decision to make an unscheduled stop, shall:

(1) Provide to the Division of Safeguards and Transportation, the information required under paragraph (f) of this section.

(2) In the case of persons generally licensed under paragraph (a)(1) of this section, arrange for local law enforcement authorities or trained and qualified private guards to protect the shipment during the stop.

(3) In the case of persons generally licensed under paragraph (a)(2) of this section, arrange for the shipment to be protected as required in § 73.67(e) of this chapter.

(4) In the case of persons generally licensed under paragraph (a)(3) of this section, arrange for the shipment to be protected as required in § 73.37(e) of this chapter.

(5) Implement these arrangements within a reasonable time after the arrival of the shipment at a United States port to remain in effect until the shipment exits that or another United States port.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

10. The authority citation of Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) also issued under sec. 301, Pub, L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399 and sec. 161i, 68 Stat. 949 (42 U.S.C. 2201(i)).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50 (g) (2), (3)(iii)(B) and (h), 73.55(h) (2), and (4)(iii)(B), 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

11. In § 73.1, a new paragraph (b)(8) is added to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) * * *

(8) This part prescribes requirements for advance notice of export and import shipments of special nuclear material, including irradiated reactor fuel.

12. Section 73.72 is revised to read as follows:

§ 73.72 Requirement for advance notice of shipment of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, or irradiated reactor fuel.

(a) A licensee, other than one specified in paragraph (b) of this section, who, in a single shipment, plans to deliver to a carrier for transport, to take delivery at the point where a shipment is delivered to a carrier for transport, to import, to export, or to transport a formula quantity of strategic special nuclear material, special nuclear material of moderate strategic significance, or irradiated reactor fuel required to be protected in accordance with § 73.37, shall:

(1) Notify in writing the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

(2) Assure that the notification will be received at least 10 days before transport of the shipment commences at the shipping facility;

(3) Include the following information in the notification:

(i) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);

(ii) A physical description of the shipment:

(A) For a shipment other than irradiated fuel, the elements, isotopes, enrichment, and quantity;

(B) For a shipment of irradiated fuel, the physical form, quantity, type of reactor, and original enrichment;

(iii) A listing of the mode(s) of shipment, transfer point(s), and route(s) to be used;

(iv) The estimated time and date that shipment will commence and that each country along the route is scheduled to be entered; and

(v) The estimated time and date of arrival of the shipment at the destination;

(4) Notify the Division of Safeguards and Transportation by telephone at 301–427–4033 at least 10 days before transport of the shipment commences at the shipping facility that an advance notice has been sent; and

(5) Notify the Division of Safeguards and Transportation by telephone at 301–427–4033 of any changes to the shipment itinerary.

(b) A licensee who makes a road shipment or transfer with one-way transit times of one hour or less in duration between installations of the licensee is exempt from the requirements of this section for that shipment or transfer.

13. Section 73.73 is added to read as follows:

§ 73.73 Requirement for advance notice and protection of export shipments of special nuclear material of low strategic significance.

(a) A licensee authorized to export special nuclear material of low strategic significance shall:

(1) Notify in writing the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

(2) Assure that the notification will be received at least 10 days before transport of the shipment commences at the shipper's facility;

(3) Include the following information in the notification:

(i) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);

(ii) A physical description of the shipment (the elements, isotopes, form, etc.);

(iii) A listing of the mode(s) of shipment, transfer points, and routes to be used;

(iv) The estimated time and date that shipment will commence and that each country along the route is scheduled to be entered; and

(v) The estimated time and date of arrival of the shipment at the destination;

(4) Assure that during transport outside the United States, the shipment will be protected in accordance with Annex I to the Convention on the Physical Protection of Nuclear Material (see Appendix E of this part).

(b) A licensee who needs to amend a written advance notification required by paragraph (a) of this section may do so by telephoning the Division of Safeguards and Transportation at 301–427–4033.

14. Section 73.74 is added to read as follows:

§ 73.74 Requirement for advance notice and protection of import shipments of nuclear material from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) A licensee authorized to import special nuclear material of low strategic significance from a country not a party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in Appendix F of this part) shall:

(1) Notify in writing the Division of Safeguards and Transportation, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

(2) Assure that the notification will be received at least 10 days before transport of the shipment commences at the shipper's facility; and

(3) Include the following information in the notification:

(i) The name(s), address(es) and telephone number(s) of the shipper, receiver, and carrier(s);

(ii) A physical description of the shipment (the isotopes, enrichment, quantity, etc.);

(iii) A listing of mode(s) of shipment, transfer points, and routes to be used;

(iv) The estimated time and date that shipment will commence and that each country along the route is scheduled to be entered; and

(v) The estimated time and date of arrival of the shipment at the destination.

(b) A licensee who needs to amend a written advance notification required by paragraph (a) of this section may do so by telephoning the Division of Safeguards and Transportation at 301–427–4033.

(c) A licensee authorized to import from a country not a party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in Appendix F of this part) a formula quantity of special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, or irradiated reactor fuel shall assure that during transport outside the United States the shipment will be protected in accordance with Annex I to the Convention on the Physical Protection of Nuclear Material (see Appendix E of this part).

15. A new Appendix E is added to read as follows.

Appendix E—Levels of Physical Protection To Be Applied in International Transport of Nuclear Material [1]

(Verbatim from Annex I to the Convention on the Physical Protection of Nuclear Material)

(a) Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(1) For Category III materials, storage within an area to which access is controlled;

(2) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;

(3) For Category I material, storage within a protected area as defined for Category II, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their objective the detection and prevention of any assault, unauthorized access, or unauthorized removal of material.

(b) Levels of physical protection for nuclear material during international transport include:

(1) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;

(2) For Category I materials, transportation shall take place under special precautions identified for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

(3) For natural uranium other than in the form of ore or ore residue, transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and [shall provide for] confirmation of receipt of shipment.

16. Appendix F is revised to read as follows:

[1] See Appendix C to Part 110 of this chapter from the physical description of the categories of nuclear material as set forth in Annex I to the Convention. For the purposes of this part, the following categories of nuclear material are synonymous:

Category I is a formula quantity of strategic special nuclear material;

Category II is special nuclear material of moderate strategic significance or irradiated fuel; and

Category III is special nuclear material of low strategic significance.

APPENDIX F—NATIONS THAT ARE PARTIES TO THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL [1]

Nation	Date of deposit of instrument of ratification with the IAEA
Brazil	Oct. 17, 1985.
Bulgaria	May 2, 1984.
Canada	Mar. 21, 1986.
Czechoslovakia	Apr. 23, 1982.
German Democratic Republic (E. Germany).	Feb. 5, 1981.
Guatemala	Apr. 23, 1985.
Hungary	May 4, 1984.
Indonesia	Nov. 5, 1986.
Korea, Republic of	Apr. 7, 1982.
Liechtenstein	Nov. 25, 1986.
Mongolia	May 28, 1986.
Norway	Aug. 15, 1985.
Paraguay	Feb. 6, 1985.
Philippines	Sept. 22, 1981.
Poland	Oct. 5, 1983.
Sweden	Aug. 1, 1980.
Switzerland	Jan. 9, 1987.
Turkey	Feb. 27, 1985.
Yugoslavia	May 14, 1986.
Union of Soviet Socialist Republic.	May 25, 1983.
United States of America	Dec. 13, 1982.

[1] An update list of party nations will appear annually in the Department of State's publication, Treaties in Force. Appendix F will be amended as required to maintain its currency.

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

17. The authority citation for Part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 109, 111, 126, 127, 128, 129, 161, 181, 182, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, Pub. L. 88–489, 78 Stat. 603–605; Pub. L. 91–560, 84 Stat. 1472; 70 Stat. 1071, Pub. L. 85–256, 71 Stat. 579; Pub. L. 87–615, 76 Stat. 409; Pub. L. 93–377, 88 Stat. 473, 475, Pub. L. 95–242, 92 Stat. 125, 126, 131–

139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); Sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended by Pub. L. 94–79, 89 Stat. 413, 414 (42 U.S.C. 5841).

Sec. 110.13 also issued under sec. 122, Pub. L. 83–703, 68 Stat. 939 (42 U.S.C. 2152). Sec. 110.50(b)(4) also issued under sec. 123, Pub. L. 95–242, 92 Stat. 142–145 (42 U.S.C. 2153). Sec. 110.51 also issued under sec. 184, Pub. L. 83–703, 63 Stat. 954; Pub. L. 88–489, 78 Stat. 607 (42 U.S.C. 2234). Sec. 110.52 also issued under sec. 186; Pub. L. 83–703, 68 Stat. 955 (42 U.S.C. 2236). Sec. 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sec. 110.130–110.135 also issued under 5 U.S.C. 553.

18. In § 110.50 paragraph (b)(4) is revised to read as follows:

§ 110.50 Terms.

* * * * *

(b) * * *

(4) A licensee authorized to export or import nuclear material is responsible for compliance with applicable requirements of Parts 40, 70, and 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

* * * * *

Dated at Bethesda, Maryland, this 11th day of March, 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87–6462 Filed 3–25–87; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3208]

J.C. Penney Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New York City-based retailer from bringing any debt-collection cases in judicial districts other than those in which a customer lives or signed the disputed sales contract. Further, respondent is required to either transfer to a closer court, or dismiss entirely, all pending cases brought in "distant forums."

DATE: Complaint and Order issued Feb. 20, 1987*.

FOR FURTHER INFORMATION CONTACT: FTC/S–4429, Rachelle V. Browne, Washington, DC 20580. (202) 326–3229.

SUPPLEMENTARY INFORMATION: On Friday, December 5, 1986, there was published in the **Federal Register**, 51 FR 43932, a proposed consent agreement with analysis In the Matter of J.C. Penney Company, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: S 13.533 Corrective Actions and/or Requirements; 13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Debt collection, Retailers, Trade practices.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Emily H. Rock,

Secretary.

[FR Doc. 87–6528 Filed 3–25–87; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 249

Off-Reservation Treaty Fishing; Fraser River Convention Sockeye and Pink Salmon Fishery

December 9, 1986.

ACTION: Final rule; removal.

SUMMARY: The Bureau of Indian Affairs is removing Subpart B of 25 CFR Part 249, Subchapter B, Fraser River Convention Sockeye and Pink Salmon Fishery. The United States and Canada signed a new treaty on January 28, 1985 which terminated both the 1930 Convention and the International Pacific Salmon Fisheries Commission (IPSFC). For this reason, the regulations at 25 CFR Part 249, Subpart B are no longer needed.

EFFECTIVE DATE: This action takes effect March 26, 1987.

FOR FURTHER INFORMATION CONTACT: Richard R. Lemaire, Bureau of Indian Office of Trust Responsibilities, 1951 Constitution Avenue, NW., D.C. 20245, 202–343–4089.

SUPPLEMENTARY INFORMATION: Until 1985, fishing in the United States' waters for sockeye and pink salmon spawned in the Fraser River had been governed for many years under the terms of the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Fisheries of the Fraser River System, signed at Washington on the 26th day of May 1930, as amended by the protocol to include pink salmon, signed at Ottawa on December 28, 1956.

Responsibility for establishing the annual regulations governing that fishery rested with the bilateral International Pacific Salmon Fisheries Commission (IPSFC). However, because of the reluctance of the IPSFC to establish regulations that would divide the United States' harvest evenly between Indian and non-Indian fisheries in the Puget Sound area, the State Department had, for several years, approved the IPSFC regulations only as applied to non-treaty fisheries. The treaty Indian fishery has been regulated instead by regulations promulgated by the Department of the Interior in 25 CFR Part 249, Subpart B. These regulations were designed to permit an equal sharing of the U.S. share of the Fraser River sockeye and pink runs while assuring that enough fish remained to meet escapement goals and satisfy treaty obligations to Canada.

On January 28, 1985, however, the United States and Canada signed a new Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon. Paragraph 3 of Article XV of the new treaty terminated both the 1930 Convention and the IPSFC. Under Article VI of the new treaty, the United States agreed to apply approved Fraser Panel regulations to all U.S. fisheries on Fraser pink and sockeye salmon stocks.

Article XI of that treaty provided that the treaty would not be interpreted or applied so as to affect or modify the obligations of the United States under the Indian treaties. The Pacific Salmon Treaty Act, 16 U.S.C. 3631 *et seq.*, provides that a representative of the

*Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580.

treaty tribes will be one of the four U.S. Commissioners on the bilateral Pacific Salmon Commission (PSC), which was created under the new treaty. That Act also requires that one of the four U.S. members of the Fraser River Panel, which is to govern fishing on sockeye and pink salmon that spawn in the Fraser River, must be a representative of the treaty tribes. Under the Act, all actions by the U.S. section of the Commission and the Fraser River Panel require the concurrence of the tribal representative. That fishery is now governed by regulations adopted by the Fraser River Panel and approved by the State Department and by tribal regulations that are consistent with the Panel regulations.

The Fraser River Panel was established by the Pacific Salmon Treaty. The Panel is responsible for proposing fishing regulations for pink and sockeye fisheries. The Panel is also responsible for making in-season adjustments to the regulations.

Pursuant to 5 U.S.C. 553(b), notice and public comment on this rule are unnecessary since authority for the rule no longer exists. For these same reasons, it has been determined that a need does not exist for a delayed effective date for this rule.

The decision to terminate separate Interior Department regulation of the U.S. Indian fishery on the Fraser River pink and sockeye runs was made by the Congress when it ratified the Pacific Salmon Treaty and enacted the implementing legislation. Because this repeal simply implements a decision made by Congress more than a year ago, there is no need to publish this document 30 days before its effective date. Accordingly, good cause exists to make this action effective immediately upon publication in the **Federal Register.**

List of Subjects in 25 CFR Part 249

Fisheries, Fishing, Indian Affairs Bureau, Indians, Reporting and recordkeeping requirements.

PART 249—[REMOVED AND RESERVED]

In exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, Subpart B of the 25 CFR Part 249 is hereby removed and reserved.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-6599 Filed 3-25-87; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 46

[T.D. 8102]

Excise Tax Imposed on the Issuer of Registration-Required Obligations not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations that were published in the **Federal Register** on Monday, September 22, 1986 (51 FR 33593) as Treasury Decision 8102. The rules relate to the excise tax imposed on the issuer of registration-required obligations which are not in registered form.

FOR FURTHER INFORMATION CONTACT: Timothy J. McKenna, 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final rules that are the subject of this correction conform the regulations to section 310(b)(4) of the Tax Equity and Fiscal Responsibility Act of 1982. They affect issuers of obligations and provide them with the guidance necessary to comply with the law.

Need For Correction

As published, Treasury Decision 8102 contains a typographical error that, if not corrected, would cause confusion to taxpayers and practitioners.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8102), which was the subject of FR. Doc. 86-21442, is corrected as follows:

§ 46.6011(a)-1 [Corrected]

Paragraph 1. In the instructional paragraph for § 46.6011(a)-1 that is designated Par. 4., page 33595, first column, the language " '4371, 4501(a) and 4701' " is corrected to read " '4371, 4501(a) or 4701' ".

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87-6573 Filed 3-25-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD11-87-06]

Safety Zone: Platform Gail, Pacific Ocean Southern California

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This rulemaking establishes a 500 meter safety zone around Platform GAIL similar to the safety zones around other platforms off the Southern California coast. The safety zone will be indicated on navigational charts which will make the fixed structures more readily apparent to the mariner. The establishment of a safety zone around an offshore structure is one method recommended by the International Maritime Organization (IMO) in its Resolution A.379(X) to resolve the conflict between oil and gas activities and vessel navigation. The overall impact of these regulations will be to promote the safety of lives and property on Platform GAIL, its appurtenances and attending vessels and on the adjacent waters with in the safety zone.

DATES: This regulation becomes effective on March 30, 1987. Comments on this regulation must be received on or before June 30, 1987.

ADDRESSES: Comments should be mailed to Commander (mps), Eleventh Coast Guard District, Union Bank Building, Long Beach, CA 90822. The comments will be available for inspection and copying at Marine Safety Division, Commander, Eleventh Coast Guard District, Room 709, 400 Oceangate, Long Beach, CA 90822. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander F. L. McClain, Marine Safety Division, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822. Phone Number: (213) 590-2301.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been contrary to the public interest. Immediate action is needed to prevent loss of life and damage to Platform

GAIL by vessels transitting the area. This regulation should have little or no economic impact and no adverse comments are expected concerning the terms of the regulation. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify this docket number CGD11-87-06, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. Base upon comment received, the regulation may be changed.

Drafting Information: The drafters of this notice are Lieutenant Commander F. L. McClain, project officer, and Lieutenant Commander J. R. McFaul, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulation: This final rule amends Part 147 to reflect the addition of a new structure, Platform GAIL, off the Southern California Coast. The regulation proposed contains a description of the area of the safety zone including the location of the center of the structure and the regulations pertinent to that structure's safety zone. The regulations restrict the entry of vessels into the safety zone except attending vessels and those vessels authorized by the Commander, Eleventh Coast Guard District. Also, vessels under 100 feet in length overall not engaged in towing are allowed in the safety zone.

List of Subjects in 33 CFR Part 147

Outer Continental Shelf, Harbors, Marine safety, Navigation (Water), Security measures, Vessels, Waterways.

PART 147—[AMENDED]

Final Regulation: In consideration of the foregoing, Part 147 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 147 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1); sec. 6(b)(1), 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); 33 CFR 147.01-3.

2. Section 147.1113 is added to read as follows:

§ 147.1113 Platform GAIL safety zone.

(a) *Description:* The area within a line 500 meters from each point on the structure's outer edge. The position of the center of the structure is 34°-07'-30" N, 119°-24'-01" W.

(b) *Regulation:* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel, (2) a vessel under 100 feet in length overall not engaged in towing, or (3) a vessel authorized by the Commander, Eleventh Coast Guard District.

Dated: March 23, 1987.

A.B. Beran,

Rear Admiral (lower half), U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 87-6578 Filed 3-25-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3158-6]

Standards of Performance for New Stationary Sources Addition of Alternative Procedure (Critical Orifice as Calibration Standards) to Method 5, Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions and additions to Method 5 to include an alternative calibration procedure were proposed in the **Federal Register** on March 3, 1986. This action promulgates these revisions and additions. The alternative is a calibration procedure using critical orifices as calibration standards instead of a wet test meter. The intended effect of these revisions is to reduce the cost of calibration without sacrificing accuracy. This alternative would apply to all sources where regulations specify the use of Method 5 of equipment for determining particulate matter or other pollutants.

EFFECTIVE DATE: March 26, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-85-25, containing information concerning information considered in EPA in the development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace B. Sorrell or Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This is an alternative procedure for using critical orifices as calibration standards instead of a wet test meter.

This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking revises the test method to which the affected facilities are already subject.

II. Public Participation

A public hearing was scheduled for April 23, 1986, at 10:00 a.m., but was not held because no one requested to speak. The public comment period was from March 3 to May 16, 1986. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant Comments and Changes to the Proposed Rulemaking

Six comment letters from industry were received. The major comments and the Agency's responses are summarized below.

Two commenters supported the revisions and agreed that the revisions were appropriate.

Two commenters recommended either eliminating section 4.4.2 or revising it to allow the use of critical orifices for the quality control procedure without the Administrator's approval. The Agency agrees that the quality control procedure should no longer be subject to the Administrator's approval and has revised section 4.4.2 to refer to section 7.2 for the approved procedure.

One commenter was concerned that the frequency of calibration was not addressed in the proposal. The commenter suggested that the critical orifice calibration be checked annually or at any time the orifice is suspected to have sustained damage.

Section 7.2.3.5 of the proposal does address the need for recalibration. A check is made each time a dry gas meter

is calibrated. The section has been reworded in order to make this clear.

One commenter was concerned that the proposal seemed to restrict the user to hypodermic needles and, therefore, would be restricted to using stainless steel material. The commenter suggested that the amendment be broadened to allow other critical orifice designs and materials. The Agency agrees that the procedure should not be limited to stainless steel needles. The proposal has been modified to allow other types of critical orifices and materials so long as they perform as true critical orifices, i.e., are able to attain a critical flow rate.

One commenter recommended that the proposal be expanded to allow other calibration schemes such as a spirometer or proof tester, subject to the approval of the Administrator. The Agency agrees that the calibration scheme need not be restricted to only a dry gas meter. The proposal has been amended to allow other calibration schemes.

One commenter pointed out an error in Equations 5–9 and 5–10. The factor 17.64, which is applicable only to those cases where metric units are used, was proposed to be used in both calculations. The commenter suggested replacing 17.64 with K_1, which has been defined in Method 5. The equations have been modified to use K_1.

The last commenter was concerned that the orifice could become partially blocked if there is particulate matter in the air during calibration. The commenter suggested a warning statement saying that the calibration air should be determined to be free of particulate matter. The Agency does not consider a warning statement necessary. If concentrations are so high or if a particle becomes lodged during calibration, the data would not be reproducible.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be a "major rule." This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking revises the test method to which the affected facilities are already subject. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because this rule imposes no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will have no economic impact on small entities because no additional testing costs will be incurred.

There are no additional record-keeping or reporting requirements associated with this rule.

List of Subjects in 40 CFR Part 60

Air pollution control, Electric utility steam generating units, Incinerators, Cement plants, Asphalt concrete plants, Primary aluminum reduction plants, Petroleum refineries.

Dated: March 20, 1987.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

Method 5 of Appendix A of 40 CFR Part 60 is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Appendix A is amended by revising section 4.4.2 of Method 5 as follows:

* * * * *

4.4.2 Calibration Critical Orifice. A calibrated critical orifice, calibrated against a wet test meter or spirometer and designed to be inserted at the inlet of the sampling meter box, may be used as a quality control check by following the procedure of Section 7.2.

* * * * *

3. Appendix A is amended by adding a new Section 7.2 to Method 5 to read as follows:

7. *Alternative Procedures*

* * * * *

7.2 Critical Orifices As Calibration Standards. Critical orifices may be used as calibration standards in place of the wet test meter specified in Section 5.3, provided that they are selected, calibrated, and used as follows:

7.2.1 Section of Critical Orifices.

7.2.1.1 The procedure that follows describes the use of hypodermic needles or stainless steel needle tubings which have been found suitable for use as critical orifices. Other materials and critical orifice designs may be used provided the orifices act as true critical orifices; i.e., a critical vacuum can be obtained, as described in Section 7.2.2.2.3. Select five critical orifices that are appropriately sized to cover the range of flow rates between 10 and 34 liters/min or the expected operating range. Two of the critical orifices should bracket the expected operating range.

A minimum of three critical orifices will be needed to calibrate a Method 5 dry gas meter (DGM); the other two critical orifices can serve as spares and provide better selection for bracketing the range of operating flow rates. The needle sizes and tubing lengths shown below give the following approximate flow rates:

Gauge/cm	Flow rate (liters/min)	Gauge/cm	Flow rate (liters/min)
12/7.6	32.56	14/2.5	19.54
12/10.2	30.02	14/5.1	17.27
13/2.5	25.77	14/7.6	16.14
13/5.1	23.50	15/3.2	14.16
13/7.6	22.37	15/7.6	11.61
13/10.2	20.67	15/10.2	10.48

7.2.1.2 These needles can be adapted to a Method 5 type sampling train as follows: Insert a serum bottle stopper, 13- by 20-mm sleeve type, into a ½-inch Swagelok quick connect. Insert the needle into the stopper as shown in Figure 5–9.

BILLING CODE 6560-50-M

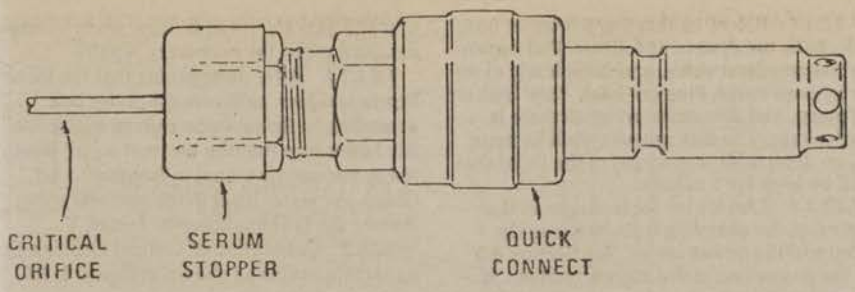


Figure 5-9. Critical orifice adaptation to Method 5 metering system.

BILLING CODE 6560-50-C

7.2.2 Critical Orifice Calibration. The procedure described in this section uses the Method 5 meter box configuration with a DGM as described in Section 2.1.8 to calibrate the critical orifices. Other schemes may be used, subject to the approval of the Administrator.

7.2.2.1 Calibration of Meter Box. The critical orifices must be calibrated in the same configuration as they will be used; i.e., there should be no connections to the inlet of the orifice.

7.2.2.1.1 Before calibrating the meter box, leak check the system as follows: Fully open the coarse adjust valve, and completely close the by-pass valve. Plug the inlet. Then trun on the pump, and determine whether there is any leakage. The leakage rate shall be zero; i.e., no detectable movement of the DGM dial shall be seen for 1 minute.

7.2.2.1.2 Check also for leakages in that portion of the sampling train between the pump and the orifice meter. See Section 5.6 for the procedure; make any corrections, if necessary. If leakage is detected, check for cracked gaskets, loose fittings, worn O-rings, etc., and make the necessary repairs.

7.2.2.1.3 After determining that the meter box is leakless, calibrate the meter box according to the procedure given in Section 5.3. Make sure that the wet test meter meets the requirements stated in Section 7.1.1.1. Check the water level in the wet test meter. Record the DGM calibration factor, Y.

7.2.2.2 Calibration of Critical Orifices. Set up the apparatus as shown in Figure 5–10.

BILLING CODE 6560-50-M

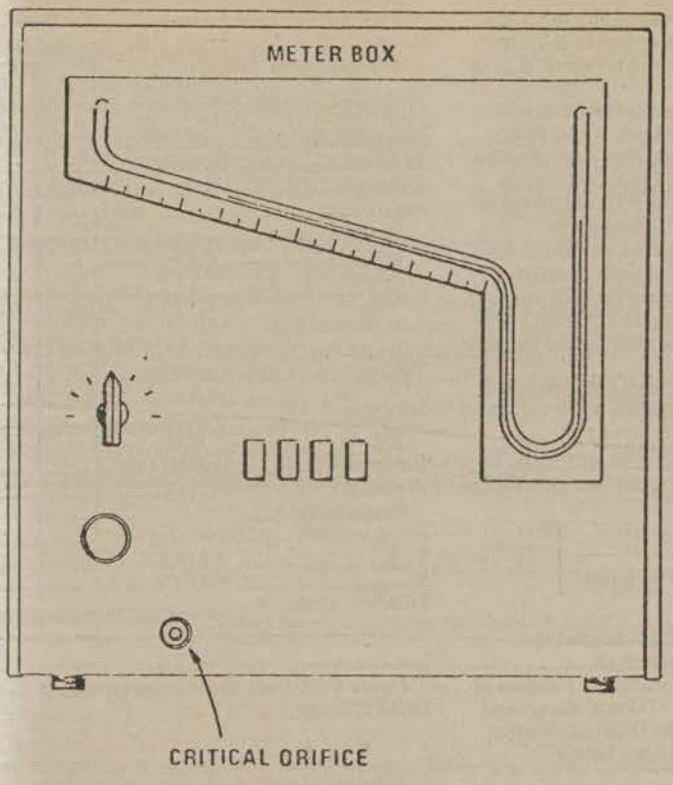


Figure 5-10. Apparatus setup.

BILLING CODE 6560-50-C

7.2.2.2.1 Allow a warm-up time of 15 minutes. This step is important to equilibrate the temperature conditions through the DGM.

7.2.2.2.2 Leak check the system as in Section 7.2.2.1.1. The leakage rate shall be zero.

7.2.2.2.3 Before calibrating the critical orifice, determine its suitability and the appropriate operating vacuum as follows: Turn on the pump, fully open the coarse adjust valve, and adjust the by-pass valve to give a vacuum reading corresponding to about half of atmospheric pressure. Observe the meter box orifice manometer reading, H. Slowly increase the vacuum reading until a stable reading is obtained on the meter box orifice manometer. Record the critical vacuum for each orifice.

Orifices that do not reach a critical value shall not be used.

K' = Critical orifice coefficient,

$$\frac{(m^3)(°K)^{1/2}}{(mm.\ Hg)(min)}\left[\frac{(ft^3)(°R)^{1/2}}{(in.\ Hg)(min)}\right]$$

T_{amb} = Absolute ambient temperature, °K (°R).

Average the K' values. The individual K' values should not differ by more than ±0.5 percent from the average.

7.2.3 Using the Critical Orifices as Calibration Standards.

7.2.3.1 Record the barometric pressure.

Date _____ Train ID _____ DGM cal. factor _____ Critical orifice ID _____

Dry gas meter		Run No. 1	Run No. 2
Final reading	m^3 (ft^3)		
Initial reading	m^3 (ft^3)		
Difference, V_m	m^3 (ft^3)		
Inlet/Outlet temperatures:			
Initial	°C (°F)	/	/
Final	°C (°F)	/	/
Avg. Temperature, t_m.	°C (°F)		
Time, Θ	min/sec	/	/
	min		
Orifice man. rdg., ΔH.	mm (in.) H_2O.		
Bar. pressure, P_{bar}	mm (in.) Hg		
Ambient temperature, t_{amb}.	°C (°F)		
Pump vacuum	mm (in.) Hg		
K' factor			
Average			

Figure 5–11. Data sheet for determining K' factor.

7.2.3.2 Calibrate the metering system according to the procedure outlined in Sections 7.2.2.2.1 to 7.2.2.2.5. Record the information listed in Figure 5.12.

7.2.2.2.4 Obtain the barometric pressure using a barometer as described in Section 2.1.9. Record the barometric pressure, P_{bar}, in mm Hg (in. Hg).

7.2.2.2.5 Conduct duplicate runs at a vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. The runs shall be at least 5 minutes each. The DGM volume readings shall be in increments of 0.00283 m^3 (0.1 ft^3) or in increments of complete revolutions of the DGM. As a guideline, the times should not differ by more than 3.0 seconds (this includes allowance for changes in the DGM temperatures) to achieve ± 0.5 percent in K'. Record the information listed in Figure 5–11.

7.2.2.2.6 Calculate K' using Equation 5–9.

$$K' = \frac{K_1 V_m Y (P_{bar} + \Delta H/13.6)\sqrt{T_{amb}}}{P_{bar} T_m \phi} \quad \text{Eq. 5–9}$$

7.2.3.3 Calculate the standard volumes of air passed through the DGM and the critical orifices, and calculate the DGM calibration factor, Y, using the equations below:"

$$V_m(std) = K_1 V_m \frac{P_{bar} + (\Delta H/13.6)}{T_m} \quad \text{Eq. 5–10}$$

$$V_{cr}(std) = K' \frac{P_{bar}\Theta}{T_{amb}} \quad \text{Eq. 5–11}$$

$$Y = \frac{V_{cr(std)}}{V_{m(std)}} \quad \text{Eq. 5–12}$$

where:

$V_{cr(std)}$ = Volume of gas sample passed through the critical orifice, corrected to standard conditions, dsm^3 (dscf).

K_1 = 0.3858 °K/mm Hg for metric units = 17.64 °R/in. Hg for English units.

7.2.3.4 Average the DGM calibration values for each of the flow rates. The calibration factor, Y, at each of the flow rates should not differ by more than ±2 percent from the average.

7.2.3.5 To determine the need for recalibrating the critical orifices, compare the DGM Y factors obtained from two adjacent orifices each time a DGM is calibrated; for example, when cheching 13/2.5, use orifices 12/10.2 and 13/5.1. If any critical orifice yields a DGM Y factor differing by more than 2 percent from the others, recalibrate the critical orifice according to Section 7.2.2.2.

Date _____ Train ID _____ Critical orifice ID _____ Critical orifice K' factor _____

Dry gas meter		Run No. 1	Run No. 2
Final reading	m^3 (ft^3)		
Initial reading	m^3 (ft^3)		
Difference, V_m	m^3 (ft^3)		
Inlet/outlet temperatures:			
Initial	°C (°F)	/	/
Final	°C (°F)	/	/
Avg. Temperature, t_m.	°C (°F)		
Time, Θ	min/sec	/	/
	min		
Orifice man. rdg., ΔH.	mm (in.) H_2O.		
Bar. pressure, P_{bar}	mm (in.) Hg		
Ambient temperature, t_{amb}.	°C (°F)		
Pump vacuum	mm (in.) Hg		
$V_{m(std)}$	m^3 (ft^3)		
$V_{cr(std)}$	m^3 (ft^3)		
DGM cal. factor, Y			

Figure 5–12. Data sheet for determining DGM Y factor.

* * * * *

4. Method 5 of Appendix A is amended by adding a new Citation 12 to the Bibliography as follows:

8. *Bibliography*

* * * * *

12. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

[FR Doc. 87–6551 Filed 3–25–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 716

[OPTS–82031A; FRL–3175–2]

Preliminary Assessment Information and Health and Safety Data Reporting; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects the spelling of a chemical substance in a final rule to the Preliminary Assessment Information Rule (PAIR) and the Health and Safety Data Rule published in the

Federal Register of November 14, 1986 (51 FR 41328).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: 202-554-1404.

SUPPLEMENTARY INFORMATION: In FR Doc. 25581, appearing at page 41328 in the Federal Register of November 14, 1986, EPA issued final amendments to the Preliminary Assessment Information Rule (PAIR) and the Health and Safety Data Rule.

The chemical spelling of Acetamide, N-[5-[bis[2-(acetyloxy) ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]- appeared incorrectly in several places. The incorrect spelling appears in the following places.

1. On page 41328, second column, under **SUMMARY.**

2. On page 41331, entry three under paragraph (a)(1) and the first entry under paragraph (a)(2).

This document corrects the spelling in those places.

Dated: March 18, 1987.

Joseph Merenda,

Director, Existing Chemical Assessment Division.

PART 716—[AMENDED]

Therefore, 40 CFR Part 716 is amended as follows:

1. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

2. Section 716.120 is amended by revising the following entries in the table in paragraphs (a) (1) and (2) to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

(1) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
3956-55-6	Acetamide, *N*-[5-[bis[2-(acetyloxy) ethyl]amino-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]-		Dec. 15, 1986	Dec. 15, 1996.

(2) * * *

Substance	CAS No.	Special exemptions	Effective date	Sunset date
Acetamide, *N*-[5-[bis[2-(acetyloxy) ethyl]amino-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]-	3956-55-6		Dec. 15, 1986	Dec. 15, 1996.

[FR Doc. 87-6457 Filed 3-25-87; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 52, No. 58
Thursday, March 26, 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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office Bid; Protest Regulations

AGENCY: General Accounting Office.

ACTION: Proposed Regulation Amendments.

SUMMARY: The General Accounting Office is proposing to amend its Bid Protest Regulations (4 C.F.R. Part 21). The proposed amendments refine the regulations following more than 22 months experience by the General Accounting Office under the Competition in Contracting Act of 1984 (31 U.S.C. 3551–3556).

DATE: The General Accounting Office will consider comments received on or before April 27, 1987.

ADDRESS: Send comments to U.S. General Accounting Office, Office of General Counsel, 441 G. Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: John Brosnan, Group Managing Attorney, General Accounting Office, by telephone (202) 275–9740.

SUPPLEMENTARY INFORMATION: Section 21.0(a) is amended to show that its definition of "interested party" is only for the purpose of filing a protest.

Section 21.0(f), formerly section 21.2(b), contains the definition of "filed" and has been relocated in section 21.0 to make clear that it is to apply not only to the original protest, but to all submissions during the protest process.

Section 21.1(b) now contains the complete street address of GAO. Section 21.1(e) contains the proper procedure for filing multiple protests and obtaining a time/date receipt of the protest submission. Section 21.1(f) now limits the circumstances under which a protest will be dismissed for a protester's failure to furnish a copy of the protest to the designated location or individual in the agency within 1 day. The last sentence of section 21.3(a) is amended to assure that participating interested parties receive copies of all submissions. Sections 21.3(c), 21.3(d) and 21.3(e) are redesignated sections 21.3(i), 21.3(j) and 21.3(k), respectively. Sections 21.3(f) and 21.3(g) are redesignated section 21.3(m) and section 21.3(n) respectively. Section 21.3(c), redesignated section 21.3(i), as well as sections 21.3(f)(8), redesignated section 21.3(m)(8), 21.4 and 21.12(c), are amended to include the United States Code citations to the Competition in Contracting Act of 1984 (Competition in Contracting Act). New sections 21.3(c), 21.3(d), 21.3(e), 21.3(f), 21.3(g), and 21.3(h), are added to enable protesters to obtain access to documents relevant to the protest. New section 21.3(c) provides that a protester, within 5 days of filing the protest, may make a written request for documents it regards as relevant to the protest issues raised. The document request should be as specific as possible, and it should not be used as a "fishing expedition" to identify protest issues. New section 21.3(d) provides that when such a request is made, the contracting agency shall furnish copies of the requested documents to the protester and other interested parties, subject to the restriction in the Competition in Contracting Act, 31 U.S.C. 3554(f), that documents provided not give the protester or interested parties a competitive advantage or that the documents are such that the protester or interested parties are by law authorized to receive them. New section 21.3(e) provides that a protester may request additional documents if the existence or relevance of the documents first becomes evident from the agency report on the protest. Such a request must be received by GAO and the contracting agency within 2 days of the protester's receipt of the agency report, and the agency must, within 5 days file the requested documents with GAO or provide the reason for not furnishing the documents. New section 21.3(f) provides that GAO will decide within 5 days of the receipt of the agency report under section 21.3(d) or the agency's response under section 21.3(e) whether any documents withheld from the protester or an interested party shall be released. If GAO determines that the documents shall be released, GAO will furnish the documents to the party or parties entitled to receive them or advise the agency to do so. New section 21.3(g) provides that when withheld documents are released, the protester's time for filing comments on the agency report is within 7 days of the protester's receipt of the documents. If GAO determines that the documents properly were withheld, the time for filing comments is 10 days after the protester's receipt of the agency report, as provided in redesignated section 21.3(k). Redesignated section 21.3(k) now requires a written statement requesting that a protest be considered on the existing record and as revised sets forth when the protester is assumed to have received the agency report, unless the protester advises GAO otherwise. New section 21.3(l) gives GAO the discretion to request additional statements from the parties as necessary. Under this section parties must request permission from GAO to submit additional statements.

Sections 21.5(b), (c), (d), and (e) are designated sections 21.5(a)(1), 21.5(a)(2), 21.5(a)(3), and 21.5(a)(4), respectively. Redesignated sections 21.5(a)(1) and 21.5(a)(2) are amended to clearly set forth that only interested parties that participate in the protest process may attend and comment on a conference held on a protest. Redesignated section 21.5(a)(2) is also amended to provide that the contracting agency should be represented by knowledgeable individuals at the conference. Redesignated section 21.5(a)(2) is further amended to make clear that the contracting agency as well as other participating parties are to be provided copies of conference comments.

A new section 21.5(b) is added to provide for a different, more formal conference. GAO has found that there are some cases where a procedure for resolving factual disputes would be useful. New section 21.5(b) provides for a fact finding conference, to be held at the sole discretion of GAO, when necessary to resolve a specific factual dispute that cannot otherwise be resolved on the written record. It is expected that such conferences will be held infrequently. When they are held, GAO will notify all parties in writing at least 5 days prior to the scheduled conference date and inform them of the factual issue(s) to be resolved and of any witness to be produced. The conference will be held at GAO, witnesses will testify under oath, and the proceedings will be recorded. Each party will have the opportunity to

question opposing witnesses. Parties may submit comments on the matter raised in the conference within 7 days. The relevant findings of fact by the GAO hearing official will be part of the protest decision. If a party refuses to attend a fact finding conference or if a witness fails to answer a relevant question, GAO may draw an inference unfavorable to that party or witness.

Section 21.6 has been amended by deleting paragraph (e) which provided that costs of filing and pursuing the protest would be allowed where the agency unreasonably excluded the successful protester from the procurement except where GAO recommends that the contract be awarded to the protester and it actually received the award. Paragraph (e) also stated that the recovery of costs of bid and proposal preparation would be allowed where the contracting agency has unreasonably excluded the successful protester from the procurement and other remedies are not appropriate.

GAO has found that a literal application of the rather rigid standards set forth in paragraph (e) did not lead to a just result in every case. GAO now believes that the allowance of costs of filing and pursuing the protest should, in general, be granted whenever a protest is sustained based on more than a technical violation of statute or regulation regardless of whether other remedies are also appropriate. GAO continues to believe that the allowance of bid and proposal preparation costs should remain a remedy to be granted when other recommendations are inappropriate. Accordingly, GAO has removed the detailed standards for awarding costs from the regulations and will develop the rules on a case by case basis as the circumstances of the particular situation dictate.

Section 21.8(e) is added to permit the dissolution of the express option procedure when the circumstances in a particular protest demonstrate that it is no longer suitable for resolution in 45 calendar days.

Section 21.11 is revised by deleting the District of Columbia from this provision since it has decided not to have its protests considered by GAO.

List of Subjects in 4 CFR Part 21

Administrative practice and procedures, Government contracts.

PART 21—[AMENDED]

4 CFR Part 21, General Accounting Office—Bid Protest Regulations, is amended as follows:

1. The authority citation for 4 CFR Part 21 continues to read as follows:

Authority: 31 U.S.C. 3551–3556.

§ 21.0 [Amended]

2. In § 21.0, paragraph (a) is amended by adding "for the purposes of filing a protest," following "Interested party".

3. In § 21.0, paragraph, (f) is added to read as follows:

(f) The term "filed" regarding protests to the General Accounting Office means receipt of the protest and other submissions in the General Accounting Office.

§ 21.1 [Amended]

4. In § 21.1, paragraph (b) is amended by adding "441 G Street, NW.," following "General Accounting Office".

5. In § 21.1, paragraphs (e) and (f) are revised to read as follows:

(e) No formal briefs or other technical forms of pleading or motion are required. Protest submissions should be concise, logically arranged, and clearly state legally sufficient grounds of protest. Protests of different procurements should be separately filed. If requested, the General Accounting Office will time/date stamp and return a copy of the protest provided by the protester.

(f) A protest filed with the General Accounting Office may be dismissed for failure to comply with any of the requirements of this section. However, a protest shall not be dismissed for failure to comply with paragraph (d) of this section where the contracting officer has actual knowledge of the basis of protest or the agency, in the preparation of its report, is not otherwise prejudiced by the protester's noncompliance.

§ 21.2 [Amended]

6. In § 21.2, paragraph (b) is removed and paragraph (c) is redesignated paragraph (b).

§ 21.3 [Amended]

7. In § 21.3, paragraph (a) is amended by removing the last sentence and substituting "All parties shall furnish copies of any such communications to the contracting agency and to other participating interested parties."

8. In § 21.3, paragraph (c) is redesignated paragraph (i) and amended by inserting in the second sentence between "of" and "relevant" the word "all" and by deleting "Pub. L. 98–269" and inserting "31 U.S.C. 3553(f) (Supp. III 1985)," in the third sentence. The following new paragraphs (c) through (h) are added:

(c) A protester may request in writing specific documents it considers relevant to its protest grounds, in addition to the documents described in § 21.3(i). The request must be filed with the General Accounting Office and with the individual or location referred to in § 21.2(d) within 5 days of the filing of the protest. A request that fails to meet one or more of the requirements of this paragraph may be dismissed.

(d) Where a request for documents is submitted pursuant to paragraph (c) of this section, those documents shall be furnished as follows:

(1) Except as provided below, the contracting agency shall furnish copies of the requested documents along with the copy of the agency report to the protester and to interested parties who have responded to the notice in § 21.3(a).

(2) Requested documents that would give the protester or other interested party a competitive advantage or that the protester or the interested party is not otherwise authorized by law to receive shall not be furnished to the protester or to the interested party. Requested documents not furnished to the protester or the interested party shall be identified and the reason for not furnishing the document stated.

(e) The protester may subsequently request additional documents if the existence or relevance of such documents first becomes evident from the agency report. Any request for such documents must be filed with the General Accounting Office and with the contracting agency within 2 days of the protester's receipt of the agency report. The contracting agency must respond within 5 days by filing with the General Accounting Office the requested documents or the reason for not furnishing the documents.

(f) The General Accounting Office shall decide within 5 days of the receipt of the contracting agency's report under paragraph (d) or its response under paragraph (e) whether any documents withheld from the protester or other interested party shall be released to the protester or other interested party. If the General Accounting Office determines that withheld documents should be released, it will furnish the documents to the party or parties entitled to receive them or advise the agency to do so.

(g) When withheld documents are so released, protester's comments on the agency report shall be filed within 7 days of its receipt of the released documents. If the General Accounting Office determines that the documents were properly withheld, the protester's comments are due within 10 days of its receipt of the agency report as under § 21.3(k).

(h) In the event any contracting agency fails to comply with a decision

that a document should be furnished to a protester or other interested party, the General Accounting Office may use any authority available under chapter 7 of title 31, United States Code, to provide the document to the protester or other interested party or may draw an inference regarding the content of the withheld document unfavorable to the contracting agency.

9. In § 21.3, paragraph (d) is redesignated paragraph (j).

10. In § 21.3, paragraph (e) is redesignated paragraph (k) and amended by deleting the number "7" wherever it appears, and substituting the number "10." The paragraph is further amended by inserting in the second sentence between "a" and "statement," the word "written" and by inserting between the second and third sentence the following:

"The General Accounting Office will assume the protester received the agency report no later than the scheduled due date as specified in the acknowledgment of protest furnished by the General Accounting Office, unless otherwise advised by the protester."

11. In § 21.3, paragraph (f) is redesignated paragraph (m) and amended by deleting the reference to "§ 21.2(c)" and inserting "§ 21.2(b)." Further, the following new paragraph (l) is added:

(l) The General Accounting Office may at its discretion permit the submission of additional statements by the parties, including the contracting agency, if it determines such statements are necessary for the fair resolution of the protest.

12. In § 21.3, newly redesignated paragraph (m)(6) is amended by deleting "Pub. L. 98–369" and inserting "40 U.S.C. 759(h)" (Supp. III 1985).

13. In § 21.3, newly redesignated paragraph (m)(8) is amended by deleting "Pub. L. 98–369" and inserting "31 U.S.C. 3551–3556 (Supp. III 1985)."

14. In § 21.3, paragraph (g) is redesignated paragraph (n).

§ 21.4 [Amended]

15. In § 21.4, the introductory text is amended by removing "Pub. L. 98–369" and substituting "31 U.S.C. 3553 (c) and (d) (Supp. III 1985)."

§ 21.5 [Amended]

16. In § 21.5, the section heading is amended by removing "Conference" and inserting "Conferences."

17. In § 21.5, paragraph (b) is redesignated paragraph (a)(1) and amended by removing "no later than 5 days" and inserting "as soon as practicable" and by inserting "participating" before "interested" in the first sentence. The paragraph is further amended by adding the following penultimate sentence: "The contracting agency should be represented by individuals who are knowledgeable about the subject matter of the protest."

18. In § 21.5, paragraph (c) is redesignated paragraph (a)(2) and amended by deleting "§ 21.3(e)" and inserting "§ 21.3(k)." The paragraph is further amended by inserting "participating" before "interested" in the second sentence, by inserting "including the contracting agency," before "within" and deleting the number "5" and inserting the number "7" in the same sentence.

19. In § 21.5, paragraph (d) is redesignated paragraph (a)(3).

Paragraph (e) is redesignated paragraph (a)(4) and amended by inserting "written" before "statement" in the first sentence, and by removing the number "5" and inserting the number "7" and by removing "paragraph (c)" and inserting "paragraph (a)(2)" in the same sentence. The paragraph is further amended by deleting "§ 21.3(e) in the last sentence and inserting "§ 21.3(k)."

20. In § 21.5, a new paragraph (b) is added to read as follows:

(b) A fact finding conference may, at the sole discretion of the General Accounting Office, be held at the request of any party or on the initiative of the General Accounting Office. The fact finding conference may be held in order to resolve a specific factual dispute which cannot be otherwise resolved on the written record. Fact finding conference are considered exceptional and will be granted sparingly.

(1) A fact finding conference may be held at any time during the protest proceeding. The General Accounting Office will notify all parties in writing at least 5 days before such a conference is scheduled and inform them of the factual issue or issues to be resolved and of any specific witness to be produced.

(2) The conference will be held at the General Accounting Office before a General Accounting official. Witnesses will testify under oath or affirmation, and a tape recording of the proceeding will be made. Each party will be given the opportunity to question an opposing witness.

(3) Each party may submit written comments to the General Accounting Office on the matter raised in the conference within 7 days. Relevant findings of fact by the General Accounting Office hearing official shall be part of the bid protest decision.

(4) If any party refuses to attend such a conference, or a witness fails to attend or fails to answer a relevant question, the General Accounting Office may draw an inference unfavorable to the party refusing to cooperate.

§ 21.6 [Amended]

21. In § 21.6, paragraph (e) is removed and paragraph (f) is redesignated paragraph (e).

§ 21.8 [Amended]

22. In § 21.8, a new paragraph (e) is added to read as follows:

(e) Where circumstances demonstrate that the case is no longer suitable for resolution within 45 calendar days, the General Accounting Office may establish new deadlines within the constraints established in sections 21.7(a) and (c) regarding the issuance of a decision and in sections 21.3(i) and (j) regarding the submission of the agency report.

§ 21.9 [Amended]

23. In § 21.9, paragraph (b) is amended by removing "§ 21.3(c)" and inserting "§ 21.3(i)" and by removing "§ 21.3(e)" and inserting "§ 21.3(k)."

§ 21.11 [Amended]

24. In § 21.11, paragraph (a) is amended by removing "or by the District of Columbia."

25. In § 21.11, paragraph (b) is amended by deleting Pub. L. 98–369 and substituting "31 U.S.C. 3553(c) and (d) (Supp. III 1985)."

§ 21.12 [Amended]

26. In § 21.12, paragraph (c) is amended by removing "Pub. L. 98–369" and substituting "31 U.S.C. 3553(c) and (d) (Supp. III 1985)."

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 87–6529 Filed 3–25–87; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R–87–1317; FR–2266]

Termination of Section 245(b) (GPM) Program

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would terminate the section 245(b) Modified Graduated Payment Mortgage Program. The Department believes that the program should be terminated in view of the availability of less risky and often less expensive alternative mortgage programs and because the program's feasibility has been undermined by recent economic changes.

DATE: Comments must be received by May 26, 1987.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Alan Kappeler, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 755–3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 308 of the Housing and Community Development Act of 1974 (Pub. L. 93–383, approved August 22, 1974) amended the National Housing Act (NHA) by adding a new section 245. Section 245 (since redesignated section 245(a) and further amended) now provides, in relevant part:

> (a) The Secretary may insure under any provision of this title mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in family income or with monthly payments and outstanding balances adjusted by a percentage change in a selected price index to the extent he determines such mortgages or loans (1) have promise for expanding housing opportunities or meet special needs, (2) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such mortgages, and (3) have a potential for acceptance in the private market.

The passage of section 245 created under the NHA what later were captioned "graduated payment mortgages" (GPM). These mortgages differ from the traditional level payment mortgates insured under title II of the NHA in that the rate of repayment of the mortgage indebtedness is tied to expected growth in the borrower's income: That is, initially the mortgage payments are lower than those for a level payment mortgage of comparable amount, rate, and term; any interest deferred because of these lower payments is added to the outstanding loan balance, and the mortgage payments are adjusted over time, based on anticipated increases in the borrower's income, to a level that will ensure the full retirement of the debt within the fixed term.

Section 245 was later amended by section 311(b) of the Housing and Community Development Amendments of 1979 (Pub. L. 96–153, approved December 21, 1979) which, among things, added subsection (b) to provide:

> [T]he Secretary may insure under any provision of this title a mortgage or loan which meets the requirements of the first sentence of subsection (a) and which has provisions for varying rates of amortization if the Secretary determines—
>
> (1) The mortgage could not reasonably afford to purchase the dwelling unit by means of a mortgage insured under subsection (a) or any other mortgage insurance program under this title;
>
> (2) The principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 203(b) of this title as of the date the mortgage or loan is accepted for insurance;
>
> (3) Principal obligation of the mortgage or loan thereafter (including all interest to be deferred and added to principal) will not at any time be scheduled to exceed 97 per centum, or, if the mortgagor is a veteran, such higher percentage as is provided under section 203(b)(2) for veterans, of the projected value of the property [up to a 2½ percent increase per year over the initial value; and
>
> (4) The principal obligation of the mortgage thereafter will not exceed 113 per centum of the initial appraised value of the property.

The section 245(b) program (modified GPM), by its more liberal terms, allowed any interest deferred over the early years of the mortgage to be added to the mortgage amount, up to 113 percent of the initial appraised value of the property. In contrast, in the section 245(a) program, the loan amount could not exceed 97 percent of the initial appraised value of the property.

The modified GPM program under section 245(b) was approved in an effort to make single family housing more affordable, especially to first-time homebuyers. The legislative history indicates that Congress was concerned that the increasing cost of housing at that time made the achievement of the goal of homeownership less possible for this class of homebuyer. Testimony at the hearing on the proposed legislation that led to enactment of section 245(b) focused on inflation as one of the principal determinants in the increasing cost of housing. See generally, *Hearings on S. 593, S. 745, and S. 740 Before the Subcomm. on Housing and Urban Affairs of the Senate Committee on Banking, Housing, and Urban Affairs*, 96th Cong., 1st Sess. (1979) (1979 Senate Hearings).

As drafted, the aim of the bill that was passed as section 245(b) was "to allow families to get into a home with a much lower monthly payment that would increase as their income increases and they can better afford the larger monthly payment." 1979 Senate Hearings, p. 126 (written question of a member of the Senate Committee on Banking, Housing, and Urban Affairs to HUD). Although the bill (S. 740) was later modified before passage as section 245(b), the Department, in responding to the committee, even then was concerned that:

> negative amortization would increase the outstanding balance on the mortgage past the original appraised value. Assuming the property value increases at a rate in excess of the increase in loan balance, there seems to be no problem. It is not that simple, however. First, no equity as a result of payment by the mortgagor will be accumulated in the initial years of the mortgage. . . . Secondly, should the inflation rate slow, property appreciation could possibly be less than the negative amortizations taking place. Finally, not all properties appreciate in value at the same rate. *Id.*

Some of the Department's earlier misgivings about the program have, unfortunately, been borne out. As the GPM program was envisaged, its usefulness depended on the structuring of a mortgagor's payment schedule to match the expected growth of the mortgage's income with inflation. This, it was anticipated, would allow more families to qualify for homeownership on the basis of initial income than could with the level payment mortgate. Because the program is designed to take advantage of inflation, it necessarily *requires* significant inflation in order for borrowers to meet their mortgage obligations.

The Department issued regulations implementing section 245(b) at 24 CFR 203.46 and 234.76. (Section 234.76 is the analog of § 203.46 in 24 CFR Part 234, the insuring authority for condominium unit insurance. As such, the substantive provisions in these two sections are identical). Paragraph (f) of § 203.46 provides in part that "The sum of the payments to principal and/or interest shall increase annually for a period of ten years at a rate of 4.9 percent per year or for a period of 5 years at a rate of 7½ percent per year." See also § 234.76(f). This provision requires that a borrower's income increase annually by an amount sufficient to meet the

increased mortgage payments if the initial payment-to-income underwriting ratios are to be maintained. Additionally, house prices would have to increase at least 3 percent year to keep the house value equal to the outstanding mortgage balance.

It has been well demonstrated to the Department from repeated studies that the amount of equity a mortgagor has in his or her home is an important determinant of default. Borrowers who must repay a mortgage which exceeds the net value of their house—thus leaving them with no equity or with negative equity—are far more likely to default than borrowers who stand to lose substantial equity. In the GPM program, the borrower's equity is eroded through negative amortization throughout the early years of the mortgage, since the interest shortfall between initial GPM payments and initial level mortgage payments over the first 5 years is added to the mortgage balance. Paragraph (b) of §§ 203.46 and 234.76 specifically recognizes the possibility of this occurring by providing that

> The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary shall be added to the principal obligation of the mortgage.

Also under paragraph (d)(2)(i) of §§ 203.46 and 234.76, the accrued mortgage interest plus the outstanding mortgage balance may be equal to "113 percent of the appraised value of the property." If the MIP and the transaction costs of selling or refinancing a house covered by a mortgage insured under this program are added to the allowable 113 percent of the initial appraised value of the house, it could result in a ratio of almost 120 percent of the original appraised value in the fifth year of the mortgage. Hence, GPM borrowers in weak markets with little inflation in home prices would have substantial incentive to default.

Claims data accumulated by HUD for 1981 endorsements support this proposition regarding certain GPM borrowers. The section 245(b) GPMs requiring the least equity after five years have a cumulative claim rate of 20.53 percent compared to a claim rate, for the period from endorsement to mid-1986, of 9.91 percent for the section 203(b) program (excluding investor and low-downpayment mortgages. When all section 203(b) mortgages are considered, including investor and low-downpayment mortgages, the claim rate rise to 13.82 percent for the section 203(b) program). The section 245(b) claim rate for 1981 endorsements is 143 percent higher than that of the 245(a) GPM program. (The 245(a) program requires a substantial initial equity contribution to keep the mortgage balance, inclusive of deferred interest, from exceeding 97 percent of the original appraised value.)

For mortgages endorsed for insurance in 1982, the cumulative claim rate for the section 245(b) program was 14.92 percent compared to a claim rate of 9.50 percent for all mortgages insured under section 203(b) (the latter figure decreases to 6.89 percent when claims filed for investor and low-downpayment mortgages are excluded from the total of all claims filed for mortgages insured under section 203(b)).

The claim rate for mortgages endorsed in 1982 for the section 245(a) program was almost one-third less (5.33 percent) than that of the 245(b) program. The comparable figures among the three programs (*i.e.*, 203(b), 245(a), and 245(b)) for 1983 are less dramatic, but nonetheless still show a higher incidence of default in the 245(b) program than in the other two programs, except in 1984 when the claim rate for the section 245(b) program was 2.50 percent compared to a claim rate of 2.70 percent for all section 203(b) mortgages. (This seeming aberration is explained by the historical fact that the claim rate in the section 245(b) program is low in the first two years, increasing in later years, compared to the claim rate in the section 203(b) program.)

For mortgages endorsed in 1983, the cumulative claim rate for the section 245(b) program was more than double that of the rate for the section 245(a) program (4.61 percent versus 2.02 percent) and almost 2½ times that of the section 203(b) program (excluding investor and low-downpayment mortgages). When investor and low-downpayment mortgages are included, the section 203(b) rate increase to 3.56 percent—still lower than the 4.61 percent rate for the section 245(b) program. In 1984, the claim rate percentages were 2.50, 1.66, and 1.38 for the sections 245(b), 203(b) (excluding investor and low-downpayment mortgages), and 245(a), respectively.

As noted above, the disparity in the claim rate between the section 245(b) program and the other two programs becomes more pronounced after the first two years. For a section 245(b) homeowner, the burden of the initial year's mortgage payments is less than that of a section 203(b) homeower. With the passing years, however, and with the addition of the negative amortization to a section 245(b) mortgage indebtedness, a section 245(b) homeowner may find it more difficult to carry the mortgage (especially, as mentioned earlier, if income and equity increases are not keeping pace with the increased mortgage payments) and thus more readily allow it to go into default.

Between 1980–1985, using Department of Labor statistics, the average weekly earnings of non-supervisory workers increased about 27 percent. This 27 percent average wage increase over a six-year period is, of course, less than the 44 percent mortgage payment increase over a five-year period that would be required to keep pace with the 7½ percent increase in mortgage payments compounded annually.

Another significant statistic is found in the median sales prices of existing homes, which, based on figures compiled by the National Association of Realtors, increased by 21.4 percent over the same period. While the average increase here for the five-year period is in excess of the annual 3 percent needed if the value of a home is to remain roughly comparable to the outstanding mortgage balance, this is a national average that masks the fact that, in some areas of the country, home prices increased by less than 3 percent annually.

Based on the historical data that show that mortgages insured under the section 245(b) program are subject to a higher risk of default than mortgages insured under section 245(a) or section 203(b), the Department is proposing to discontinue this program, thereby saving the insurance fund from additional future losses attributable to defaulted mortgages insured under section 245(b).

As noted earlier, this program was conceived during a period of high real estate and wage inflation. With the current low rate of inflation (translating into lower inflationary equity in single family homes and smaller increases in wages) the basis on which the program was founded, *i.e.*, reliance upon continuing substantial inflationary increases in home sales prices and family income, no longer exists.

Moreover, good substitutes now exist for the section 245(b) GPM that were unavailable in 1981—substitutes that do not involve as great a risk of default. Mortgage interest rates on level payment mortgages are substantially lower than in 1981, and the FHA adjustable rate mortgage (ARM) allows a borrower, including first-time homebuyer, to achieve the same end as the section 245(b) GPM—lower initial payments than for a fixed-rate mortgage—but at lower cost to the borrower and significantly less risk to the Department. See 24 CFR 203.49.

The initial section 245(b) GPM payment is similar to the payment on the same mortgage with an interest rate about 3 percentage points below the section 203(b) current market rate. The FHA ARM initial payment is based on an interest rate that is generally (though not always) lower than the section 203(b) market rate. The GPM payment will increase over 5 years to a payment consistent with an interest rate increase of about 1 percentage point over the current market rate, with no change thereafter. The FHA ARM interest rate cannot increase by more than one percentage point annually with a maximum increase over the life of the loan of 5 percentage points. See 203.49(e)(1)(iii). The ARM payment, however, unlike those of the GPM which *must* rise, could remain at initial levels or fall in later years without creating any negative amortization risks for FHA or the borrower.

In moving to discontinue the section 245(b) Program, HUD is mindful also of the Secretary's obligation to ensure sound financial management of the insurance fund. The continuation of a program that imposes a disproportionate financial burden because of a high rate of default is inconsistent, in the Secretary's judgment, with his obligation to manage prudently the insurance fund.

Accordingly, and for the foregoing reasons, the Department proposes to amend 24 CFR Chapter II by removing §§ 203.46 and 234.76, "Eligibility of modified graduated payment mortgages". (When the final rule in this proceeding is made effective, technical amendments will be made to other sections, e.g., §§ 203.49(h), 220.100, and 221.1, that reference § 203.46.) In order not to prejudice the rights of those program users who have applications for mortgage insurance pending under §§ 203.46 and 234.76, HUD will honor applications received before the effective date of the final rule in this proceeding. After the final rule's effective date, no applications for mortgage insurance under this program will be accepted for processing by HUD field offices. In the case of the direct endorsement program, HUD will endorse the loan for insurance (if FHA requirements are otherwise satisfied) where the mortgage credit approval of the applicant (Form HUD–92900) was signed by the direct endorsement underwriter before the effective date of the final rule. (The final rule will not be made effective until at least 30 days after the date of its publication.)

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on Februay 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $10 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule would terminate a program that is costly, but leave adequate substitutes in the form of other programs that are available to mortgagors and mortgagees.

This rule was listed as Item No. 816 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38442) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance numbers are 14.117, 14.133, and 14.159.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, the Department proposes to amend 24 CFR Parts 203 and 234 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for Part 203 would continue to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C also is issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

§ 203.46 [Removed]

2. Section 203.46 would be removed.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

3. The authority citation for Part 234 would continue to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 234.76 [Removed]

4. Section 234.76 would be removed.

Dated: February 13, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87–6544 Filed 3–25–87; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations

February 4, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations governing the Indian Police to provide that the Bureau of Indian Affairs law enforcement funds may not be expended to provide law enforcement services in those areas of Indian country, where pursuant to Federal law, states have jurisdiction over offenses committed by or against Indians.

DATE: Comments from all interested parties must be received no later than May 26, 1987.

ADDRESSES: Written comments and materials concerning this proposal should be addressed to the Acting Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Department of Interior, Washington, DC, 20245, telephone number (202) 343–5786.

FOR FURTHER INFORMATION CONTACT: James P. Donovan, Division of Law Enforcement Services, Bureau of Indian Affairs, Department on the Interior, Washington, DC, 20245, telephone number (202) 343–5786.

SUPPLEMENTARY INFORMATION: This proposed rule is published under authority contained in 5 U.S.C. 301; 25 U.S.C. 2; 25 U.S.C. 9; and 25 U.S.C. 13; and delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In 1953, Congress enacted Pub. L. 83–280, 67 Stat. 588, 18 U.S.C. 1162, and 28 U.S.C. 1360. This law transferred criminal and civil jurisdiction over Indian lands from the Federal to the state governments in certain states, and allowed for future transfer of jurisdiction to all other states. Previous legislative transfers of jurisdiction had been limited to some or all of the reservations within a specific state. See 54 Stat. 249, 18 U.S.C. 3243 (transfer of criminal jurisdiction to Kansas); 60 Stat. 229 (transfer of criminal jurisdiction over Devil Lake's Reservation to North Dakota); 62 Stat. 1161 (transfer of criminal jurisdiction over Sac and Fox Reservation to Iowa); 62 Stat. 1224, 25 U.S.C. 232 (transfer of criminal jurisdiction to New York); and 64 Stat. 845, 25 U.S.C. 233 (transfer of civil jurisdiction to New York).

The Indian Major Crimes Act, 18 U.S.C. 1153, and the Indian General Crimes Act, 18 U.S.C. 1152, do not apply to areas of Indian country where there has been a transfer of jurusdiction from the Federal government to the state over offenses committed by or against Indians pursuant to the provisions of Pub. L. 83–280. Through the aforementioned Federal laws, such states have assumed the responsibility of providing law enforcement on Indian reservations.

The Bureau of Indian Affairs generally does not provide funding for tribes on reservations subject to Pub. L. 83–280 or other similar laws, because it would involve a duplication of services and possibly encourage some states to avoid discharging their law enforcement responsibilities. Many Indian tribes located on Indian reservations subject to Pub. L. 83–280 or other similar laws have requested the Bureau of Indian Affairs to fund law enforcement programs on their reservations. Approximately $1 million currently is being spent by the Bureau on Indian Affairs for law enforcement services on less than ten reservations that are subject to state criminal jurisdiction pursuant to Federal law. In order to ensure a consistent Bureau of Indian Affairs policy on such funding requests, it is proposed that the regulations governing the Indian Police contained in 25 CFR 11 be amended to add a new section providing that tribes located on reservations subject to Pub. L. 83–280 or other similar laws are not eligible for Bureau of Indian Affairs law enforcement funding.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291.

This rule does not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is not anticipated that the proposed rule will require additional positions overall or a budget increase. This proposed rule does not have cost implications for the economy of $100 million or more nor will it result in a major increase in cost for consumers, industries, or government agencies, nor will it adversely affect competition.

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

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the Addresses section of this preamble.

In the event the proposed rule is published in the **Federal Register** as a final rule, it will not take effect until the beginning of the next fiscal year.

The Department of the Interior has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The primary author of this document is James P. Donovan, Acting Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, Department of the Interior, Washington, DC, 20245, telephone number (202) 343–5786.

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement, Penalties, Reporting and recordkeeping requirements.

PART 11—[AMENDED]

For the reasons set out in the preamble, it is proposed to amend Title 25, Chapter I, Part 11—Law and Order on Indian Reservations of the Code of Federal Regulations as follows:

1. The authority citation for Part 11 is revised to read as follows:

Authority: 25 U.S.C. 9, 25 U.S.C. 13; and 5 U.S.C. 301; R.S. 463; 25 U.S.C. 2. Interpret or apply sec. 1, 38 Stat. 586; 25 U.S.C. 200, unless otherwise noted.

2. Part 11 is amended by adding § 11.307 to read as follows:

§ 11.307 Law enforcement expenditures.

Bureau of Indian Affairs law enforcement funds shall not be expended to provide law enforcement services in those areas of Indian country where, pursuant to Federal law, states have jurisdiction over offenses committed by Indians.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87–6600 Filed 3–25–87; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 15 and 75

Requirements for Approval of Explosives and Sheathed Explosive Units and Safety Standards for Explosives and Blasting, Coal Mine Safety and Health; Public Hearing

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearing.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold a public hearing on its proposal to revise existing regulations for approval of explosives and add new requirements for approval of sheathed explosive units. The Agency will also hear further comment on certain provisions of its proposal to revise existing safety standards for explosives and blasting in underground coal mine. This hearing is being conducted in cooperation with the Bureau of Mines, Department of Interior.

DATES: The public hearing will be held at 9:00 a.m., Wednesday, April 22, 1987, in Bruceton, Pennsylvania. All requests to make oral presentations for the record should be submitted by April 17, 1987. Immediately before the hearing, any unallotted time will be made available to persons making late requests.

ADDRESSES: The hearing will be held at the Bureau of Mines Research Center, Building 140, Large Conference Room, First Floor, Cochrans Mill Road,

Bruceton (South Park Township), Pennsylvania.

Requests to make oral presentations should be sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia Silvey, Associate Assistant Secretary for MSHA, Phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: On November 12, 1986, MSHA published proposed revisions to its existing requirements for approval of explosives and new requirements for approval of sheathed explosive units used in underground coal mines and some metal/nonmetal gassy mines (51 FR 41046). The written comment period closed January 12, 1987. In response to requests from the mining community, MSHA will hold a public hearing for the purpose of receiving relevant comments and responding to questions concerning the proposal.

The hearing will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions. The session will begin with an opening statement from MSHA. The public will then be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of the hearing for rebuttal statements. A verbatim transcript of the proceeding will be taken and made part of the official rulemaking record. Copies of the transcript will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. To allow for the submission of any post-hearing comments, the record will remain open until May 15, 1987. Written comments and data submitted to MSHA will be included in the rulemaking record.

On Tuesday, April 21, 1987 at 1:00 p.m. the Bureau of Mines, Department of Interior, will conduct a tour of its explosives testing facility and will perform some of the tests specified in the proposal. Anyone wishing to participate in the tour should contact: John J. Mulhern, Assistant Director for Safety, Technical Support, Mine Safety and Health Administration, Phone, (703) 235-1590.

Issues

MSHA has summarized here the major issues raised on which comment is specifically solicited. The Agency will address each of these issues at the public hearing, and solicits comment on them in addition to any other aspect of the proposed rule.

PART 15—REQUIREMENTS FOR APPROVAL OF EXPLOSIVES AND SHEATHED EXPLOSIVE UNITS

Definitions

The proposal defined a "test detonator" as a detonator that is commercially available for use in underground coal mines. Several commenters recommended that this definition be revised to specify that a test detonator be an instantaneous electric detonator which includes the following characteristcs: A copper-alloy shell; iron or copper leg wires; contains a base charge of 0.40–0.45 grams of pentaerythritol tetranitrate (PETN) pressed to a specific gravity of 1.4 g/cc; primed with standard weights of primer as determined by the manufacturer; and is commercially available for use in underground coal mines. They stressed the importance that a detonator with a standard base charge be specified for the air-gap sensitivity test, particularly in view of the relative insensitivity of emulsions, slurries and water gel type explosives.

Test samples

The proposal would limit the amount of perchlorate in an explosive to not more than five percent of the total explosive. Some commenters stated that placing a maximum on the amount of perchlorate was unduly restrictive. These commenters believe that explosives which contain more than five percent of perchlorate should be approved if they meet the testing requirements of Part 15.

Quality assurance

Section 15.7 of the proposal specifies that applicants granted an approval under this part shall be required to manufacture the explosive as approved and must notify MSHA of any explosives which have been distributed that do not meet the specification of the approval. Some commenters suggested that testing procedures and guidelines for implementing these procedures be included in the regulation. These commenters stated that the language in the proposal was too vague and did not place any responsibility on the manufacturer to conduct tests to ensure that the products were being manufactured as approved.

Some commenters recommended deleting the proposed requirement that applicants notify MSHA when products have been distributed that do not meet the specifications of the approval. These commenters stated that manufacturers, either from a product acceptance or product liability standpoint, are concerned with any product problems and respond promptly to any potential problems. They further stated that it is most unlikely that MSHA would be in a position to offer any remedial advice.

Post-approval product audit

To determine conformity with the technical requirements upon which the approval was based, Section 15.10 specifies that approved explosives would be subject to periodic audits by MSHA. These audits would be made no more than once a year, except for cause, and the approval-holder, upon request by MSHA, would be required to make one case of explosives available at no cost to MSHA for the audit. The audit would be conducted at a site and time mutually agreeable to the approval holder and MSHA.

Some commenters recommended that the phrases "no more than once a year except for cause" and "which would be held at a mutually agreeable site and time" be deleted in the final rule. These commenters stated that MSHA must have the authority to randomly conduct these audits without prior notice given to the approval holder. The believed that such flexibility is necessary to ensure that the test samples are representative of those being manufactured.

Other comments recommended that MSHA purchase and transport the explosives used for the audits. These commenters stated that shipment of small quantities can be expensive and time consuming and that MSHA should pay all costs associated with the audits.

PART 75—SAFETY STANDARDS FOR EXPLOSIVES AND BLASTING

On May 9, 1986, MSHA published proposed revisions to its existing safety standards in 30 CFR Part 75 for explosives and blasting in underground coal mines (51 FR 17284). Public hearings were held on this proposal in Pittsburgh, Pennsylvania on November 18, 1986 and in Lexington, Kentucky on November 20, 1986. To allow for the submission of any post-hearing

comments the record remained open until December 19, 1986.

On February 12, 1987, the Agency, received requests from the mining community to hold another public hearing on 30 CFR Part 75 to discuss the use of instantaneous detonators. Commenters stated that under certain circumstances, safety problems may exist when instantaneous detonators and short-delay detonators are used in the same round. They stated that these safety concerns developed after a review of data recently gathered on the use of instantaneous detonators. The Agency's proposed revisions to Part 75 would not prohibit the use of instantaneous and short-delay detonators in the same round. MSHA will review additional testimony on this issue from any interested party, in conjuction with its public hearing on 30 CFR Part 15. However, the discussion on comments on 30 CFR Part 75 will be limited to issues involving the use of instantaneous detonators.

Dated: March 20, 1987.

Alan C. McMillan,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-6567 Filed 3-25-87; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would amend the regulations to add a section authorizing the Department of the Interior (DOI) to conduct supplemental sales in the Outer Continental Shelf (OCS) and establish limits on such supplemental sales. This action will enable DOI to respond to new geological and geophysical data in a way that reduces the cost of delay of leasing.

DATE: Comments must be received or postmarked by April 27, 1987.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091; Attention: John Mirabella.

FOR FURTHER INFORMATION CONTACT: Bill Quinn on (202) 343-3116.

SUPPLEMENTARY INFORMATION: The Minerals Management Service (MMS) has found that, in some cases, the frequency of regular lease sales scheduled in the 5-year leasing plan does not provide for taking into account new geological and geophysical data in a way that reduces the cost of delay of leasing. That cost of delay is the loss of net economic value to the Nation of delaying the realization of the economic benefits of the production of oil and gas resources. As new data become available, a need is created for offering a limited number of additional blocks. While the total area of such blocks is small in comparison to a regular lease sale, these blocks are often critical for the proper development of an area. The MMS is proposing an amendment to the leasing regulations which would provide for supplemental sales, thereby enabling MMS to respond to changing circumstances, and would establish limits for the type of blocks to be included in such supplemental sales. These limits would ensure that a supplemental sale would offer only specific types of blocks.

The **Federal Register** Notice of February 7, 1986 (51 FR 4816), which announced the proposed 5-Year OCS Leasing Program specified the following:

> [Supplemental sale] blocks will only be offered after compliance with the requirements of the National Environmental Policy Act, the OCS Lands Act, and other applicable statutes. The environmental assessment documentation for each of these sales would be released prior to the proposed notice of sale. If it is determined that an EIS is required for one or more blocks to be offered in one of these sales, revised presale milestones would be issued.

That Notice also included a typical milestone schedule for supplemental sales which included the following steps: Call for Information and Nominations (Call), issuance of an environmental assessment, proposed notice of sale, notice of sale, and sale. The Call step provides for input from all parties on the blocks proposed for offering. A 45-day comment period is planned. The Call will establish the maximum size of the sale. Any nominated development block outside the Call area would be considered for inclusion in the next supplemental sale or the next regular sale in the relevant planning area.

Since the function of an area identification—specifying blocks for environmental analysis—will have been performed prior to and announced in the Call, an area identification step as provided in the current regulations is not appropriate for supplemental sales. The results of DOI's consideration of comments submitted in response to the Call will be announced at the time the environmental assessment is issued. The environmental assessment will also indicate whether any additional environmental impact analysis would have to be done in order to be able to offer a block for lease. If it were necessary to prepare an environmental impact statement, revised milestones for that process would be issued if the offering of such block were to be pursued. The public issuance of the environmental assessment is planned so that it can be reviewed prior to the issuance of the proposed notice of sale. The proposed notice will provide the Governors and local governments of affected States the opportunity to comment on the sale proposal, pursuant to section 19 of the OCS Lands Act (43 U.S.C. 1345). Comments on the environmental assessment and the proposed notice of sale will be considered for the decision on the final notice of sale.

Each year, a small number of blocks receive bids which are rejected or which are forfeited by the qualified high bidder. In such cases, a supplemental sale would enable MMS to reopen those blocks to competition without waiting up to 2 or more years until the next lease sale. This would diminish costs associated with a delay in the leasing and subsequent development of such blocks. Supplemental sales would include those blocks on which bids were rejected or foreited by the highest qualified bidder during the fiscal year preceding the Call. Should an annual supplemental sale not occur for any reason, a subsequent supplemental sale might include rejected and forfeited bid blocks which would have been included in the sale not held.

The supplemental sale would also offer a limited number of development blocks. Development blocks are defined in the proposed regulations. The timely offering of development blocks will encourage efficient and expeditious exploration and development decisions on leases likely to encompass a single field. The MMS classification development blocks in some cases are derived from geological and geophysical data and information that may be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, and section 26 of the OCS Lands Act, 43 U.S.C. 1352. The proposed regulations expressly authorize the Director, in connection with supplemental sales, to publish the block classifications although not the underlying data or information. The regulations do not authorize MMS to

release any proprietary data or information before the time periods specified for disclosure in 30 CFR Part 251 or other parts of this title.

Supplemental sales are intended for areas where regular sales do not occur frequently enough to provide for proper development of the area. Therefore, the proposed regulations preclude the use of supplemental sales in the Central and Western Gulf of Mexico OCS planning areas where annual sales provide for expeditious offering of development blocks.

In February 1986, MMS announced the proposed 5-year OCS oil and gas leasing program for 1987 through 1991. The initial schedule called for five supplemental sales. Subsequently, that schedule was revised. Four supplemental sales are currently being considered in the proposed final program document beginning with Sale SU 1 proposed for September 1988.

The DOI has determined that this rule will have a positive effect on the economy and is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required.

The DOI has also determined that this rule will not have a significant economic effect on small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

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

Author

This document was prepared by John Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: December 12, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

PART 256—[AMENDED]

For the reasons set forth in the preamble, 30 CFR Part 256, is proposed to be revised as follows:

1. The authority citation for Part 256 continues to read as folows:

Authority: Secretarial Order 3071, Amendment No. 1, May 10, 1982, and the OCS Lands, Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629.

2. In Subpart A, § 256.12 is added to read as follows:

§ 256.12 Supplemental sales.

(a) The Secretary may conduct a supplemental sale in accordance with the provisions of this section.

(b) Supplemental sales shall be governed by the regulations in this part, except § 256.22.

(c) Supplemental sales shall be limited to blocks falling into one or more of the following categories:

(1) Blocks for which bids were rejected during the fiscal year preceding the Call (see § 256.23). For the first supplemental sale, blocks for which bids were rejected in the two fiscal years preceding the initial supplemental sale Call may be offered. If a supplemental sale is not held annually for any reason, the relevant period covered by the Call for a subsequent supplemental sale may be extended to include rejected bid blocks which would have been considered for the supplemental sale not held.

(2) Blocks for which the high bid was forfeited during the fiscal year preceding the Call (see § 256.23). For the first supplemental sale, blocks for which bids were forfeited in the two fiscal years preceding the supplemental sale Call may be offered. If a supplemental sale is not held annually for any reason, the relevant period covered by the Call for a subsequent sale may be extended to include forfeited bid blocks which would have been considered for the supplemental sale not held.

(3) Development blocks. A development block is one which is located on the same general geologic structure as an existing lease having a well will indicated hydrocarbons; the reservoir may or may not be interpreted to extend onto the block.

(d) Supplemental sales shall not include blocks in the Central or Western Gulf of Mexico Planning Areas.

(e) The Director may disclose the classification of blocks in supplemental sales as development blocks.

3. Section 256.26 is amended by adding a sentence at the end of § 256.26(a) to read as follows:

§ 256.26 General.

(a) * * * For supplemental sales, provided for by § 256.12 of this Part, the Director's recommendation shall be replaced by a statement describing the results of the Director's consideration of the factors specified above in this section.

* * * * *

[FR Doc. 87-6548 Filed 3-25-87; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR 117

[CGD 01-87-01]

Drawbridge Operation Regulations: Kennebunk River, ME

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maine Department of Transportation, the Coast Guard is considering a change to the regulations governing the Dock Square Drawbridge across the Kennebunk River, between the towns of Kennebunk and Kennebunkport, Maine, to provide that the draw need not be opened for the passage of vessels. This proposal is being made because of a steady decrease in requests for opening the draw with no requests being made since 1985. This action should relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before May 11, 1987.

ADDRESS: Comments should be mailed to the Office of the Commander (obr), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02210-2009. The comments received and other material referenced in this notice will be available for inspection and copying at 408 Atlantic Avenue, Boston, MA room number 628. Normal office hours are between 8 am and 4 pm Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Michael G. Haydin, USCG, Chief, Bridge Branch, First Coast Guard District, Boston, MA. Telephone (617) 223-8338.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, First Coast Guard District, will evaluate all

communications received to determine a course of final action on this proposal. The proposed regulation may be changed in light of the comments received.

Drafting Information: The drafters of this Notice are: Lieutenant (Junior Grade) Michael G. Haydin, United States Coast Guard, Chief, Bridge Branch, First Coast Guard District, and Lieutenant Dana J. St. James, United States Coast Guard Reserve, Assistant Legal Officer, First Coast Guard District, Project Attorney.

Discussion of the proposed regulations: Most Marine activity on the Kennebunk River occurs below this drawspan with little, if any, marine activity above it. This is demonstrated by the significant decrease in the number of requested openings of the draw. The total annual openings have decreased from 226 in 1974 to zero in 1985 and 1986. The decrease is due primarily to the closure of the boatyard which was located above the bridge in late 1974/early 1975. In view of the lack of requests for openings and the fact that there are no foreseeable plans to develop the river above the bridge, the proposed amendment would seem to provide for the reasonable needs of navigation.

Economic Assessment and Certification: This proposed regulation is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The upper rive traffic has steadily and significantly decreased since 1974 with five requests to open the draw in 1983 and three in 1984. There have been no request to open the draw since 1984. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46, 33 CFR 1.05–1(g).

2. Section 117.527 is revised to read as follows:

§ 117.527 Kennebunk River.

The draw of the Maine Dock Square Highway Bridge, Mile 1.0, between Kennebunk and Kennebunkport, need not be opened for the passage of vessels. However, the draw shall be returned to operable condition within six months after notification by the District Commander to do so.

Dated: March 12, 1987.

R.L. Johanson,

Rear Admiral (Lower Half), United States Coast Guard, Commander, First Coast Guard District.

[FR Doc. 87–6579 Filed 3–25–87; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3167-9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: On October 20, 1983, the Illinois Environmental Protection Agency (IEPA) submitted to USEPA a proposed revision to the Illinois State Implementation Plan (SIP). This proposed SIP revision took the form of a September 8, 1983, Final Order of the Illinois Pollution Control Board (IPCB) PCB 79–7. PCB 79–7 granted a site-specific sulfur dioxide (SO_2) mass emission limitation to Illinois Power Company's Baldwin Power Station (Baldwin) of 101,966 pounds per hour in the aggregate and an emission rate not to exceed 6 pounds of SO_2 per million BTU's of heat imput as pursuant to IPCB Rule 204(e)(3) which allows sources to petition the IPCB for alternate emission limits. Additional materials were submitted to USEPA on January 20 and August 1, 1984. USEPA proposes to approve both emission limitations for Baldwin and solicits public comment on the proposed SIP revision and on USEPA's proposed rulemaking action.

DATE: Comments on this revision and on the proposed USEPA action must be received by April 27, 1987.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886–6035, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air And Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Contral, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency Region V, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: The details of the State's proposed SIP revision and USEPA's proposed analysis are summarized below. A more detailed discussion of the SIP revision and USEPA's analysis is contained in the technical support document which is available for review at the Region V office listed in the front of the **Federal Register** notice.

History

On March 25, 1977, the Illinois Power Company (IPC) petitioned the Illinois Environmental Protection Agency (IEPA) to amend Rule 204 of Chapter II Part II of the Illinois Air Pollution Control Regulations (IAPCR) as it applied to the IPC–Baldwin Power Station in Randolph County, Illinois. Under Rule 204, Baldwin's three steam generating units are subject to an emission limitation of 81,339 lbs SO_2/hr (4.62 lbs SO_2/MMBTU at maximum capacity). IPC requested a new limit of 101,966 lbs SO_2/hr (5.80 lbs SO_2/MMBTU at maximum rated capacity) for its Baldwin Plant.

IPCB Rule 204(e)(3) provides a mechanism whereby a source could obtain a site-specific emission limit. Rule 204(e)(3) requires as ambient monitoring and dispersion modeling program for 1 year subsequent to approval of the emission rate. The source must document that the proposed emission rate will not under any foreseeable operating conditions and poetential meterorological conditions cause or contribute to a violation of the applicable National Ambient Air Quality Standards (NAAQS) or Prevention of Significant Deterioration (PSD) increments.

On September 8, 1983, the IPCB revised Order 79–7 to read as follows:

Illinois Power Company be granted a site-specific mass emission limitation for sulfur dioxide for its Baldwin Plant of 101,966 pounds of sulfur dioxide per hour in the aggregate and an emission rate not to exceed 6 pounds of sulfur dioxide per million BTU's of heat imput as determined pursuant to Rule 204(e)(3).

Compliance with these emission limits is to be tested using the measurement method specified in Illinois Rule 204(m)(1) (i.e., Method 6 Stack Test). The Baldwin Power Station is located in Randolph County, Illinois. This area is relatively flat and rural with no other major SO_2 sources nearby. The plant consists of three units, with a total maximum rated capacity of 17,594, MMBTU/hr, vented through three identical stacks with heights of 184.4 m. A comparison of the recent actual and the proposed allowable emission rates shows that Baldwin's proposed limits essentially reflect status quo emisions. Thus, atomospheric SO_2 loadings would not likely increase as a result of approval of the proposed action.

Attainment Demonstration

USEPA requires a reference air quality modeling analysis to demonstrate that the proposed SO_2 emission limit will protect the SO_2 NAAQS. Also, Illinois Rule 204(e)(3) requires IPC to conduct an ambient monitoring and dispersion modeling program for 1 year to demonstrate that the NAAQS and PSD increments will be protected under any foreseeable operating conditions and potential meteorological conditions. For the primary SO_2 NAAQS, the attainment demonstration for the Baldwin SIP revision in based on the IEPA modeling analysis (submitted on May 15, 1981) and summarized in their report, "Study to Determine Short-Term Sulfur Dioxide (SO_2) Concentration in the vicinity of the Baldwin Power Station." The IEPA analysis used USEPA's CRSTER Model, the reference short-term model for rural, relatively flat areas and 5 years of St. Louis surface/Salem upper air meteorological data (1973–1977). The analysis was performed consistent with USEPA modeling guidelines.

The CRSTER analysis predicted no violations of the 24-hour primary SO_2 standard. the contraining 24-hour high, second high block concentration of 327 ug/m^3 was predicted at 2.9 km, 150° from the Baldwin Plant.

The CRSTER analysis further indicates that the annual primary SO_2 standard is not threatened by Baldwin impacts.

The document entitled, *Evaluation of MPSDM and CRSTER Using the Illinois EPA Approval Protocol and The Subsequent Emission Limitation Study for the Baldwin Power Plant*, ERT P–B881–100, July 1983, and ERT P–B881–200, July 1984, respectively, were reviewed as the attainment demonstration for the secondary SO_2 NAAQS. This evaluation was submitted on October 20, 1983, by IEPA. Additional information pertaining to this study was submitted on January 24, 1984, and August 1, 1984. The supplemental data consist of the meteorological, emission and ambient air quality data bases employed in the ERT studies (see October 20, 1983, January 20, 1984, and August 1, 1984, submittals) as well as copies of model imput/outputs. These reports conclude that ERT's MPSDM performs marginally better than USEPA's CRSTER model in predicting 3-hour concentrations near the Baldwin plant and that the proposed limit will protect the 3-hour SO_2 NAAQS.

For the 3-hour emission limit determination, a receptor grid placing receptors every 10° along rings at 1.3, 1.7, 2.3, 3.0, 3.9, 5.2, 6.8, 9.0, 11.7, and 15.0 km was used in the MPSDM model run. Using April 1982–March 1983 onsite meteorological data and procedures identified in the July 1983 ERT document P–B881–100, the MPSDM model calculated the constraining 3-hour high, second high block average concentration of 1247.8 ug/m^3 (the 3-hour SO_2 standard is 1300 ug/m^3).

USEPA performed various analyses to verify that ERT properly applied the Agency's CRSTER model in its evaluation study and to determine if the performance measures specified in a protocol document, *Procedures for Model Evaluation and Emission Limit Determination for the Baldwin Power Plant*, June 1982, prepared by IEPA, were properly calculated. These analyses indicated that the ERT model evaluation study can be accepted as a demonstration that MPSDM version 7 performs marginally better than the CRSTER model for predicting 3-hour SO_2 concentrations in the vicinity of the Baldwin Power Plant. Consequently, the MPSDM model run to evaluate the proposed emission limit is acceptable as the attainment demonstration for the secondary SO_2 NAAQS. The MPSDM analyses were performed consistent with IEPA's protocol document.

However, a further review of IEPA's attainment demonstration identified two procedures which are not consistent with current USEPA modeling guidelines. First, the model analysis to determine the emission limitation employed only one of several available years of on-site meteorological data. Second, this analysis selected model receptor locations using techniques appropriate for the USEPA CRSTER model but not for ERT's MPSDM model. Because IEPA's submittal adhered to a strict interpretation of their protocol document which was implicitly agreed to by USEPA prior to completion of the model valuation study, IEPA's secondary SO_2 NAAQS demonstration is being accepted by USEPA. In USEPA's judgment, the above modeling inconsistencies would not likely result in a substantial adjustment to the proposed SO_2 emission limit for IPC's Baldwin. USEPA specifically solicits public comment on its adherence to the procedures specific in the agreed upon protocol document and on the necessity for correcting the cited modeling deficiencies.

In addition to reviewing the air quality modeling analysis, USEPA reviewed the SO_2 ambient data collected in the 10-monitor network operated by IPC from April 1982 through March 1983 for the model evaluation study. These data do not show violations of the short-term and 3 and 24-hour SO_2 NAAQS on a block average basis. Because fuel quality and emissions data were available for this monitor period as imputs to the model evaluation study, these data coincident with 3-hour periods of elevated SO_2 concentrations were reviewed. It was noted that several high monitored concentrations were recorded while the Baldwin plant's actual fuel quality was well below the proposed allowable rate of 6.0 lbs/MMBTU and/or while only two of the three nearly identical units were operating. Consequently, the emissions and monitor data were adjusted to reflect expected observed concentrations if all three generating units had been operating (at representative levels) and emitting SO_2 at the proposed limit of 6.0 lbs/MMBTU. The adjustments are appropriate because each of the three nearly identical units vents from a separate identical stack separated by no more than 124 m and the ambient impact at each monitor site from individual stacks can be assumed to be nearly equivalent. The analysis did not make adjustments up to 100 percent load operating conditions for each of the units because of the inability to accurately quantify the effect of the increased plume rise due to higher operating loads in the SO_2 concentrations at the monitor sites.

Historically, USEPA has not routinely performed an analysis to adjust monitored concentrations in the review of SO_2 SIP relaxations because:

(1) Detailed, concurrent emissions, plant operating and monitored data are not routinely available; and
(2) Multiple stacks with substantial diferences in effective release heights and in distance between stacks influence the monitored concentrations.

Because these obstacles were not present in this case due to the similarity of the stacks at the isolated Baldwin Plant and the availability of emissions, operating and monitoring data from the model evaluation study, such an analysis was performed for this revision. This analysis projects six exceedances, but no violations, of the secondary standard on a block average basis.

The modeling techniques used in the demonstration supporting this revision are based on modeling guidance in place at the time that the analysis was performed, i.e., the EPA "Guideline on Air Quality Models" (1978). Since that time, revisions to modeling guidance have been promulgated by EPA (51 FR 32176, September 9, 1986). Because the modeling analysis was completed prior to publication of the revised guidance, EPA accepts the techniques in the analysis as they are pertinent to this revision.

PSD Applicability

Because IPC-Baldwin is located in an area designated as attainment for SO_2 and the proposed SIP revision constitutes a relaxation to the Illinois SO_2 SIP, the PSD regulations (August 7, 1980, 45 FR 52576) may be applicable. SIP relaxations must be reviewed for PSD increment consumption if the PSD baseline date has been triggered by the filing of a complete PSD application within the area in which the source is located in or has a one ug/m³ annual impact. Because no source has applied for a PSD permit within the significant impact area, the proposed revision is not required to be supported by a PSD increment consumption review. It is also noted that the proposed revision reflects status quo emissions and, therefore, will not result in an increase in actual SO_2 emissions by IPC-Baldwin.

Interstate Impact

The Baldwin plant is located 35 km from the closest Missouri boundary and is at least 50 km from all other States. There are no SO_2 nonattainment areas within 50 km of the Baldwin plant and the industrialized portion of the St. Louis metropolitan area is also beyond 50 km of the Baldwin plant.

The available CRSTER modeling analysis was reviewed in order to assess the potential impact of Baldwin's SO_2 emissions on nearby States. The CRSTER results show a predicted maximum 24-hour concentration of 238 $\mu g/m^3$ (at 2.9 km from Baldwin). At 3.3 km downwind, the 24-hour concentration decreased to 143 $\mu g/m^3$ which is well below the corresponding NAAQS. Missouri is located far beyond the point of maximum concentration (beyond which concentrations decrease markedly). Also, there are no other major SO_2 sources which could interact with Baldwin in the area of Missouri which is within 50 km of Baldwin. Therefore, Baldwin is expected to have minimal impact on SO_2 air quality in downwind States.

It was not possible to *directly* estimate Baldwin impacts in States other than Missouri. That is, USEPA's Guideline models, such as CRSTER, are not considered accurate beyond 50 km of the source (see *Guideline on Air Quality Models*). USEPA has not established a Guideline model for estimating SO_2 or secondary pollutant concentrations at great distances (>50 km) from individual or multiple sources. The available longer range models are not considered appropriate by USEPA to assess the impacts of major midwestern SO_2 sources at great distances. Consequently, Baldwin's SO_2 impacts in distant States were not directly quantified but, based on the short range modeling results, are expected to be minimal.

Stack Height Rule Impacts

On July 8, 1985 (50 FR 27892), USEPA promulgated Stack Height Rules, pursuant to Section 123 of the Clean Air Act. These rules do not apply to stack heights "in existence" before December 31, 1970. A stack is "in existence" if the owner or operator had, by December 31, 1970: (1) Begun a continuous program of physical on-site construction of the stack; or, (2) entered into a binding agreement or contractual obligation, which could not be cancelled or modified without substantial loss, to undertake a program of stack construction to be completed within a reasonable time.

On December 4, 1985, IEPA certified that the three existing stacks (serving three boilers) at Illinois Power's Baldwin Power Station are not subject to the Stack Height Rules because they were either " in existence" prior to December 31, 1970, or do not exceed the applicable Good Engineering Practice (GEP) formula height. Thus, the physical stack height for these three stacks is fully creditable. There is no merged stack issue because each of the three boilers vents to a single stack.

Proposed Rulemaking Action

USEPA proposes approval today of the incorporation into the SIP of a September 8, 1983, Order of the IPCB, PCB-79-7. PCB-79-7 establishes a revised emission limit for Illinois Power's Baldwin Station of 101,966 pounds of sulfur dioxide per hour in the aggregate and an emission rate not to exceed 6 pounds of sulfur dioxide per million BTU's of heat input. USEPA specifically solicits public comment on the necessity for correcting the cited modeling deficiencies.

Public comment is invited on the proposed SIP revision and on USEPA's proposed rulemaking action. Public comment is expressly solicited on the deficiencies summarized above and their bearing on USEPA's proposed approval. These deficiencies are discussed more fully in the technical support document for this rulemaking which is available for inspection at the USEPA Region V office listed at the front of this notice of proposed rulemaking. Public comments received by the date indicated above will be considered in USEPA's final rulemaking action.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

Authority: 42 U.S.C. 7401-7642.

Dated: March 18, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87-6553 Filed 3-25-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL-3168-5 NC-007, 018]

Approval and Promulgation of Implementation Plans, North Carolina; Proposed Disapproval of Particulate Regulation for Electric Utility Boilers

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove parts of regulation 15 NCAC 2D.0536 (Particulate Emissions from Electric Utility Boilers) which North Carolina submitted to EPA as a State Implementation Plan (SIP) revision on January 24, 1983, and February 21, 1983.

EPA is also proposing to disapprove parts of a revision to 2D.0536 which was submitted to EPA on December 17, 1985. EPA is deferring action on the remainder of 2D.0536 pending evaluation of the PSD and NAAQS modeling demonstrations and will propose rulemaking in a future notice. The regulation and its revision prescribe relaxed particulate emission limits for thirteen electric utility power plants in the State. On December 21, 1983, EPA proposed to approve the short-term emission limits contained in the 1983 submittal (48 FR 56412). Final approval of those limits was contingent upon the State's submitting a demonstration that the allowable Prevention of Significant Deterioration (PSD) increments would not be exceeded. This analysis was not submitted until mid-1986.

In the meantime, improvements in modeling methodology and procedures had rendered the original demonstration of compliance with the National Ambient Air Quality Standards (NAAQS) inadequate.

The State has now submitted a revised NAAQS analysis for nine of the plants, but has declined to do so for four plants. Because EPA lacks the information necessary to approve 2D.0536 (and its subsequent revision), for those four plants, the Agency is proposing to disapprove both submittals as they pertain to those plants. The effect of this disapproval will be that the previous federally-approved emission limitations (as prescribed by 2D.0503) will remain in effect for the four plants. For the other nine plants, EPA is currently evaluating the information submitted by the State, and will prepare a notice of proposed rulemaking in the near future.

DATES: To be considered, comments must be received on or before April 27, 1987.

ADDRESSES: Written comments should be addressed to Roger Pfaff of the EPA Region IV Air Programs Branch. (See Region IV address below.) Copies of the State's submittals are available for review during normal business hours at the following locations:

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611

Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT: Roger Pfaff of the EPA Region IV Air Programs Branch, at the above address and telephone (404) 347-2864 or (FTS) 257-2864.

SUPPLEMENTARY INFORMATION: On January 24, 1983, and February 21, 1983, North Carolina submitted a new regulation (15 NCAC 2D.0536—Particulate Emissions from Electric Utility Boilers) to EPA for approval as part of the federally-approved State Implementation Plan (SIP). The purpose of this new regulation was to prescribe new particulate emission limits for each of the electric utility boilers in the State. These boilers were previously regulated under 15 NCAC 2D.0503—Control of Particulates from Fuel Burning Sources. The new regulation (2D.0536) relaxed the allowable particulate emission limits that applied to thirteen North Carolina power plants by a minimum of 0.01 pounds per million BTU (1b/mmBtu) of heat input and a maximum of 0.15 1b/mmBTU. Seven of those plants (28 boiler units) are operated by Duke Power Company and six of the plants (16 boiler units) are operated by Carolina Power & Light Company (CP&L).

On December 21, 1983 (48 FR 56412), EPA proposed to approve the short-term mass emission limits contained in new regulation 2D.0536. At that time, EPA also proposed to take no action on the annual particulate emission limits contained in 2D.0536 because they did not protect the short-term NAAQS and PSD increments. In that notice, EPA stated that final approval of the new mass emission limits would not be granted until the State submitted documentation to show that the relaxation would cause no exceedance of the allowable PSD increments for particulate matter. This PSD demonstration is required by EPA regulations at 40 CFR 51.166(2)(a) (old 51.24(a)(2)).

On September 20, 1984, North Carolina sent EPA a document titled "Case for Nonconsumption of PSD Increment By the Adoption of 15 NCAC 2D.0536." This paper attempted to show that the power companies had not increased their actual emissions and that, therefore, no PSD increment consumption analysis was necessary. EPA reviewed this submittal, which was intended to justify the new limits, and found it to be inadequate to satisfy the requirements of 40 CFR 51.166 (old 51.24). By letter of February 19, 1985, EPA rejected the State's submittal and again requested that a PSD increment consumption analysis be provided to validate the SIP revision.

This February 19, 1985, letter also outlined how to determine the degree of increment consumption caused by the emission limit relaxation. Since that time, EPA has conducted numerous meetings with the State, Duke Power Company and CP&L, and has issued further guidance on how to perform an increment analysis for the SIP revision.

To complicate matters, on December 17, 1985, North Carolina submitted a major revision to 2D.0536 to EPA for approval. This submittal contained essentially the same short-term emission limits as the original version of 2D.0536. However, new annual limits and annual opacity averages were prescribed for the boilers at each of the thirteen power plants.

Since no PSD increment analysis accompanied this December 17, 1985, submittal, the revised 2D.0536 contained the same deficiency as the original submittal of the rule. In addition to this shortcoming, EPA also determined at that time that the State must provide an up-to-date modeling demonstration which shows that the new mass emission limits (in both the original and the revised version of 2D.0536) will not violate the NAAQS for particulate matter. Since modeling techniques have improved greatly since the time the original NAAQS demonstration was prepared (in approximately 1979), the original NAAQS analysis is no longer valid. This analysis is required before EPA can approve any SIP revision pursuant to section 110(a)(3)(A) of the Clean Air Act. Considerable controversy then developed over whether or not this new NAAQS demonstration would be done. However, EPA cannot approve a relaxation of a SIP emission limit without an adequate ambient air quality analysis.

On February 14, 1986, EPA notified the State by letter that the Agency must take action on 2D.0536 without further delay. The State was asked to submit both the PSD and NAAQS analyses within 30 days, thus completing the January 24, 1983, February 21, 1983, and December 17, 1985, submittals. If the State did not oblige by meeting that request, or did not withdraw the submittals by March 20, 1986, EPA would proceed to disapprove both versions of the regulation.

The State did not withdraw the submittals or complete the modelling by the March 20, 1986, deadline, so EPA began preparing a notice of proposed disapproval. In the meantime, the State, with the assistance of the affected utilities, proceeded with preparing the required documentation under the mutual understanding with EPA that a proposed disapproval would take approximately six (6) months to publish in the **Federal Register**, and that an

acceptable modelling demonstration submitted before that time would cause EPA to withdraw the notice. In March 1986, and May 1986, the required PSD increment analyses were submitted. In September 1986, Duke Power requested EPA to hold up processing of the notice for one additional month. Duke Power asserted that the modelling for their plants was almost complete, and a short extension would obviate the need for a proposed disapproval followed shortly by a proposed approval based upon submittal of required modelling. EPA agreed, and extended the deadline until October 15, 1986. On October 15, 1986, EPA received the required NAAQS modelling analysis for the seven Duke Power plants and two CP&L plants. The State did not submit NAAQS analyses for the other four CP&L plants.

EPA is evaluating the NAAQS and PSD modelling for the nine plants, and will shortly propose action on the regulation as it affects these plants. For the other four CP&L plants, since acceptable NAAQS modelling demonstrations were not submitted, EPA today proposes to disapprove 2D.0536 as it applies to those plants, as submitted January 24, 1983, February 21, 1983, and December 17, 1985.

Although EPA (in the December 21, 1983, **Federal Register**) proposed to take no action on the annual emission limits contained in the original 2D.0536, the Clean Air Act requires EPA to either approve or disapprove all SIP submittals, rather than take no action. (See, e.g., *Indiana and Michigan Electric Co.* vs. *EPA*, 733 F. 2d 489 (1984).) Since the annual mass emission limits initially contained in 2D.0536 are not, in EPA's opinion, limits for which compliance can accurately be determined, EPA concludes that the yearly mass emission standards are unenforceable. Further, the purported purpose of the annual opacity standards, contained in the revision to 2D.0536, is to indirectly protect the short-term NAAQS (by encouraging good operation and maintenance procedures.) The annual opacity limits are also more directly intended to protect the long-term ambient particulate standard. EPA concludes that the annual opacity standards contained in 2D.0536 do not accomplish either objective. Because the enforcement of those yearly standards by EPA would be manpower intensive and because those standards are unnecessary (due to the fact that federally-enforceable short-term mass and opacity standards already exist for the sources in question), EPA has decided to propose disapproval for the four CP&L plants, of the yearly mass and opacity standards along with the rest of the rule.

The four CP&L plants for which disapproval is being proposed, the new emission limit being proposed for disapproval, and the present federally enforceable limit, are delineated below:

Plant	New limit—lb/M. BTU heat input (lb/mmBTU)	Present limit (lb/mmBTU)
Ashville:		
Unit 1	0.20	0.13
Unit 2	0.20	0.13
Lee:		
Unit 1	0.25	0.13
Unit 2	0.13	0.13
Unit 3	0.25	0.13
Sutton:		
Unit 1	0.13	0.11
Unit 2	0.20	0.11
Unit 3	0.18	0.11
Weatherspoon:		
Unit 1	0.14	0.13
Unit 2	0.14	0.13
Unit 3	0.25	0.13

Proposed Action. EPA is proposing to disapprove regulation 15 NCAC 2D.0536 as submitted on January 24, 1983, and February 21, 1983, as well as the revisions to 15 NCAC 2D.0536, as submitted on December 17, 1985, as that regulation applies to the CP&L Asheville, Lee, Sutton, and Weatherspoon plants. EPA is deferring action on the remainder of the regulation pending evaluation of the PSD and NAAQS modelling demonstrations, and will propose rulmaking action in a future notice.

Public Comment. EPA is soliciting public comments on this notice and on issue relevant to EPA's proposed action. Interested parties may submit written comments to the address listed above. Since EPA has previously proposed action on this regulation, several comments have already been received. All comments submitted during the present comment period, as well as those already received, will be considered in conjunction with the final rulemaking.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities since Regulation 2D.0536 applies only to large utility boilers in the State of North Carolina. Disapproval of that regulation will not affect any small entities.

Under Executive Order 12291, this action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: April 8, 1986.

Jack E. Ravan,

Regional Administrator.

Editorial note—This document was received at the Office of the Federal Register on March 23, 1987.

[FR Doc. 87–6554 Filed 3–25–87; 8:45 am]

BILLING CODE 6560–50–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 845

Rules of Practice in Transportation Accident/Incidents Hearing and Reports

AGENCY: National Transportation Safety Board, DOT.

ACTION: Request for comments.

SUMMARY: On March 3, 1986 (51 FR 7277), the Board published an amendment to 49 CFR 845.13 to require parties to the Board's transportation accident hearings to select as their representatives qualified technical employees or members who do not occupy legal positions. The Board has received eight written comments on the amendment and the Board is interested in receiving the public's views on the amendment and these comments to the amendment.

DATE: Comments should be filed by May 26, 1987.

ADDRESS: Address comments to Mr. John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594. All comments received to date and any additional comments will be available for inspection and copying in the Safety Board's Office of General Counsel.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594 (202–382–6540).

SUPPLEMENTARY INFORMATION: When the Board published the amendment to § 845.13, it concluded that the amendment was a rule of agency procedure and practice and, therefore, notice and public procedure were not necessary. The Board continues to adhere to these views.

The Board is nevertheless interested in receiving any additional views on the amendment or the comments to the amendment. The Board is particularly interested in any suggested

modifications to the amendment which would not sacrifice its objectives.

Since the amendment became effective, the Board has held several hearings which have provided the Board with an opportunity to assess the impact of the amendment on the hearing process. This and future experience applying the amendment coupled with a review of all comments received will be used by the Board in deciding whether the amendment should be changed.

For convenient reference, a verbatim republication of the **SUPPLEMENTARY INFORMATION** for the amendment is being set forth here followed by a summary of all comments on the amendment:

The Safety Board has established rules of practice in transportation accident hearings (Subparts A and B of 49 CFR Part 845). These rules permit the designation of parties to an accident hearing which is conditioned on among other things an entity's special knowledge which will contribute to the development of pertinent evidence. 49 CFR 845.13(a). This rule, however, does not specify that the party's representative at the hearing possess any specialized knowledge or expertise.

The Board's rules of procedure for aviation accident investigations require an entity as a prerequisite to being invited to participate in the investigation to provide "suitable qualified technical personnel" who will actively assist in the investigation. 49 CFR 831.9(a). Participants in nonaviation investigations are also represented by qualified technical personnel. Since the parties to a field investigation of an accident are virtually always also designated as parties to any hearing held in connection with the accident and since the hearing is an extension of the field investigation, the Board believes that ideally a person who represented a party during an earlier phase of the investigation should serve as spokesperson for the party at the hearing. The direct ongoing participation of technical personnel will provide continuity through the accident inquiry. This amendment would require spokespersons to be employees or members of the party they represent because such personnel are most likely to possess an intimate knowledge and understanding of the functions, activities, operations, or products of the party they represent and therefore would be in the best position to render assistance to the Board.

The Board reserves the right to allow the Chairman of the Board of Inquiry to permit a nonemployee spokesperson in the exceptional case where due to the small size of its workforce a party is unable to provide an employee as a spokesperson. Since the Board expects that parties will rarely if ever be unable to proffer an employee as a representative, the Board will not at this time create a formal exception to the requirement that parties be represented at the hearing by an employee. An organization that the Board invites to participate in the investigation for the first time at the hearing likewise will be required to be represented by an employee possessing technical qualifications.

Parties to the Board's field investigations are not represented by persons who occupy legal positions, but a few parties have had legal counsel serve as spokesperson at the hearing. This rule change will prevent the shifting from a technical representative during the field investigation to a legal representative at the hearing. Transportation accidents involve complex subject matter and technical issues. The Board's investigations of these accidents are conducted by the Board's staff of experts with assistance from the technical personnel of the parties. The purpose of the inquiry remains the same irrespective of the phase of the investigation, i.e., to develop the facts, conditions, and circumstances of the mishap to enable the Board to determine the probable cause of the accident and to ascertain measures which will tend to prevent accidents and injuries. It is not the function of the Board's inquiries to determine the rights or liabilities of any person. The Board derives the greatest benefit from the insight and specialized knowledge of qualified technical personnel who represent parties, and the Board believes that parties invited to participate at a hearing should be represented by a person who theretofore participated in the investigation or at the very least an official who supervises such persons or an employee who possesses comparable technical qualifications and current work experience. Although the legal representatives of some parties to hearings have had transportation-related technical experience and have contributed to the hearing, the Board believes that persons who occupy technical rather than legal positions will be able to offer more to the Board and be more in keeping with the spirit and purposes of the inquiry.

The Board has received eight written comments on the amendment from the Aircraft Owners & Pilots Association; National Business Aircraft Association, Inc.; Federal Aviation Administration; British Aerospace; John J. Hennelly, Jr., Esq.; Bryan, Cave, McPheeters & McRoberts; Air Transport Association of America; John J. Martin, Esq.; Bigham, Englar, Jones & Houston; and Federal Railroad Administration. Mr. Hennelly favored the amendment and the other commenters opposed it. The comments against the amendment made the following points: (1) The Board should reconsider the amendment, rescind the amendment, or withdraw the amendment and republish it as a notice of proposed rulemaking; (2) the Board lacks the statutory authority to prohibit a party from the assistance of the counsel of its choice; (3) attorneys because of their training and experience are best suited to frame questions, deal with complex issues that involve any technical discipline, develop a complete record, and adhere to the Board's regulations and to the rulings of the chairman of the board of inquiry; and (4) the amendment violates the due process clause of the Fifth Amendment to the United States Constitution.

Part 845 is intended, among other things, to prevent the injection of liability interests into the Board's hearings as evidenced by the prohibition against a party being represented by a person who also represents claimants or insurers. (49 CFR 845.13(b)). As noted above, the purpose of the Board's accident inquiries is not to determine the rights or liabilities of any person, and, consistent with this objective, the amendment served to distance further the Board's hearing from the litigation that inevitably arises from major transportation accidents by precluding attorneys from acting as spokespersons. The comments to the amendment have prompted several issues on which the Board especially wishes to have the benefit of the public's views to assist the Board in evaluating its procedures. Should parties such as labor unions or trade associations be permitted to be represented by technically knowledgeable persons who occupy legal positions where the party will not

become involved in litigation spawned by the accident? Should parties that are involved or are likely to become involved in litigation stemming from the accident be permitted to be represented by a technically knowledgeable attorney if the attorney could be isolated from such litigation? How could the Board administer and enforce such a condition? Would an attorney who is not an employee or member of a party have sufficient knowledge of the operations and activities to effectively assist the Board?

Issued in Washington, DC, on March 17, 1987.

Jim Burnett,

Chairman.

[FR Doc. 87–6189 Filed 3–25–87; 8:45 am]

BILLING CODE 4910–58–M

Notices

Federal Register
Vol. 52, No. 58
Thursday, March 26, 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

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the 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: Federal Grain Inspection Service Advisory Committee.

Date: April 13, 1987.

Place: The Capitol Hill Hotel, The Capitol Hill Room, 220 C Street SE., Washington, DC 20003.

Time: 8:30 a.m.

Purpose: To provide advice to the Administrator of the Federal Grain Inspection Service on the efficient and economical implementation of the U.S. Grain Standards Act of 1976, in order to assure the normal movement of grain in an orderly and timely manner.

The agenda includes: (1) Quality issues involving wheat protein and classing, and sorghum damage and odor; (2) status of proposed regulations, including implementation of the Grain Quality Improvement Act of 1986; (3) financial matters; (4) safety; and (5) other matters.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact W. Kirk Miller, Administrator, FGIS, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 382–0219.

Dated: March 23, 1987.

W. Kirk Miller,

Administrator.

[FR Doc. 87–6575 Filed 3–25–87; 8:45 am]

BILLING CODE 3410–EN–M

Soil Conservation Service

Finding of No Significant Impact; Northwest Local School District RC&D Measure, Ohio

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Northwest Local School District RC&D Measure, Scioto County, Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical area treatment of three gullies on the school grounds. The gullies are threatening the high school parking lot and athletic fields. The sediment has silted in a waterway at the lower end of the area making the area useless. Planned works of improvement include the installation of 2000 feet of stone centered waterways, three grade stabilization structures, and three acres of critical area treatment.

The notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Harry W. Oneth.

No administrative action in implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials)

Harry W. Oneth,

State Conservationist.

March 18, 1987.

[FR Doc. 87–6532 Filed 3–25–87; 8:45 am]

BILLING CODE 3410–16–M

Finding of No Significant Impact; Scioto County Streambank Protection RC&D Measure, Ohio

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Scioto County Streambank Protection RC&D Measure, Scioto County Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614) 469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical areas treatment along 4,500 feet of eroding streambanks along various

county roads in Scioto County, Ohio. Planned works of improvement include the placement of rock riprap along 4500 feet of streambank situated adjacent to county roads at several locations throughout the country.

The notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contracting Harry W. Oneth.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Harry W. Oneth,

State Conservationist.

March 18, 1987.

[FR Doc. 87-6533 Filed 3-25-87; 8:45 am]

BILLING CODE 3410-16-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: 1987 Special Urban Survey
Form Number: Agency—DG-1a, DG-1b; OMB—NA
Type of Request: New collection
Burden: 27,000 respondents; 6,750 reporting hours
Needs and uses: The primary objective of this survey is to test alternate wording of race and Spanish origin questions. Analysis of this information will assist in determining the content of the 1990 decennial census questionnaires.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
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) 377-3271, 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: March 19, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-6661 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-07-M

[Docket No. 605]

Order Modifying Table of Denial Order Currently In Effect Richard Mueller, d/b/a Semitronic AC, S.A.

In an "Order Denying Export Privileges" dated July 1, 1981, (46 FR 40914, August 18, 1981) the above named parties and others were found to have violated the Export Administration Act and Regulations. The period of denial of export privileges imposed upon the above named respondent was for twenty years to May 31, 2001.

In early 1983, concern was expressed on behalf of Treuhand & Revisiongersellschaft (Treuhand) at its inclusion as a denied party. Government correspondence dated in May and June of that year reflects that "Treuhand is not itself subject to denial of U.S. Export Privileges." At that time Treuhand apparently was still regarded as the appropriate mailing address for the denied parties in Zug, Switzerland. The clearly erroneous listing of Treuhand as a denied party was apparently deleted, however, the name as a part of Mueller's mailing address in Zug, Switzerland, was retained.

By letter of August 12, 1983, filed on August 15, 1983, to the then Hearing Commissioner, counsel for Treuhand requested that the address also be corrected to delete the reference to c/o Treuhand and Revisiongesellschaft. A credible and accepted affidavit by the president of Treuhand which explained the status and relation of the various named persons and companies was also submitted and is part of the record.

In response to an Order to Show Cause, Agency counsel has now indicated that he does not oppose deleting "c/o Treuhand & Revisiongesellschaft," though he has not furnished the requested explanation for his inaction over the past 3 years as directed.

It is therefore, ordered that the Order of July 1, 1981, and the current Table of Denial Orders Currently in Effect in Supplement No. 1 of the Regulations (15 CFR Part 388) is modified to delete: c/o Treuhand and Revisiongesellschaft, and substituting therefore: Norstrasse 172 Zurich Switzerland.

So Ordered.

Dated: February 20, 1987.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 87-6522 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-01-M

National Oceanic and Atmospheric Administration

Marine Mammals: Receipt of a Request for Amendment to a General Permit

On February 13, 1987, a General Permit was issued to VEB Fischfang Rostock, German Democratic Republic, to take up to 10 cetaceans in the North Atlantic Ocean during the course of commercial fishing operations in 1987. The Permit Holder has submitted a request for an amendment to the Permit requesting an additional 20 cetaceans to be taken.

The Permit and the requested amendment are available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC.

Dated: March 20, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR. Doc. 87-6576 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-22-M

Coastal Zone Management: Federal Consistency Appeal by John K. DeLyser From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Appeal.

On January 12, 1987, the Secretary of Commerce received a letter on behalf of John K. DeLyser (Appellant) filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H. The appeal is taken from an objection by the New York Department of State to Appellant's

consistency certification for F–86–565 U.S. Army Corps of Engineers Permit Application No. 86–370–44 under Section 10 of the River and Harbor Act of 1899, for after-the-fact approval for sinking pilings for a boathouse containing a residential unit in Sodus Bay, Leroy Island, Huron, New York.

Appellant requested and has been granted an extension to file supporting information and data. If the appeal is perfected by the filing of this information, public comments will be solicited by a notice in the **Federal Register** and a local newspaper.

FOR FURTHER INFORMATION CONTACT: Katherine A. Pease, Attorney/Adviser, Office of General Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235 (202) 673–5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: March 23, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87–6519 Filed 3–25–87; 8:45 am]

BILLING CODE 3510–08–M

COMMISSION ON MERCHANT MARINE AND DEFENSE

Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98–525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the Commission announces the following meeting:

Dates and Times: Monday, April 27, 1987; Beginning 2:00 p.m..

Place: Center for Naval Analyses auditorium, First Floor, 4401 Ford Avenue, Alexandria, Virginia.

Type of Meeting: Open.

Contact Person: Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22301–0268.

Purpose of Meeting: To receive and consider statements on the perspective of seagoing labor on the problem of manning adequate shipping to support the defense needs of the United States. Individuals or organizations desiring to present oral testimony at the hearing must notify the Executive Director in writing by April 15, 1987, and must provide 40 copies of written testimony no later than April 23. Witnesses will be allowed a maximum of 15 minutes to summarize their written testimony and will be asked to respond to questions from the Commissioners. Questions about the nature and content of testimony, scheduling, due dates, and related matters should be directed to Mr. Robert Nevel, Technical Director, at the Commission's office in writing or by telephone at (202) 756–0411.

SUPPLEMENTARY INFORMATION: Other interested persons are invited to submit written statements about seagoing labor and the shipping required to implement United States defense policy. Written statements should be received by the close of business on April 23, 1987. All written submissions will be made available for inspection by interested parties, and may be published as part of the Commission's proceedings. All submissions should be addressed to the Executive Director at the Commission's office in Alexandria, Virginia.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 87–6534 Filed 3–25–87; 8:45 am]

BILLING CODE 3820–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exemption for Certain Handloomed Textile Products Produced or Manufactured in India

March 23, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 31, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective March 27, 1987. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC, (202) 377–4212.

Background

A CITA directive dated April 15, 1986 was published in the **Federal Register** (51 FR 29680) concerning the entry and withdrawal from warehouse for consumption in the United States of certain handloomed textile products in Categories 360–369, 464–469 and 665–669, produced or manufactured in India, regardess of the date of export, which have been certified exempt by the Government of India, but which may contain some machine stitching.

As a result of consultations held between the Government of the United States and India, the Government of the United States, under the terms of the Bilateral Cotton, Wool, and Man-Made, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987, has agreed to permit entry of these handloomed textile products for the duration of the agreement (December 31, 1991).

Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to permit entry of the aforementioned products through Deceber 31, 1991.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 23, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of August 15, 1986 issued to you by the Chairman of the Committee for the Implementation of Textile Agreements concerning certain handloomed textile products in Categories 360–369, 464–469 and 665–669, produced or manufactured in India.

Effective on March 27, 1987 and until December 31, 1991, you are directed to permit entry of certain handloomed textile products in the aforementioned categories, regardless of the date of export, which have been certified exempt by the Government of India, but which may contain some machine stitching. An export visa will not be required.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–6565 Filed 3–25–87; 8:45 am]

BILLING CODE 3510–DR–M

Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Federative Republic of Brazil; Effective April 1, 1987

March 23, 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 April 1, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985 establishes an aggregate specific limit and within the aggregate, specific limits for textiles and textile products in Categories 300/301, 310/318, 313, 314, 315, 317, 319, 334/335, 336, 337, 338/339, 347/348, 350, 352, 359/659, 361, 363, 369pt. (dishtowels in TSUSA numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420 and 366.2440), 433, 445/446, 604, 614, 638/639, 647/648, 666, and 669pt. (man-made fiber bags in TSUSA number 385.5300), produced or manufactured in Brazil and exported during the agreement year which begins on April 1, 1987 and extends through March 31, 1988. The agreement includes sublimits for corduroy coats and trousers in Categories 334/335 and 347/348.

The letter which follows this notice directs the Commissioner of Customs to control imports in the aforementioned aggregate and specific limits during the agreement year which begins on April 1, 1987. The levels of Categories 300/301, 313 and 604 have been adjusted for carryforward applied to the 1986–1987 agreement year.

A description of the textile categories in terms of TSUSA 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 23, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period which begins on April 1, 1987 and extends through March 31, 1988, in excess of the restraint limits indicated below:

Category	12-mo. restraint limit
300–369, 400–469, and 600–670.	289,000,000 square yards equivalent.
300/301	8,886,210 pounds.
310/318	3,370,800 square yards.
313	31,800,000 square yards.
314	3,498,000 square yards.
315	15,168,600 square yards.
317	13,764,100 square yards.
319	11,236,000 square yards.
334/335	76,405 dozen of which not more than 15,281 dozen shall be in TSUSA numbers 381.4810, .4850, 384.3705, .3721, .3741, .3755, .3769, .3770, .3772, and .3774.
336	39,326 dozen.
337	110,113 dozen.
338/339	589,890 dozen.
347/348	505,620 dozen of which not more than 101,124 dozen shall be in TSUSA numbers 381.0542, .6230, .6260, 384.0722, .0724, .0726, .0729, .4735, .4740, .4746 and .4747.
350	67,416 dozen.
352	393,260 dozen.
359/659	6,179,800 square yards equivalent.
361	505,620 numbers.
363	15,168,600 numbers.
369pt.[1]	674,160 pounds.
433	16,665 dozen.
445/446	65,286 dozen.
604	477,000 pounds.
614	5,618,000 square yards.
638/639	224,720 dozen.
647/648	505,620 dozen.
666	1,797,760 pounds.
669pt.[2]	2,247,200 pounds.

[1] In Category 369, dishtowels in TSUS Numbers 365.6615, 366.1720, .1740, .2020, .2040, .2420 and .2440.

[2] In Category 669, man-made fiber bags in TSUSA number 3895.5300.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Brazil, which have been exported to the United States during the periods which began on April 1, 1986, and December 1, 1986 for Category 433, and extend through March 31, 1987, shall, to the extent of any unfilled balances, be charged against the restraint limits established for those periods. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) Specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the 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).

The Committee for the Implementation of Textile Agreements has determined that

these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6560 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Limits for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

March 23, 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 March 27, 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) 566-5810. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On December 30, 1986 a notice was published in the **Federal Register** (51 FR 47041) which establishes import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, and at the request of the Government of the People's Republic of China, swing is being applied to the restraint limit previously established for cotton textile products in Category 359-C (only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222). The limit for Category 359-V (only TSUSA numbers 381.0258, .0554, .3949, .5800, .5920, 384.0648, .0650, .0651, .3449, .3450, .4300, .4421, .4422 and .0451) is being reduced to account for the amount of swing applied to Category 359-C. The limit for Category 359-C has been filled.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits previously established for Categories 359-C and 359-V.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 23, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Repbulic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on March 27, 1987, the directive of December 23, 1986 is amended to include the following adjusted limits to the previously established restraint limit for cotton textile products in Categories 359-C[1] and 359-V, [2] as provided under the terms of the bilateral agreement of August 19, 1983, as amended: [3]

Category	Adjusted 12-Mo. limit [1]
359-C	820,467 pounds.
359-V	1,407,084 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6561 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Hungarian People's Republic

March 23, 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 March 27, 1987. For further information contact Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On March 10, 1987 a notice was published in the **Federal Register** (52 FR 7296), which announced import restraint limits for wool and man-made fiber textile products, including Category 645/646 (man-made fiber sweaters), produced or manufactured in Hungary and exported during the period which began on January 1, 1987 and extends through December 31, 1987. Under the terms of the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic and at the request of the Government of the Hungarian People's Republic, the limit established for Category 645/646 is being increased for carryforward for goods exported during the twelve-month period which

[1] In Category 359, only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222.

[2] In Category 359, only TSUSA numbers 381.0258, .0554, .3949, .5800, .5920, 384.0648, .0650, 0651, .3449, .3450, .4300, .4421, .4422 and .0451.

[3] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by and equivalent square yard equivalent decrease in one or more othe specific limit in that agreement year; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

began on January 1, 1987 and extends through December 31, 1987.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 23, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on March 5, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in the Hungarian People's Republic and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on March 27, 1987, the directive of March 5, 1987 is hereby amended to adjust the previously established limit for man-made fiber textile products in Category 645/646, as provided under the terms of the bilateral agreement of February 15 and 25, 1983, as amended, to 89,500 dozen.[1] [2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6562 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to account for any imports exported after December 31, 1986.

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

March 23, 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 March 27, 1987. For further information contact Kathy Davis, 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) 535-9480. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on July 27 and August 9, 1983 between the Governments of the United States and Thailand the restraint limit previously established for man-made fiber textile products in Category 605-T (only TSUSA number 310.9500), produced or manufactured in Thailand and exported during the agreement period which began on January 1, 1986 and extended through December 31, 1986 (50 FR 52825) is being adjusted for carryover.

In the letter which follows this notice, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the designated limits for the 1986 agreement year.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 23, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 19, 1985, which prohibited entry into the United States of certain cotton and man-made fiber textile products, produced or manufacatured in Thailand and exported during the agreement year which began on January 1, 1986 and extended through December 31, 1986.

Effective on March 27, 1987, the directive of December 19, 1985 is hereby further amended to include an adjusted restraint limit of 603,649 pounds [1] for man-made fiber textile products in Category 605-T [2], as provided under the terms of the bilateral agreement [3].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533 (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6563 Filed 3-25-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Uruguay

March 23, 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 April 27, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

[1] This limit has not been adjusted to account for any imports exported after December 31, 1985.

[2] In Category 605, only TSUSA number 310.9500.

[3] According to the terms of the bilateral agreement of July 27 and August 8, 1983, under certain specific conditions any non-apparel (1) specific limit or sublimit may be exceeded by not more than 7 percent, provided that the amount of increase is compensated for by an equal square yard equivalent decrease in another specific limit in the same group; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit and (3) administrative arrangements and adjustments may be made to resolve problems arising in the implementation of the agreement.

Background

The Bilateral Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and the Republic of Uruguay provides, among other things, for designated percentage increases in certain categories (swing), and for the borrowing of yardage from the succeeding year's level with the amount used being deducted from the level in the succeeding year (carryforward). An increase for carryforward is being applied to the restraint level for cotton textile products in Category 335, produced or manufactured in Uruguay and exported during the agreement year which began on January 1, 1986 through December 31, 1986. The amount of carryforward, 3,339 dozen, is being deducted from the restraint limit established for the 1987 agreement year, reducing the limit from 50,562 dozen to 47,223 dozen. Merchandise exported in Category 335, in the amount of 3,339 dozen, during 1986 and charged to the 1987 restraint limit will be deducted and the same amount charged to the 1986 limit.

The restraint limit established for wool textile products in Category 410, produced or manufactured in Uruguay and exported during the period which began on February 1, 1986 and extended through January 31, 1987 is being increased from 2,100,000 square yards to 2,205,000 square yards by application of swing, decreasing the limit for Category 435 for the period July 1, 1986 through June 30, 1987 to 43,462 dozen.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits for these categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 23, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives issued to you on March 18, May 19, August 7, and December 4, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and wool textile products, produced or manufactured in Uruguay.

Effective on March 27, 1987, the directives of March 18, May 19, August 7, and December 4, 1986 are hereby amended to include the following adjusted restraint limits: [1] [2]

Category	Adjusted 12-mo limit	Restraint period
335	49,989 doz	Jan. 1, 1986–Dec. 31, 1986
335	47,223 doz	Jan. 1, 1987–Dec. 31, 1987
410	2,205,000 sq yds.	Feb. 1, 1986–Jan. 31, 1987
435	43,462 doz	July 1, 1986–June 30, 1987

Also effective on March 27, 1987, I request that you charge 3,339 dozen to the restraint limit established in the directive of March 18, 1986 for cotton textile products in Category 335 exported during 1986. This same amount is to be deducted from the imports charged to the 1987 limit established for Category 335.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–6564 Filed 3–25–87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 16, 1987.

The USAF Scientific Advisory Board Aeronautical Systems Division (ASD) Advisory Group will meet on April 30, 1987, from 8:00 A.M. to 5:00 P.M. and May 1, 1987, from 8:00 A.M. to 3:00 P.M. at the ASD Headquarters, Building 14, Wright Patterson Air Force Base, OH.

The purpose of this meeting is to receive briefings on and to discuss selected programs and projects related to development of future aircraft systems.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–6535 Filed 3–25–87; 8:45 am]

BILLING CODE 3910-01-M

Community College of the Air Force; Meeting

The Community College of the Air Force Board of Visitors will hold a meeting on April 28, 1987, at 8:00 a.m. in the conference room, Room 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public. Agenda items include: Quality initiatives pertaining to CCAF degree programs, briefings on the admissions and registrar functions, research initiatives, status of the SACS/COC recommendation, and an update on the state of the college.

For further information, contact Major Peter Macchia, Jr., (205) 293–7937, Community College of the Air Force, Maxwell Air Force Base, Montgomery, Alabama 36112–6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR. Doc. 87–6597 Filed 3–25–87; 8:45 am]

BILLING CODE 3910-01-M

Activities for Conversion to Contract; Edwards AF Base, CA and Hill AFB, UT

ACTION: Notice.

The Air Force recently determined that the photographic functions at Edwards Air Force Base (AFB), CA and the Logistics Material Control Activity at Hill AFB, UT will be reviewed for conversion to contract.

For further information contact Mrs. Culver HQ AFSC/MPMR, Andrews AFB, Maryland telephone (301) 891–4041.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–6598 Filed 3–25–87; 8:45 am]

BILLING CODE 3910–01–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).

Dates of Meeting: 15–16 April 1987.

Times of Meeting: 0900–1700 hours, 15 April 1987; 0900–1600 hours, 16 April 1987.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet. Objectives of this meeting will be to ascertain strengths, weaknesses and vulnerability of operations at various levels of war. The panel will receive classified briefings from various staff agencies. 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. 87–6536 Filed 3–25–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.083]

Inviting Applications for New Awards Under the Women's Educational Equity Act Progam for Fiscal Year 1987

Purpose: To promote educational equity for women and girls through the development of educational materials and model programs.

Deadline for Transmittal of Applications: May 21, 1987.

Deadline for Intergovernmental Review Comments: July 20, 1987.

Applications Available: April 06, 1987.

Available Funds: Approximately $2,375,000.

Estimated Range of Awards: Challenge Grants $20,000–$40,000; General Grants $150,000–$200,000.

Estimated Number of Awards: Challenge Grants—7; General Grants—10–15.

Project Period: 12 months.

Priorities: In accordance with § 745.22, each year the Secretary selects one or more of the program's five priorities and allocates funds to each selected priority. For fiscal year 1987, the Secretary has selected the priority for model projects on Title IX compliance in § 745.23 and plans to allocate to that category 30% of the funds available for both general and challenge grants. The remaining 70% of the funds will be allocated for "other authorized activities" in § 745.20.

Applicants may submit applications under either one of these categories. If an applicant submits an application under the priority for Title IX projects, it may not submit the same application under "other authorized activities."

Applicable Regulations: (a) The Women's Educational Equity Act Program regulations, 34 CFR Part 745, and (b) the Education Department General Administrative Regulations in 34 CFR Parts 74, 75, 77, 78 and 79.

For Applications or Information Contact: Ms. Janice Williams-Madison, Women's Educational Equity Act Progam, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2053, FOB–6, Washington, DC 20202. Telephone (202) 732–4351.

Program Authority: 20 U.S.C. 3341–3348.

Dated: March 19, 1987.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87–6596 Filed 3–25–87; 8:45 am]

BILLING CODE 4000–01–M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before April 27, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: March 23, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Bilingual Education and Minority Affairs

Type of Review: Reinstatement

Title: Aplication for New and Continued Participation in the Bilingual Education Fellowship Program

Agency Form Number: ED 4561–2; 2A; 2B; 2C; 2D

Frequency: Annually

Affected Public: Individuals or households; non-profit institutions

Reporting Burden: Responses: 19. Burden Hours: 760
Recordkeeping Burden: Recordkeepers: 19. Burden Hours: 380

Abstract: This application is used by institutions of higher education to request approval of their graduate programs of study under the Bilingual Education Fellowship Program. Information collected from the institutions will be used by the Department to award fellowships for advanced study in the fields of teacher training, program administration, research and evaluation, and curriculum development in bilingual education.

Office of Educational Research and Improvement

Type of Review: New
Title: Survey of Substance Abuse Education
Agency Form Number: G50–29P
Frequency: nonrecurring
Affected Public: Individuals or households
Reporting Burden: Responses: 750. Burden Hours: 375
Recordkeeping Burden: Recordkeepers: 0. Burden Hours: 0

Abstract: The purpose of the survey is to obtain current information on the seriousness of substance abuse and what States and local school districts are doing to prevent substance abuse. The survey is the Department's direct response to a Congressional mandate to collect information on State and local substance abuse prevention activities.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement
Title: Performance Report EHA–8 as amended, State Operated Programs for Handicapped Children (Chapter 1, ECIA)
Agency Form Number: ED 873
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 58. Burden Hours: 261
Recordkeeping Burden: Recordkeepers: 0. Burden Hours: 0

Abstract: This performance report will collect information from State educational agencies that receive federal funding for special education services to handicapped children. The information is to be used by the Department to evaluate the State programs for their effectiveness.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: State Performance Report for the Education Consolidation and Improvement Act (ECIA) Chapter 1, Migrant Program
Agency Form Number: A10–6P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 52. Burden Hours: 1820
Recordkeeping Burden: Recordkeepers: 52. Burden Hours: 208

Abstract: This performance report will collect participation and performance information on the ECIA, Chapter 1 Migrant Education Program. This data will be used by the Department to evaluate and report on the effectiveness of such programs in achieving their purposes.

[FR Doc. 87–6595 Filed 3–25–87; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Chicago Operations; Restriction of Eligibility For Financial Assistance Award

ACTION: Notice of restricted eligibility for financial assistance award resulting from modification of cooperative agreement.

SUMMARY: The Department of Energy (Department), Chicago Operations Office, Solar Energy Research Institute (SERI), in accordance with 10 CFR Part 600.7(b), hereby announces its intention to restrict eligibility for financial assistance resulting from the Modification of Cooperative Agreement DE–FC02–86CH10302, to the American Wind Energy Association (AWEA). This action is necessary and justified in order that the Department may continue to provide assistance to AWEA for the development and promulgation of voluntary industry consensus standards for Wind Energy Conversion Systems (WECS), being developed to facilitate the emergence and development of a viable U.S. WECS industry. Further, as the sole association of the U.S. Wind industry AWEA is the only organization which can carry out an industry based effort. The total cost of the modification to the cooperative agreement will be $290,086.00. Of this amount, $174,886.00 will be provided by DOE to AWEA for labor, travel, supplies, and other expenses. AWEA will contribute an additional $115,200.00 in labor and other in-kind expenses.

DATES: The period covered by the cooperative agreement modification will be from date of award through December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Kathryne H. Wells, SERI Area Office, (303) 231–1495, or Dr. Stephen L. Sargent, (303) 231–1366.

SUPPLEMENTARY INFORMATION: Beginning in 1980, AWEA initiated the WECS standards program under a cooperative agreement with Department of Energy. It developed a methodology for generating voluntary consensus industry standards, and used this methodology to produce draft standards in the area of performance, installation, siting, electrical power subsystems, safety, design criteria, and terminology and performance rating. Since September 1985, it has produced final standards on performance testing and terminology, and draft standards on design criteria, electrical utility interconnection, system installation, siting, and acoustics.

Under the cooperative agreement modification, a broad range of activities will be supported as part of the WECS standards program. Standards will be developed by cognizant AWEA subcommittees, such as those concerned with performance, installation procedures, and design criteria, all under the direction and guidance of the AWEA Standards Coordination Committee (SCC). Review comments will be incorporated into a revised draft and then submitted for ballot by the AWEA membership. The SCC will then determine if a consensus has been reached, and, if so, publish the document as an AWEA Standard. Ultimately, each AWEA standard will be submitted to the American National Standards Institute for consideration as a national standard. The Standards Program will also include liaison with other standards-making organizations such as the American Society for Testing and Materials, American Society of Mechanical Engineers, and Institute of Electrical and Electronic Engineers.

AWEA was selected by the Department of Energy to conduct the WECS standards program because it has developed an effective industry-based voluntary consensus standards program. Further, it is the only trade association of the U.S. wind industry and is therefore the only one which can carry out the proposed industry-based effort. Accordingly, given its experience in developing industry-based voluntary consensus standards and its close ties to the wind energy industry, the Department has determined that award on a restricted eligibility basis is necessary and justified.

Issued in Chicago, IL on March 17, 1987.

John P. Kennedy,

Assistant Manager for Acquisition and Assistance.

[FR Doc. 87-6648 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-87-40; OFP Case No. 61066-9343-21, 22-24]

Acceptance of Petition for Exemption and Availability of Certification by Central Jersey Energy Associates, Ltd.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Central Jersey Energy Associates, Ltd. (Central Jersey or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed congeneration facility located in Windson, New Jersey, consisting of two gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-40 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 280 MW electric generating facility consisting of two gas-fired turbine generators, two recovery steam generators and two steam driven turbine generators.

The petitioner proposes a cogeneration facility to be known as the Windsor Cogeneration Project and to be located in Windsor, New Jersey. Steam produced by the facility will be used by Cosden Oil & Chemical, L.B. Foster and Windsor Industrial and the electrical power generated will be sold to Jersey Central Power and Light.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6651 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-36; OFP Case No. 61067-6346-21, 22-24]

Acceptance of Petition for Exemption and Availability of Certification by Central Virginia Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Central Virginia Energy Associates (Central Virginia or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Mechanicsville, Virginia, consisting of two gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. EAR-C&E-87-36 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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) 586-6747.

SUPPLEMENTARY INFORMATION: This project is a 300 MW electric generating facility consisting of two gas-fired turbine generators, two recovery steam generators and one steam driven turbine generator.

The petitioner proposes a cogeneration facility to be know as the Mechanicsville Cogeneration Project and to be located in Mechanicsville, Virginia. Steam produced by the facility will be used by RichFood, Inc. and the electrical power generated will be sold to Virginia Power.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6652 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-39; OFP Case No. 62024-6347-21, 22-24]

Acceptance of Petition for Exemption and Availability of Certification by Fredricksburg Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Fredricksburg Energy Associates (Fredricksburg or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Fredricksburg, Virginia, consisting of two gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-39 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 300 MW electric generating facility consisting of two gas-fired turbine generators, two recovery steam generators and one steam driven turbine generator.

The petitioner proposes a cogeneration facility to be known as the Fredricksburg Cogeneration Project and to be located in Fredrickburg, Virginia. Steam produced by the facility will be used by Delco Morainec and Lee Hill Industrial Complex and the electrical power generated will be sold to Virginia Power.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6653 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-05; OFP Case No. 55121-9333-01-12]

Order Granting an Exemption Pursuant to the Powerplant and Industrial Fuel Use Act of 1978 to Georgia-Pacific Corp.

AGENCY: Economic Regulatory Administration, DOD.

ACTION: Order granting exemption.

SUMMARY: On November 20, 1986, Georgia-Pacific Corporation (Georgia-Pacific or petitioner), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) for a proposed MFBI No. 3 power boiler located at the Georgia-Pacific Corporation in Franklin, Ohio. Title II of the Act prohibits the use of petroleum and natural gas as a primary energy source in new Major Fuel Burning Installations and prohibits the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The exemption petition was based on lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501 and 503. Final rules setting forth criteria and procedures for petitioning for this type exemption are found in 10 CFR 503.32.

DATE: The order shall take effect on May 26, 1987.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone: (202) 586-4708

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 20, 1986, Georgia-Pacific petitioned ERA under section 212 of FUA and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas in a new powerplant. The petition for exemption is based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

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 29, 1986 (51 FR 44925), 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 12, 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 that the petitioner has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32(b). Therefore, pursuant to section 212 of FUA, ERA hereby grants a permanent exemption to the petitioner to permit the use of natural gas as the primary energy source for the new powerplant.

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 March 18, 1987.

Robert L. Davies,

Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 87-6654 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-37; OFP Case No. 63030-6349-21, 22-24]

Acceptance of Petition for Exemption and Availability of Certification by Gordonsville Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Gordonsville Energy Associates (Gordonsville or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Gordonsville, Virginia, consisting of two gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearings.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as

other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-37 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 300 MW electric generating facility consisting of two gas-fired turbine generators, two recovery steam generators and one steam driven turbine generator.

The petitioner proposes a cogeneration facility to be known as the Gordonsville Cogeneration Project and to be located in Gordonsville, Virginia. Steam produced by the facility will be used by Liberty Fabric and Artic Circle Cold Storage Corporation and the electrical power generated will be sold to Virginia Power.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discused above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6655 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-38; OFP Case No. 63029-9340-21-24]

Acceptance of Petition for Exemption and Availability of Certification by Howell Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Howell Energy Associates (Howell or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Howell, New Jersey, consisting of one gas-fired turbine generator, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natual gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as

other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-38 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 140 MW electric generating facility consisting of one gas-fired turbine generator, one recovery steam generator and one steam driven turbine generator.

The petitioner proposes a cogeneration facility to be known as the Howell Cogeneration Project and to be located in Howell, New Jersey. Steam produced by the facility will be used by Arnold Steel Co., Inc. and the electrical power generated will be sold to Jersey Central Power and Light.

Section 212(a0(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 18, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6656 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

Shell Oil Co.; Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action on proposed consent order with Shell Oil Company.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announced a proposed Consent Order with Shell Oil Company in a **Federal Register** notice published on December 31, 1986, 51 FR 47282. After consideration of written comments, as well as oral presentations at a hearing on February 11, ERA has determined to issue the Consent Order as a final order of the DOE, effective on the date of publication of this notice, with a modification to reflect Shell's compliance under the Tertiary Incentive Program, 10 CFR 212.78.

The Consent Order resolves all remaining issues concerning Shell's compliance with the federal petroleum price and allocation regulations for the period January 1, 1973 through January 27, 1981. Under the Consent Order, Shell will pay $180 million, plus interest from the date of execution, December 19, 1986, within thirty days of the effective date. ERA will petition the DOE Office of Hearings and Appeals (OHA) to implement a special refund proceeding under 10 CFR Part 205, Subpart V. As specified in the Consent Order, $160 million is attributable to alleged crude oil violations and will be subject to the DOE's Statement of Restitutionary Policy in Crude Oil Cases. Under that Policy, 80 percent of the crude oil funds will be distributed to the federal and state governments, and the remainder will be available for claims for refunds by injured parties. Similarly, the $20 million reflecting product refunds will be available for claims and further distribution pursuant to the Petroleum Overcharge Distribution and Restitution Act, Subtitle A of Title III of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509 (PODRA).

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, U.S. Department of Energy (RG-44), Washington DC 20585, Telephone: 202-586-4387.

SUPPLEMENTARY INFORMATION:

I. Introduction.

II. Terms of the Consent Order.
III. Comments Received.
IV. Analysis of Comments.
V. Conclusion.

I. Introduction

On December 31, 1986, ERA issued a **Federal Register** notice (December 31 notice) announcing the proposed Consent Order with Shell Oil Company, 51 F.R. 47282. In that notice, ERA identified the outstanding issues in contention with Shell including the audit findings, Shell's potential liability, the litigation risk analysis for the various matters and the basis for settlement. The notice specified the eight enforcement actions pending, an additional action not yet issued, and a calculation of the potential recovery based on those actions. In brief, ERA determined that Shell's maximum potential liability for crude oil matters was $96.7 million, or $281 million with interest. For refined product issues, including natural gas liquids (NGLs), ERA calculated overrecoveries of $28.8 million, or $78.7 million with interest. Based on a review of the risk of nonrecovery associated with pursuing these matters in litigation, ERA determined that a settlement of $180 million was satisfactory.

The notice also specified the procedures for the review of the proposed Consent Order, including the public hearing which was convened on February 11.

II. Terms of the Consent Order

As noted above, the Consent Order requires a payment of $180 million, plus interest since the date of execution, to be made within 30 days of the effective date, which is the date of publication of this notice. The entire amount will be made the subject of a petition to the OHA for the implementation of a Subpart V special refund proceeding.

As specified in the Consent Order, $160 million is attributable to the resolution of crude oil issues and is therefore subject to the Modified Restitutionary Policy Statement, 51 F.D. 27889 (August 4, 1986), adopted by DOE pursuant to the Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378 (D. Kan.). The Restitutionary Policy provides that DOE will conduct Subpart V special refund proceedings in which claimants may seek refunds based on injury resulting from alleged crude oil violations. The balance will be divided equally between the DOE and the 56 states, territories and possessions of the United States identified in the Restitutionary Policy (States). The States may apply the funds to a number of specified energy programs as indirect restitution to injured consumers of petroleum products. DOE will deposit that portion not necessary to fund entitlements receive orders, *see* 50 *F.R.* 1919 (January 14, 1985), in the U.S. Treasury as miscellaneous receipts.

The funds attributable to refined product issues also will be the subject of the petition to implement Subpart V procedures. In addition, product funds are subject to the terms of the PODRA, *supra*. Thus, a determination will be made as to what portion of the product funds constitute "excess funds" as defined by the statute. Under PODRA, that amount will be made available to fund certain federal energy conservation programs.

Under the Consent Order, DOE and Shell release each other from all claims and liabilities under the federal petroleum price and allocation regulations. The Consent Order constitutes neither an admission by Shell nor a finding by DOE of a violation of the federal petroleum price and allocation regulations. The Consent Order also provides for the maintenance of records, disclosure of information, and for its enforcement. The December 31, 1986 notice contains additional information regarding the settlement as well as the text of the Consent Order.

III. Comments Received

Written comments were received from five parties, including three law firms representing various states: Mr. Andrew P. Miller of Dickstein, Shapiro and Morin on behalf of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia; Mr. Bernard Nash of Blum, Nash and Railsback on behalf of Hawaii, Illinois, Kansas, Nebraska, Nevada, North Carolina, Guam and the Virgin Islands; and Mr. James F. Flug of Lobel, Novins, Lamont and Flug on behalf of Alabama, Connecticut, Indiana, Idaho, Maryland, Michigan, Montana, Ohio, South Dakota, Vermont, Wisconsin, Wyoming, California and Mississippi, joined by the States of New Jersey and Pennsylvania. In addition comments were filed by Mr. Philip P. Kalodner on behalf of six utilities, fourteen shipping companies and three manufacturers, and from an individual, Mr. J.R. Lynch of Lafayette, Indiana. All the commenters but Mr. Lynch elaborated on their comments at the hearing.

The comments fall into several areas: A. Sufficiency of the December 31 Notice; B. Settlement Recovery; and C. Disposition of the Funds.

A. Sufficiency of the December 31 Notice

Mr. Kalodner objected that the December 31 notice failed to provide sufficient information to allow informed review of the adequacy of the settlement, including both the calculation of the maximum liability and evaluation of the recovery. Mr. Kalodner asserts that in the absence of an adequate justification of the amount of settlement, claimants should be allowed to seek refunds against the maximum amount of liability alleged against Shell.

DOE policy requires that a **Federal Register** notice announcing a Consent Order for a case with liability in excess of $10 million contain certain information. That information was described in a **Federal Register** notice announcing that policy on March 29, 1984, 49 FR 12301:

> Information will be included on the audit findings, the negotiation process, enforcement actions pending against the company, disputed issues resolved, the impact of the disputed issues on overcharge calculations, maximum overcharge liability, litigation risks and the amount proposed to be paid in resolution of the disputed issues. The proposed consent order will also be included in this notice.

In the notice announcing the Shell Consent Order, ERA indicated the enforcement actions pending, the amount in controversy as stated in each of them, the NGL matter which has not been issued in a formal enforcement action, how the matters were resolved, the calculation of the potential maximum liability for both the crude oil issues and the refinery pricing issues, and the risks involved in light of such matters as the number of issues to be resolved and the amount of banks of unrecouped increased costs available to Shell. Thus, ERA made available all the information required by the disclosure policy to allow review of the settlement.

Mr. Kalodner asserts that the 20 percent reserved for claimants should be determined on the maximum liability amount, rather than the discounted recovery, where no explanation of the discount is offered to the claimants. Mr. Kalodner misconstrues the nature of the settlement process and the comment procedure. The objective of the process is not to justify the settlement with regard to the benefits to individual claimants. Rather, the process is designed to obtain information from which enforcement officials may determine whether the settlement is satisfactory or whether it should be renegotiated. *See* 49 *FR* 12301. To the extent claimants believe they were injured, there is a private right of action

under section 210 of the Economic Stabilization Act, 12 U.S.C. 1904 (note). At the hearing, Mr. Kalodner indicated that he did not believe any of his clients had filed claims against Shell. In any event, it is clear that claimants lack standing to challenge the adequacy of settlements based on the alleged insufficiency of the remedial actions. *Midwest Petroleum Co. v. U.S. Dept. of Energy*, 760 F.2d 287 (Temp. Em. Ct. Apps. 1985); *U.S. Oil Co. v. Department of Energy*, 510 F. Supp. 910 (E.D. Wisc. 1981). Accordingly, Mr. Kalodner's position is untenable. That fact notwithstanding, ERA has reexamined the recovery in the crude oil issues in light of Mr. Kalodner's contentions and determined that the recovery is satisfactory. This determination is based on the factual development of the Proposed Remedial Order (PRO), the information provided by Shell regarding the potential for additional alleged violations on unaudited properties, and the litigation risk associated with the matters at issue in the Shell PRO, all of which were discussed in the December 31 notice. Thus, we have determined that no renegotiation of the recovery for the crude oil issue is warranted.

B. Settlement Recovery

In addition to Mr. Kalodner's comment regarding the adequacy of the remedy for crude oil issues, Mr. Flug raised an issue with regard to the assessment of the two refiner pricing cases concerning the determination of May 15, 1973 prices, HRO–0279 and HRO–0280. Mr. Flug commented that in such cases, the remedy is not necessarily an adjustment to recoveries of increased costs, as noted in the December 31, **Federal Register** notice, and that ERA has maintained the position that a refund based on the difference between the correct and incorrect May 15 prices is appropriate. Mr. Flug is correct that ERA has challenged the decision of the Federal Energy Regulatory Commission (FERC) in *Exxon Co., U.S.A.*, 35 FERC ¶61,033 (1966) in subsequent cases and urged the use of the refund remedy, and that OHA has upheld ERA's position in other cases, *see*, e.g., *Texaco, Inc.*, 14 DOE ¶83,047 (1986). However, in order to resolve the Shell issues, ERA considered the likelihood of prevailing on each of the issues in contention. Thus, for the purpose of evaluating the possible recovery for the May 15 price issues, ERA examined the recovery both as a refund matter and as a product cost recovery matter, and from the standpoint of the likely disposition were the case decided on current precedent. As a result, ERA is satisfied that the recovery for these issues fairly reflects the litigation risks associated with the facts and status of the cases against Shell.

Mr. Lynch commented that interest should be assessed on the funds Shell is alleged to have obtained as overcharges to reflect the benefit of holding those funds over time. As noted above, interest comprises a substantial portion of the settlement recovery. Interest was calculated at the rates specified in the PROs, a rate calculated to reflect the actual, fluctuating value of money during the years since the alleged violations. The amount found in the settlement represents an assessment of the litigation risk in collecting that amount in light of the arguments presented by Shell.

C. Disposition of the Refunds

Comments with regard to the distribution of the $180 million fell into three categories: (1) The determination of what portion of the product funds constitute excess funds under PODRA; (2) the nature of the Subpart V proceedings conducted by OHA in crude oil cases; and (3) the distribution of the 80 percent share of the funds to the States and DOE.

1. PODRA. Mr. Miller and Mr. Nash commented that neither the Consent Order nor the **Federal Register** notice made reference to the fact that, under the PODRA, a determination must be made as to what portion of the product funds in the Shell settlement are "excess funds" as defined in the act, i.e., funds "in excess of the amount that will be needed to make restitution." PODRA, section 3003(c)(1).

As already noted, it is clear that any funds DOE receives in escrow which are not governed by the Stripper Well Settlement Agreement must be examined in light of PODRA, which applies to any amount determined to be "amounts paid for . . . alleged violations." PODRA, section 3002(a)(2)(B). However, the suggestion that the Consent Order or the **Federal Register** notice must provide for the distribution of the excess funds is inconsistent with the PODRA. By its terms, the determination of excess funds applies to "amounts held in escrow", not amounts which are subject to pending actions. Until paid in, no amount of the Shell product funds constitute excess funds, and no determination is required until the funds are paid in. Thus, as noted by Mr. Miller, the Shell funds, once received, will be considered in determining the amount of excess funds available in Fiscal Year 1988. That determination will be made by the Director of OHA to whom that function under the PODRA has been delegated by the Secretary of Energy, and who will have jurisdiction over the funds by virtue of the petition to be filed by ERA pursuant to the terms of the Consent Order. Accordingly, it appears no action is warranted.

2. Crude oil Subpart V proceedings. Mr. Nash and Mr. Miller assert that ERA should advise OHA with regard to the standards of proof to be applied in crude oil Subpart V proceedings in so far as they allege that OHA is currently in violation of the Stripper Well Settlement Agreement through the use of presumptions. Mr. Kalodner responded in the hearing that it is inappropriate for ERA to provide instructions to OHA where OHA acts in an adjudicative capacity.

The Consent Order review policy cited above provides:

> Comments will be received on all aspects of the settlement, with the exception of its remedial provisions. The remedial provisions will be subject to public comment and participation before the Office of Hearings and Appeals if, and after, the consent order is made final.

49 *F.R.* at 12302. Where it is alleged that the proposed remedial provisions of a Consent Order may be in conflict with some authority, as alleged in the discussion of PODRA, above, for instance, it appears that the review policy admonition against consideration of remedial provisions should be tempered by the need to consider possible defects in the Consent Order noted by commenters. Thus, comments on whether ERA has observed restrictions on its remedial authority are germane. However, the comments by the States address matters which are not only matters within the delegated authority of OHA, but are by the States' own admission matters which are currently the subject of pending proceedings before OHA. Accordingly, it would be inappropriate to address those matters pending in other cases or to anticipate questions with regard to the conduct of the Shell refund proceeding when the Shell funds have yet to be collected or submitted to OHA. The States' concerns regarding OHA proceedings can be addressed directly to OHA in the Shell proceeding should the states still wish to take issue with them.

3. Distribution of crude oil funds to the States and DOE. All the States' representatives assert that the Consent Order should provide for the distribution of funds directly to the States and DOE. As noted above and in the December 31 notice, the crude oil funds are subject to the DOE Restitutionary Policy, and thus,

80 percent of the amount attributable to crude oil issue recoveries is to be divided between the States and DOE, subject to the repayment by the States of certain advances made by DOE. The States contend, however, that DOE is in violation of the Settlement Agreement in that it has not distributed funds in the DOE escrow which are subject to the policy. Accordingly, the States assert that the Shell Consent Order should provide for the disbursement to the States and DOE by ERA rather than through the OHA proceeding.

Mr. Kalodner disagreed, stating that the Subpart V proceeding is the appropriate forum for the consideration of the State/DOE distribution, and that it is his belief that OHA should not permit the distribution of the State/DOE share until the amount of funds necessary for the satisfaction of crude oil claims is resolved. Mr. Kalodner asserts that the 20 percent reserve must take into account the number of claims that may be filed to crude oil funds, and must constitute a reserve of 20 percent of all crude oil funds, including those previously distributed in administrative and judicial actions, including the Stripper Well Settlement.

As previously noted, comments on the remedial provisions are circumscribed by the Consent Order review policy. The States' assertion that the State/DOE distribution has not been made "immediately" as required by the Settlement Agreement is one of the matters under consideration before OHA, as are the procedures for filing claims in crude oil proceedings, to include the comments by Mr. Kalodner. Thus, this matter is appropriately left to resolution by OHA.

With regard to whether ERA has the authority to order the distribution directly, as urged by the States, it is clear that the restitutionary policy contemplates distribution by OHA, as does the Settlement Agreement. The Agreement, ¶ IV.B.6., indicates that OHA will establish the reserve for claimants, and distribute the balance while awaiting completion of the first stage proceeding. Similarly, ¶ IV.B.4. indicates that DOE will use Subpart V proceedings or other actions to accomplish distribution of funds. Thus, use of Subpart V is consistent with the Agreement. Furthermore, in the Policy Statement, DOE indicated that it would use Subpart V for the distribution of funds, as it had agreed to do in the Settlement Agreement:

> Under the policy announced today, the DOE will implement special refund proceedings under 10 CFR Part 205, Subpart V in crude oil cases, as discussed below. The funds in those proceedings will be distributed as follows: Up to 20 percent will be reserved for the payment of claims of eligible parties, and the balance will be divided between the states, territories and possessions of the United States and the U.S. Treasury as indirect restitution to unidentified injured parties.

51 *FR* 27899. From the foregoing, it is clear that the use of Subpart V to distribute the State/DOE share is consistent with the Settlement Agreement and Restitutionary Policy. By the same token, it appears that Mr. Kalodner's suggestion that an amount in excess of 20 percent be reserved is not consistent with the terms of the Agreement. Accordingly, ERA declines to consider a renegotiation of the terms of the Shell Consent Order with regard to distribution, or retention, of the State/DOE share.

IV. Analysis of Comments

The majority of the comments received addressed the remedial portions of the Consent Order. As indicated in the discussion of the comments, ERA has determined either that no additional action pertaining to the Shell Consent Order is required (effect of PODRA on product funds) or that the action sought is inappropriate (crude oil Subpart V proceedings).

With regard to the comments concerning the adequacy of the settlement, we addressed the contention that the May 15 price cases may have been evaluated on the basis of an inappropriate remedy, and the contention that the recovery for the crude oil case may have been inadequate. We have also confirmed that interest was fully considered in determining Shell's potential liability. Accordingly, we confirm our original determination that the Consent Order is an adequate recovery for the issues raised in the Shell audit and Shell enforcement actions.

One matter was resolved by the Consent Order that was not addressed in the December 31 notice. Shell had reported that it had received a refund of prepaid expenses on a Tertiary Incentive projects for which it had certified crude oil at market prices. *See* 10 CFR 212.78. On examination of Shell's disposition of the refund, ERA determined that no further enforcement action should be taken and that Shell's compliance with the Tertiary Incentive Program through December 1986 would be resolved through the Consent Order. To memorialize this determination, Shell and ERA have agreed to the following modification to the Consent Order:

> The Consent Order executed by Shell Oil Company on December 19, 1986, and by the Department of Energy on December 18, 1986, is modified by the addition of the following paragraph:
>
> 506. Shell's compliance with the Tertiary Incentive Program, 10 CFR 212.78, through December 31, 1986, is one of the "matters covered by this Consent Order." Shell will continue to file the reports required by § 212.78.

V. Conclusion

As stated in the December 31 notice, ERA believes that the Shell Consent Order is a satisfactory resolution of the remaining unresolved matters concerning Shell's compliance with the federal petroleum price and allocation regulations, a fair settlement and an appropriate remedy for the alleged violations. The modification described above does not alter the adequacy of the recovery obtained in settlement of Shell's compliance matters. Accordingly, after consideration of the written and oral comments, ERA has determined to issue the proposed Consent Order as a final order with the modification described above.

By this notice, and pursuant to 10 CFR 205.199J, the proposed Consent Order between Shell Oil Company and DOE executed by DOE on December 18, 1986, as modified, is made a final order of the Department of Energy, effective on the date of publication of this notice in the **Federal Register.**

Issued in Washington, DC, on March 19, 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-6649 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. OFU 022 and 023]

Acceptance of Application for Rescission of Prohibition Orders Submitted by the Nebraska Public Power District for Certain Prohibition Orders Issued Pursuant to the Energy Supply and Environmental Coordination Act of 1974

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) [1] hereby gives notice

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration (FEA) to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

that acting under the authority granted to it in section 2(f) of the Energy Supply and Environmental Coordination Act of 1964 (ESECA), as amended by (15 U.S.C. 792(f) and implemented by 10 CFR 303.130(b)), it has accepted and is considering a request by the Nebraska Public Power District (NPPD) to rescind the Prohibition Orders issued on June 30, 1975, to the following powerplants:

Owner	Docket No.	Generating station	Unit No.	Location
Nebraska Public Power.	OFU-022 OFU-023	Sheldon..... Sheldon.....	1 2	Hallam, NE Hallam, NE

ERA is taking this action in accordance with the provisions of 10 CFR Part 303, Subpart j ("Modification on Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations. Detailed information of the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from 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.

DATES: Comments on DOE's intention to consider the requested rescission of the above listed Prohibition Orders is invited. Written comments are due on or before May 11, 1987. A request for public hearing must also be made within this 45-day public comment period. In making its decision regarding the requested rescission action, DOE will consider all relevant information submitted or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 10585.

Docket Nos. OFU 022 and 023 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-4523

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room GA-113, Washington, DC 20585, Telephone (202) 586-6947.

SUPPLEMENTARY INFORMATION: On June 30, 1975, the Federal Energy Administration (FEA) issued a Prohibition Order prohibiting Sheldon Units 1 and 2 from burning natural gas or petroleum products as their primary energy source. The Prohibition Order became effective on August 26, 1977, pursuant to a Notice of Effectiveness (NOI) issued by FEA on August 15, 1977. ERA issued an Amended NOI on December 21, 1978 deleting the termination date of December 31, 1978 for the Prohibition Order set forth in the original NOI. The amendment served to extend the effectiveness of the Prohibition Order indefinitely.

On February 13, 1987, NPPD submitted an Application for Rescission of Prohibition Order to ERA regarding the above enumerated generating station units. The petitioner maintains that the rescission of the Prohibition Order for the Sheldon units is warranted by significantly changed circumstances, a substantial change in the facts and circumstances upon which the Prohibition Order was based. Since the issuance of the NOI, the utilization of the Sheldon units has changed from baseload facilities to peaking and load control facilities due to economic dispatch. NPPD's Sheldon powerplant consists of two units located at Hallam, Nebraska. Unit 1, which went into service in 1961, has a gross generating capacity of 114 MW and a maximum generating capability of 105 MW when using coal as a primary energy source. Unit 2, which went into service in 1968, has a gross generating capacity of 131 MW and a maximum net generating capacity 120 MW when using coal as a primary energy source.

The net generation for Unit 1 declined from 549,103 MWH in 1977 to 59,852 MWH in 1986. The net capacity factor for Unit 1 declined from 59.7 percent in 1977 to 6.5 percent in 1986. The net generation for Unit 2 declined from 573,545 MWH in 1977 to 139,041 MWH in 1986, a change in the net capacity factor from 54.6 percent to 13.2 percent. The net capacity factor for Unit 1 has been below 15 percent each year since 1984 and the net capacity factor for Unit 2 has been below 15 percent since 1982. The reduced utilization of the Sheldon units is projected to continue in 1987 and 1988.

Switching from coal to gas as a primary energy source will extend the economic useful life of the Sheldon units by substantially reducing the maintenance requirements on the system. NPPD estimates a savings of $2.78/Net MWH in plant maintenance and operation of equipment associated with burning coal at the Sheldon units. Based on the combined net generation of 178,893 MWH, projected for Units 1 and 2 in 1987, the estimated savings on plant maintenance and operation of associated coal burning equipment would total approximately $497,000. Similarly, based upon the combined net generation of 200,120 MWH, projected for the units for 1988, the estimated savings would total approximately $556,000.

NPPD submits that the Sheldon units, as part of the overall NPPD system, can be operated more effectively, efficiently, practicably and reliably as peaking and load control units by using natural gas, rather than coal, as a primary energy source. If natural gas is utilized as a primary energy source in the Sheldon units, NPPD projects that only 2 percent of its system power sales requirements would be supplied by oil and natural gas.

Issued in Washington, DC on March 17, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6650 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-41; OFP Case No. 65043-9341-21-24]

Acceptance of Petition for Exemption and Availability of Certification by North Jersey Energy Associates, Ltd.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, North Jersey Energy Associates, Ltd. (North Jersey or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Sayreville, New Jersey, consisting of one gas-fired turbine generator, from the prohibitions of Title II of the Powerplant

and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of the FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-41 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 140 MW electric generating facility consisting of one gas-fired turbine generator, one recovery steam generator and one steam driven turbine generator.

The petitoner proposes a cogeneration facility to be known as the Sayreville Cogeneration Project and to be located in Sayreville, New Jersey. Steam produced by the facility will be used by Chicago Chic, Heraeus Amersil and Zagata, Inc. and the electrical power generated will be sold to Jersey Central Power and Light.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an altenate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6657 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-35; OFP Case No. 65044-6350-21, 22, 23, 24]

Acceptance of Petition for Exemption and Availability of Certification by Northern Virginia Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, Northern Virginia Energy Associates (Northern Virginia or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Manassas, Virginia, consisting of three gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both

the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Docket No. ERA-C&E-87-35 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 420 MW electric generating facility consisting of three gas-fired turbine generators, three recovery steam generators and three steam driven turbine generators.

The petitioner proposes a cogeneration facility to be known as the Manassas Cogeneration Project and to be located in Manassas Virginia. Steam produced by the facility will be used by International Business Machine Corporation and the electrical power generated will be sold to Virginia Power.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed until as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternate sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6658 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-17; OFP Case No. 66021-9327-22, 23-24]

Order Granting an Exemption Pursuant to the Powerplant and Industrial Fuel Use Act of 1978 to Power Resources, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: On December 22, 1986, Power Resources, Inc., (Power Resources or petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) for its proposed cogeneration facility to be located in Big Springs, Texas. Title II of the Act prohibits the use of petroleum and natural gas as a primary energy source in new Major Fuel Burning Installations and prohibits the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The exemption petition was based on cogeneration. The final rule containing the criteria and procedures

for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501 and 503. Final rules setting forth criteria and procedures for petitioning for this type exemption are found in 10 CFR 503.37.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to Power Resources, Inc. a permanent cogeneration exemption from the prohibitions of FUA for the proposed powerplant at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATE: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on May 26, 1987.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-093, Washington, DC 205085, Telephone (202) 586-4708

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6A-113, Washington, DC 20585, Telephone (202) 586-6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. The petitioner has filed a petition for a permanent cogeneration exemption to use natural gas or oil as a primary energy source in its proposed cogeneration facility to be located in Big Springs, Texas.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on January 6, 1987 (52 FR 458), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petitioners petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed February 20, 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 that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37, and pursuant to section 212(g) of FUA, ERA hereby grants the petitioner's permanent exemption for the cogeneration facility to be installed at Big Springs, Texas permitting the use of natural gas or oil as a primary energy source in the unit.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 18, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6659 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-34; OFP Case No. 67056-9344-21, 22-24]

Acceptance of Petition for Exemption and Availability of Certification by South Virginia Energy Associates

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On February 18, 1987, South Virginia Energy Associates (South Virginia or the petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed cogeneration facility located in Glen Allen, Virginia, consisting of two gas-fired turbine generators, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type of exemption from the prohibitions of Title II of FUA are found in 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Inform· tion Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before May 11, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-34 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Myra Couch, Coal & Electricity Division, 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: This project is a 280 MW electric generating facility consisting of two gas-fired turbine generators, two recovery steam generators and two steam driven turbine generators.

The petitioner proposes a cogeneration facility to be known as the Glen Allen Cogeneration Project and to be located in Glen Allen, Virginia. Steam produced by the facility will be used by Holley Farms and the electrical power generated will be sold to Virginia Power.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

To qualify, the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternative sites are not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of §503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's Implementing Regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on March 8, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-6660 Filed 3-25-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIROMENTAL PROTECTION AGENCY

[OW-5-FRL-3174-8]

Public Informational Hearing

AGENCY: U.S. Environmental Protection agency.

ACTION: Notice of public informational hearing.

SUMMARY: The United States Environmental Protection Agency (USEPA) is holding a public informational hearing on its recent objection to issuance of 12 National Pollutant Discharge Elimination System (NPDES) permits for 11 pulp and paper mills and one municipal facility located within the State of Wisconsin.

DATE: Thursday, April 30, 1987, 9:00 a.m. to 12:00 a.m., 1:30 p.m. to 4:30 p.m. and 6:00 p.m. to 9:00 p.m..

ADDRESS: Inn on the Park, 22 South Carroll Street, Madison WI.

FOR FURTHER INFORMATION CONTACT: Claudia Johnson, USEPA, Region V, 230 South Dearborn, Chicago Illinois, 60604 (312) 886-6108.

Hearing requested by: The State of Wisconsin, the National Wildlife Federation, The Wisconsin Wildlife Federation, Citizens for a Better Environment, the Wisconsin Environmental Decade, the Wisconsin Paper Council, Shawano Paper Mills, Consolidated Papers, Inc., Pope & Talbot, Wis, Inc., James River Corp., Nekoosa Papers, Inc. and Owens-Illinois.

SUPPLEMENTARY INFORMATION: On November 28, 1986, USEPA, Region V issued formal objections to the proposed reissuance of 12 NPDES permits for facilities located within the State of Wisconsin. The NPDES program, authorized under the Federal Clean Water Act (CWA) regulates the discharge of wastewaters into waters of the United States. Since Fedruary 4, 1974, the State of Wisconsin has been delegated authority to administer the NPDES program for discharges located within that State. Consistent with the agreements delegating the NPDES program to the State, sec. 402 of the CWA and 40 CFR 123.44, certain NPDES permits proposed for issuance by the State must be reviewed and receive concurrence from the USEPA before they can become effective. A USEPA objection to a permit bars issuance of that permit and initiates the process whereby the USEPA may ultimately be vested with sole authority to issue that permit. In this capacity the USEPA has objected to the 12 permits proposed by the State of Wisconsin. In each instance, the USEPA has based its objection on the failure of the permits to implement State water quality standards as required by sec. 301(b)(1)(C) of the CWA. Specifically, the USEPA objections cite:

1. The failure of the proposed permits to adequately implement state water quality standards through specific effluent limitations on the discharge of certain toxic pollutants; 2. the failure of the proposed permits to adequately implement state water quality standards through limitations based on whole effluent toxicity; and 3. the failure of the permits to implement State water quality standards relating to antidegradation. Section 402(d) of the CWA requires that the USEPA object in writing to any proposed permit which fails to implement the requirements of the CWA. If the State does not satisfy the USEPA objections within the initial 90-day period following receipt of the written objection, or in the 30-day period following the close of the comment period associated with a hearing held on the objection, then authority shall vest with the USEPA to issue the permits. This informational hearing will be held pursuant to sec. 402 of the CWA and 40 CFR 124.12 to allow the public opportunity to comment on these objections. A hearing examiner has been appointed by the Regional Administrator for USEPA Region V.

The examiner will conduct the hearing with the assistance of a designated panel. Though the hearing will be informational, for the purpose of

soliciting public comment, the panel may question speakers from time to time in order to clarify issues or to ascertain positions. Any person may submit oral or written statements or data relating to the objections. Due to the anticipated number of appearances at this hearing, oral statements will be limited to ten to fifteen minutes each, unless there appears to be additional time available during the session. Written comments may be submitted at the hearing or may also be submitted to Claudia Johnson, USEPA Region V—Permits Section—5WQP, 230 South Dearborn, Chicago Illinois, 60604, through May 18, 1987, the close of the comment period. Copies of the transcript of the hearing, as well as all written comments submitted in this proceeding will be maintained at the USEPA Region V Office, Permits Section, 8th floor, Trans Union Building, 111 West Jackson, Chicago, Illinois 60604. These will be available for review workdays between the hours of 8:00 a.m. and 4:30 p.m. Copies of the proposed permits, applications and objection letters are also available for review at the following locations: Wisconsin Department of Natural Resources, Central Office, Permits Section, 101 South Webster Street, Madison, Wisconsin; Wisconsin Department of Natural Resources, Lake Michigan District Office, 1125 North Military Avenue, Green Bay, Wisconsin; Wisconsin Department of Natural Resources, North Central district Office, 107 Sutcliff Avenue, Rhinelander, Wisconsin; Wisconsin Department of Natural Resources, Northwest District Office, Highway 70, West, Spooner, Wisconsin 54801; and Wisconsin Department of Natural Resources, West Central District Office, 1300 West Clairemont Avenue, Eau Claire, Wisconsin. Listed below are the names, locations, and a brief description of activities for the dischargers subject to the proposed permits.

1. Permittee: WI 0003344, Consolidated Papers, Inc., 231 First Avenue North, Wisconsin Rapids, WI 54494.

Facility Where Discharge Occurs: Consolidated Papers, Inc., 707 Arlington Place, Stevens Point, WI 54481.

Receiving Water: The Wisconsin River at river mile 222.4 in Portage County.

Activities or Operations Resulting in an Existing Discharge: The permittee manufactures specialty papers. An average of 1.51 million gallons per day (MGD) of process wastewaters from the paper making activities are discharged through one outfall following treatment in primary and secondary settling lagoons. Information submitted by the permittee indicates that zinc, lead, cyanide ammonia, aluminum and dehydroabeitic acid are present in this discharge above levels of environmental concern. Failure by the State to impose limits for these toxic pollutants, and to comply with the State's antidegradation requirements formed the basis for the USEPA objection to this permit.

2. Permittee: WI 0037991, Consolidated Papers Inc., 231 First Avenue North, Wisconsin Rapids, WI 54494.

Facility Where Discharge Occurs: Consolidated Papers Inc. (CPI), Water Quality Center, Nash Road, Wisconsin Rapids, WI 54494.

Receiving Water: The Wisconsin River at river mile 202.4 in Wood County.

Activities or Operations Resulting in an Existing Discharge: The permittee produces coated paper, paperboard, groundwood pulp and kraft pulp at its Kraft, Biron and Wisconsin Rapids Divisions. Process wastewaters from these three facilities, as well as wastewater from the Pfizer, Inc., calcium carbonate plant and some process water from the Research and Development Division of CPI are discharged to the Water Quality Center where secondary biological treatment is provided. An average of 19.6 MGD of treated process wastewater is discharged from the Water Quality Center via a single outfall. An additional 44 million gallons of stormwater, deculator seal water, vacuum pump seal water and noncontact cooling water is discharged daily through seven outfalls located at the three divisions. Information provided by the permittee indicates that chloroform, chromium, copper, lead, nickel, zinc, ammonia, cadmium, arsenic, aluminum and alpha hexachlorocyclohexane are present in the discharge above levels of environmental concern. Failure by the State to impose limits for these toxic pollutants, and to comply with the State's antidegradation requirements formed the basis for the USEPA objection to this permit.

3. Permittee: WI 0003468, Consolidated Papers, Inc., 231 First Avenue, North, Wisconsin Rapids, WI 54494.

Facility Where Discharge Occurs: Consolidated Papers, Inc., Wisconsin River Division, 2627 Whiting Road, Stevens Point, WI 54481.

Receiving Water: The Wisconsin River in Portage County at river mile 219.9.

Activities or Operations Resulting in an Existing Discharge: Consolidated Papers, Inc., Wisconsin River Division manufactures coated publication papers from groundwood pulp manufactured onsite, and purchased pulp. The pulp and paper making activities result in the average daily discharge of 2.8 MGD of treated process wastewaters from a secondary biological treatment system and 1.0 MGD of noncontact cooling water, through three outfalls. Two additional outfalls convey emergency overflows. Information submitted by the permittee indicates that zinc, ammonia, phosphorus, cyanide, silver and heptachlor are present in the discharge above levels of environmental concern. Failure by the State to impose limits for these toxic pollutants, and to comply with the States's antidegradation requirements formed the basis for the USEPA objection to this permit.

4. Permittee: WI 0003140, James River Corporation, Ashland Mill, P.O. Box 353, Ashland, WI 54806.

Facility Where Discharge Occurs: James River Corporation, Ashland Mill, Front Street and 23rd Avenue, E., Ashland, WI 54806.

Receiving Water: Chequamegon Bay of Lake Superior in Ashland County.

Activities or Operations Resulting in an Existing Discharge: James River Corporation at Ashland manufactures industrial napkins from deinked waste paperboard. This activity results in the average daily discharge of 1.3 MGD of treated process wastewaters through one outfall. Contaminated stormwater is discharged through a second outfall. Information submitted by the permittee indicates that copper, zinc, aluminum, silver, cyanide and ammonia are present in the discharge above levels of environmental concern. Failure by the State to impose limits for these toxic pollutants, and to comply with the State's antidegradation policy formed the basis for the USEPA objection to this permit.

5. Permittee: WI 0003620, Nekoosa Papers, 100 Wisconsin River Drive, Port Edwards, WI 54469.

Facility Where Discharge Occurs: Nekoosa Papers, Inc., 100 Wisconsin River Drive, Port Edwards, Wisconsin and Market Street, Nekoosa, WI.

Receiving Water: The Wisconsin River (rivermile 195.5) in Wood County.

Activities or Operations Resulting in an Existing Discharge: Nekoosa Papers, Inc. operates a joint wastewater treatment system for effluent from the Port Edwards (magnesium based sulphite process) and Nekoosa (bleached kraft process) pulp and paper mills which generates an average discharge through one outfall of approximately 29 MGD. Four emergency outfalls, and three clear water or cooling

water outfalls are also permitted. The permittee has provided information which indicates that chloroform, lead, zinc, ammonia and thallium are present in the discharge above levels of environmental concern. Failure by the State to impose limitations on these toxic pollutants and on whole effluent toxicity, formed the basis for the USEPA objection to this permit.

6. Permittee: WI 0002810, Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666.

Facility Where Discharge Occurs: Owens-Illinois, Inc., Forest Products Company, Tomahawk, WI 54487.

Receiving Water: The Wisconsin River at Lake Mohawksin.

Activities or Operations Resulting in an Existing Discharge: This facility produces sodium based neutral sulfite semi-chemical (NSSC) pulp from hardwood logs and waste paperboard. The pulp is then manufactured into the paper used for the corrugated interior layer found in cardboard. An average of 4.7 MGD of process wastewater from pulp and paper making is discharged to an anaerobic lagoon, an aerated lagoon and two stabilization lagoons in series prior to discharge to surface water (outfall 003). An average of 10.3 MGD of noncontact cooling water is discharged to surface water via a separate outfall (004). Periodic discharges occur from a sedimentation basin which receives stormwater runoff from a nearby solid waste disposal site operated by the facility (outfall 008). Information provided by the permittee indicates that pentachlorophenol, phenols, copper, zinc, ammonia, 2,4-dichlorophenol and p-chloro-m-cresol are present above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants as well as whole effluent toxicity, and failure to comply with the State's antidegradation requirements formed the basis for the USEPA objection to this permit.

7. Permittee: WI 0003077, Pope and Talbot, Wisconsin, Inc., 1200 Forest Street, Eau Claire, WI 54701.

Facility Where Discharge Occurs: Pope and Talbot, Wisconsin, Inc., 1200 Forest Street, Eau Claire, WI 54701.

Receiving Water: The Chippewa River in the Lower Chippewa Drainage Basin, Eau Claire County.

Activities or Operations Resulting in an Existing Discharge: The company deinks secondary and recycled paper for the production of 70.9 tons per day of tissue paper and 45.9 tons per day of wetlap pulp shipped to the company mill at Ladysmith. Facility operations result in a discharge through one outfall of approximately 4.0 MGD of treated effluent. Treatment consists of flocculation/coagulation and clarification followed by activated sludge processing. An emergency bypass outfall is permitted for use during emergency situations. Information submitted by the permittee indicates that chromium, cyanide, ammonia, arsenic, cadmium, 4,4- DDD, toxaphene, phosphorus and 4-4' DDT are present in the discharge above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants as well as whole effluent toxicity, formed the basis for the USEPA objection to this permit.

8. Permittee: WI 0003204, Pope and Talbot, Wisconsin, Inc., P.O. Box 129, Ladysmith, WI 54848.

Facility Where Discharge Occurs: Pope and Talbot, Wisconsin, Inc., East Worden Avenue, Ladysmith, WI 54848.

Receiving Water: The Flambeau River in the Upper Chippewa River Drainage Basin, Rusk County.

Activities or Operations Resulting in an Existing Discharge: The company produces tissue paper products. Fifty percent of the pulp is deinked at the facility, and 50% is wetlap pulp from a company mill in Eau Claire. Process wastewaters and stormwater from roof drains are treated through a secondary wastewater treatment system prior to discharge into the Flambeau River, via outfall 001. Approximately 1.5 MGD of wastewater are discharged. Information submitted by the permittee indicates that copper, cadmium, cyanide, zinc, PCBs, lead, silver, toxaphene and nitrobenzene are present in the discharge above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants formed the basis of the USEPA objection to this permit.

9. Permittee: WI 0001341, Shawano Paper Mills, Division of Little Rapids Corporation, P.O. Box 19100, Green Bay, WI 54307.

Facility Where Discharge Occurs: Shawano Paper Mills, Division of Little Rapids Corporation, P.O. Box 437, CTH "M" and "MM", Shawano, WI 54166.

Receiving Water: The Wolf River in Shawano County.

Activities or Operations Resulting in an Existing Discharge: The permittee produces various grades of tissue paper products from virgin pulp and high grade secondary fiber without deinking. An average of 1.8 MGD of process wastewater, cooling water, and boiler blowdown are discharged through a single outfall following primary treatment. In addition, approximately 1.3 MGD of excess river water is discharged through outfall 001. Information submitted by the permittee indicates that chromium, copper, lead, mercury, nickel, aluminum, silver, PCBs, toxaphene and zinc are present in the discharge above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants, as well as whole effluent toxicity, formed the basis for the USEPA objection to this permit.

10. Permittee: WI 0002798, Superior Fiber Products, Inc., P.O. Box 369, Superior, WI 54880.

Facility Where Discharge Occurs: Superior Fiber Products, Inc., North 5th and Bayfront, Superior, WI 54880.

Receiving Water: Superior Bay of Lake Superior, Douglas County.

Activities or Operations Resulting in an Existing Discharge: The permittee produces hardboard from aspen logs. An average of 210,000 gallons per day of process wastewater, vacuum seal water and noncontact cooling water are combined and discharged to the Bay via one outfall. Process wastewater is settled prior to combination with cooling water. All wastewater if then pH adjusted. Information submitted by the permittee indicates that zinc, PCBs, toxaphene, cadmium, copper, mercury and silver are present in the discharge above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants, as well as on whole effluent toxicity formed the basis for the USEPA objection to this permit.

11. Permittee: WI 0003603, Tomahawk Tissue Corporation, P.O. Box 266, Tomahawk, WI 54487.

Facility Where Discharge Occurs: Tomahawk Tissue Corporation, 858 West Leather Avenue, Tomahawk, WI 54487.

Receiving Water: The Wisconsin River via Lake Mohawksin.

Activities or Operations Resulting in an Existing Discharge: The permittee produces an average of 23.6 tons per day of tissue paper from recycled paper which is deinked on site. This activity results in the discharge through one outfall of 240,000 gallons per day of process wastes, and 60,000 gallons per day of cooling waters. Information submitted by the permittee indicates that phenols, PCBs copper, zinc and iron are present in the discharge above levels of environmental concern. Failure by the State to impose limits on these toxic pollutants, as well as on whole effluent toxicity, formed the basis for the USEPA objection to this permit.

12. Permittee: WI 0023221, Appleton, City of, Department of Public Works, 59 Weimer Court, Appleton, WI 54913.

Facility Whee Discharge Occurs: Appleton Wastewater Treatment Plant, 59 Weimer Court, Appleton, WI.

Receiving Water: The Fox River in Outagamie County.

Activities or Operations Resulting in an Existing Discharge: The City of Appleton operates an activated sludge wastewater treatment facility with a design average flow of 16.5 MGD and an actual average flow of 11.9 MGD. Treated wastewater treatment facility with a design average flow of 16.5 MGD and an actual average flow of 11.9 MGD. Treated wastewaters are discharged through one outfall. Failure by the State to implement the State's antidegradation provisions formed the basis of the USEPA objection to this permit.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87-6557 Filed 3-25-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Use of High-Cube Containers—United States/Japan Trade

March 23, 1987.

By Order served on May 20, 1986 ("May Order"), pursuant to section 15 of the Shipping Act of 1984, 46 U.S.C. app. § 1714, the Federal Maritime Commission directed twenty-five common carriers by water then serving the trade between the United States and Japan to submit certain information on the use of "high-cube" containers in the U.S./Japan trade. The Commission's purpose in collecting the information was to assess the impact on the trade of Japanese laws, rules and regulations which restrict the transport of high-cube containers over the roads in Japan, with a veiw to determining whether Commission action was warranted under section 19 of the Merchant Marine Act of 1920, 46 U.S.C. app. 876, "to adjust or meet . . . conditions unfavorable to shipping in the foreign trade . . . which arise out of or result from foreign laws, rules, or regulations . . . ."

Responses to the May Order were received in late June, 1986. On June 12, 1986, the Japanese Government announced new Guidelines ("June Guidelines") governing the use of high-cube containers on Japanese roads. These June Guidelines announced relaxation of certain procedural requirements imposed on the movement of high-cube containers. Some of these changes were to be implemented through new regulations and were expected to be effective in August, 1986.

In order to provide an opportunity for the affected carriers to assess the impact of the changes in procedures, albeit on a short term basis, the Commission served a supplemental section 15 order on the same carriers on September 5, 1986 ("September Order") in which it required the carriers to update their responses to the May Order and to assess specific elements of the June Guidelines.

Responses to the Commission's May and September Orders have been received from all of the carriers served. The information contained in those responses has been helpful to the Commission in providing context to the carriers' operations in the trade and in assessing the impact of Japanese Government policies on the trade.

Several specific laws and associated ordinances governing the movement of high-cube containers in Japan were identified in response to the Commission's May and September Orders. Article 47, paragraph 1, of the Road Laws, administered by the Ministry of Construction, reportedly states that limitations of the width, weight, height, length and minimum turning radius of vehicles are stipulated in the Government Ordinance (Vehicle Limitation Ordinance) in order to protect the road and prevent danger during transportation. The Vehicle Limitation Ordinance, Article 3, sets a height limitation of 3.8 meters. The Road Transportation Vehicle Law, administered by the Ministry of Transport, also establishes a vehicle height limitation of 3.8 meters, at Chapter 2, Article 2. The Road Transportation Law, Article 57, paragraph 1, authorizes only those drivers who do not exceed the limits in the Government Ordinance to travel over Japanese roads. The vehicle height limitation of 3.8 meters is again reflected in regulations associated with the Road Traffic Law, Article 22, paragraph 3, which applies this limit to the total height of the cargo and cargo bed.

The steps which must be taken by local trucking companies on behalf of the carriers in order to move a high-cube container between the pier and an inland point were enumerated in some detail by the responding carriers. It was estimated that preparation of the required documentation to secure route approvals, route use permits and vehicle permits required the expenditure of 2–3 employee days for documentation to be submitted to the Ministry of Transport, 3–4 employee days for documentation to be submitted to the Ministry of Construction and one employee day for documentation to be submitted to the National Policy Agency. One carrier reported that these requirements caused the Japanese trucking firms to charge more for movement of a high-cube container, resulting in carrier costs 25 to 30 percent higher than those associated with standard containers.

The carriers provided detailed accounts of efforts made through the Japan Foreign Steamship Association in meetings with officials of the Japanese Ministries of Transport and Construction, the National Policy Agency and the Office of Trade Ombudsman to secure an easing of the rules governing movement of high-cube containers.

All carriers reported that there have been no accidents involving high-cube containers transported in Japan.

The Commission has reached certain tentative conclusions regarding the degree to which Japanese laws, regulations and rules may have a detrimental impact on the trade between the United States and Japan, based upon the information received to date. The responses indicate that the burdens imposed upon carriers wishing to utilize high-cube containers in intermodal movements including the use of Japanese roadways prior to June 30, 1986 were not insignificant.

High-cube containers are used to some extent by a very high proportion of the carriers serving the trade. The same carriers use high-cube containers in the U.S. trades with other Far East countries far more extensively than they do in the U.S./Japan trade. Although shippers have expressed a fairly high level of interest in using high-cube containers in this trade, the actual level of use remains low.

Although the June Guidelines made no changes in the Japanese laws, regulations and rules, they did significantly relax the administration and enforcement of those laws. The carriers were cautiously optimistic about the impact of these reforms.

The paperwork burden of the application process is reported by several carriers to have been reduced substantially, thus reducing the truckers', and ultimately the carriers', costs. The June Guidelines expanded the hours during which high-cube containers could be transported, permitting 24-hour use subject to limitations based upon local road or traffic conditions. The responses indicate that most carriers have experienced a decrease in night time operation costs and improved customer relations as a result of these changes. Several carriers report, nevertheless, that it is as yet unclear to what extent these changes will encourage shippers to use high-cube containers.

The announced measures to reduce documentation appear to have

significantly affected the process of applying for vehicle use permits, but may not have greatly affected the procedures for application for route approvals. The bureaucratic process as a whole still results in routes which are, in effect, carrier- and shipper-specific. While some new routes have been approved, others applied for have been disapproved. It was reported that some 15 percent of the 400 route applications submitted in June, 1986 were rejected as incomplete. Almost half of the routes applied for were denied. Some were denied on grounds that the containers were too wide, too long, too heavy, or difficult to maneuver at intersections, despite the fact that standard 8'6" high containers of the same length, width and weight capacity regularly move freely over these routes.

Although the carriers supplied monthly data on the number of high-cube containers moved in each direction of the trade for the period from January through September, 1986, the period covered was not sufficient to give a definitive view of the trends, particularly in light of the changes in policy and procedure which occurred late in this period.

While some real improvements appear to have been made in the administration of the restrictive Japanese laws and regulations, we continue to be troubled by a system which requires permission to move the more efficient high-cube marine containers over Japanese roads as an exception rather than the norm. Although high-cube containers constitute a relatively small proportion (less than 10 percent) of the carriers' container equipment fleets and of total containers shipped in the trade, the reach of the Japanese-imposed restrictions on the use of this equipment is very broad in the terms of the number of carriers and shippers who are being affected.

Therefore, measurable burdens upon the carriers' ability to efficiently choose and use their equipment may continue to exist. The Commission is also concerned that improvements in the high-cube situation undertaken to date not demonstrate themselves to be illusory, short-lived or replaced by other restraints on the free flow of international commerce.

Nevertheless, because the situation appears to be evolving as a result of changes in policy undertaken by the Japanese Government following Commission initiatives, as well as the possible effects of other factors influencing the trade, and to permit any further ameliorating changes to be made in a non-adversarial atmosphere, the Commission has determined not to take formal section 19 action at this time but rather to continue to closely monitor the situation and collect additional data on the use of high-cube containers in this trade.[1] To this end, we have by separate Second Supplemental Section 15 Order directed the carriers which responded to our May and September Orders to update those responses with information for the period through August 31, 1987, and by this Notice solicit the views and comments of other interested parties. The Commission is, of course, prepared to act speedily under section 19 should the need for such action be shown at any time.[2]

It is expected that the collection of data covering a full calendar year from implementation of the Japanese initiatives reflected in the June guidelines will enable the Commission to form a complete and accurate assessment of the effect of currently effective Japanese laws, rules and regulations on the carriers and shippers active in the trade and to determine whether conditions unfavorable to shipping within the meaning of section 19 presently exist. The Commission invites interested parties to file information, views and comments with respect to any problems they may be encountering in securing the use of high-cube marine containers in U.S. trade with Japan, and suggestions for actions the Commission might usefully undertake to ameliorate these problems, on or before September 30, 1987. The carriers served with the Commission's Second Supplemental Section 15 Order may file such views either in connection with their responses to that Order or at any time before September 30, 1987.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-6568 Filed 3-25-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amoskeag Bank Shares, Inc. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 14, 1987.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Amoskeag Bank Shares, Inc.*, Manchester, New Hampshire; to acquire Entrepo Financial Resources, Inc., Jenkintown, Pennsylvania, and thereby engage in computer equipment and automobile leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fidelcor, Inc.*, Philadelphia, Pennsylvania; to acquire Lazere Financial Corporation, New York, New York, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. Comments

[1] Additional steps to remove any existing burdens voluntarily undertaken by the Japanese Government would, of course, be viewed by the Commission as welcome developments and could serve to obviate the need for any Commission remedial action.

[2] Such expeditious action could be taken either pursuant to complaints received from disadvantaged carriers or shippers, or on the Commission's own initiative. In any event, we would expect to be advised of any condition requiring immediate attention.

on this application must be received by April 15, 1987.

Board of Governors of the Federal Reserve System, March 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6516 Filed 3-25-87; 8:45 am]

BILLING CODE 6210-01-M

Sterling Financial Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 15, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Sterling Financial Corporation,* Lancaster, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Lancaster County, Strasburg, Pennsylvania. Comments on this application must be received by April 16, 1987.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Baltimore Bancorp,* Baltimore, Maryland; to acquire 100 percent of the voting shares of Metropolitan Holding Company, Inc., Washington, DC, and thereby indirectly acquire Metropolitan Bank of Bethesda, Bethesda, Maryland, and 16.7 percent of the voting shares of The Bank of Baltimore, Baltimore, Maryland.

2. *Metropolitan Holding Company, Inc.*, Washington, DC; to become a bank holding company by acquiring 100 percent of the voting shares of Metropolitan Bank of Bethesda, Bethesda, Maryland, a de novo bank. Applicant has also applied to acquire 16.7 percent of the voting shares of The Bank of Baltimore, Baltimore, Maryland.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *P.T.C. Bancorp,* Brookville, Indiana; to acquire 100 percent of the voting shares of Arlington Bank Corporation, Arlington, Indiana, and thereby indirectly acquire Arlington State Bank, Arlington, Indiana.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Gideon Financial Corporation,* Silver Lake, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of Silver Lake Bank, Silver Lake, Kansas. Comments on this application must be received by April 13, 1987.

E. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Amador Bancshares, Inc.,* Las Cruces, New Mexico; to acquire 100 percent of the voting shares of Western Bank, Santa Fe, New Mexico, and Western Bank, Taos, New Mexico. Comments on this application must be received by April 16, 1987.

2. *Brazos Bancshares, Inc.,* Joshua, Texas; to become a bank holding company by acquiring 81.32 percent of the voting shares of The First National Bank of Joshua, Joshua, Texas. Comments on this application must be received by April 16, 1987.

Board of Governors of the Federal Reserve System, March 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6517 Filed 3-25-87; 8:45 am]

BILLING CODE 6210-01-M

Indiana United Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Borad's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 5, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Indiana United Bancorp,* Greensburg, Indiana; to acquire 100 percent of the voting shares of Peoples Bancshares Corporation, Portland, Indiana, and thereby indirectly acquire The Peoples Bank, Portland, Indiana.

Board of Governors of the Federal Reserve System, March 24, 1987.

James McAfee,

Associate Secretary of The Board.

[FR Doc. 87-6829 Filed 3-25-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 1987 Final Funding Preference for Nurse Anesthetist Traineeship Grants

The Health Resources and Services Administration announces the final funding preference which will govern the distribution of Fiscal Year 1987 grant awards for Nurse Anesthetist Traineeship Grants authorized by section 831 of the Public Health Service Act, as amended.

A proposed funding preference was published for public comment in the **Federal Register** on September 26, 1986 (51 FR 34260). This funding preference stated that preference would be given to applicants that demonstrate a commitment to increased enrollment and retention of minority and financially

needy students in their program or that show evidence of efforts to recruit minority and financially needy students.

Five responses were received from directors of schools of nurse anesthesia. None of the respondents agreed with the proposed funding preference. Generally, the commenters did not feel that use of the funding preference would advance the purpose of this traineeship program; they felt the funding preference was unfair and that all qualified nurse anesthesia educational programs should be considered equally.

The respondents provided a wide range of ideas, some pertinent only to their particular institution, to support their point of view. For example, one respondent indicated that the school was located in a geographic area where the minority population was low and hence the number of minority applicants was very limited. The implication was that this school would not be able to compete with schools located where minority population was high. In addition this school has not found it necessary to recruit students. This respondent essentially indicated that it could not meet the funding preference and viewed it as unfair.

Still another commented that emphasis on the recruitment and retention of minority and financially needy students was needed at the undergraduate rather than the graduate level in nursing in order to increase the number of minority nurses who would qualify for graduate education. As more minority students were eligible to meet entrance requirements, more could be enrolled.

Respondents also commented on current forces controlling enrollments in most anesthesia schools including a general decline in the number of qualified applicants. Concern was expressed that the number of schools providing nurse anesthesia training is decreasing both because of declining enrollment and financial constraints. Another point made was that some schools have to limit the number of students in accord with the availability of clinical experiences in an effort to maintain quality and safe anesthesia practices.

The Department recognizes the difficulties associated with the recruitment and enrollment of minority and financially needy students. it is also cognizant that some schools are limited to a certain number of admissions and may not be able to increase their enrollments. These facts, however, do not detract from the Department's belief that continued efforts must be made to assist minority and financially needy students to enroll and successfully complete programs of study in health professions schools, including schools of nurse anesthesia. Although the number of minority students has been increasing in the health professions schools, continued efforts are needed in order to effect a proportional change that will more nearly reflect their composition of the population.

The Department also believes that explicit preference is necessary to ensure that funds are targeted to students with the greatest financial need.

Several respondents indicated confusion concerning the terms "minority" and "financially needy". In order to clarify the meaning of "minority and "financially needy" for purposes of this funding preference, the Department has defined these terms in the final preference. The definitions of these terms are consistent with those used in other Departmental regulations for health professions educational assistance programs.

Final Funding Preference

In determining the order of funding applicants which have been recommended for approval, preference will be given to applications which satisfactorily demonstrate a commitment to increased enrollment and retention of minority and financially needy students in their programs or show evidence of efforts to recruit minority and financially needy students. "Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic. "Financially needy" means a student has exceptional financial need. For purposes of this program a student will have exceptional financial need if the school determines that the student's resources do not exceed the lesser of $5,000 or one-half of the cost of attendance at the school. Student summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year will not be considered resources for purposes of determining whether a student has exceptional financial need. All eligible applications, however, will be reviewed and given consideration for funding.

Dated: March 23, 1987.

David N. Sundwall, M.D.,

Administrator Assistant Surgeon General.

[FR Doc. 87-6566 Filed 3-25-87; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Memorandum of Agreement Between Department of the Interior and Department of Health and Human Services

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a Memorandum of Agreement (MOA) is to be implemented jointly by the Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services, pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, Title IV, Subtitle C of Pub. L. 99-570. The MOA was developed in consultation with Indian tribes, Alaska Native Villages, individual Indians, Indian organizations, and interested parties.

The purpose of this agreement is to establish a management framework for implementation of the Act that results in the coordination of resources and programs of the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) to assist Indian tribes and Alaskan Native villages to achieve their goals in the prevention, intervention, treatment, and follow-up of alcohol and substance abuse as established in tribal/local action plans (TAPs/LAPs).

Upon publication of the Memorandum of Agreement in the **Federal Register,** the Bureau of Indian Affairs and Indian Health Service shall provide a copy of the Memorandum of Agreement to each federally recognized Indian tribe.

ADDRESSES: A copy of the Memorandum of Agreement is available for public inspection at the following addresses:

Bureau of Indian Affairs, 18th and E Streets, NW., Room 4623, Washington, DC 20240.

Indian Health Service, 5600 Fishers Lane, Room 5A55, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Joe Christie, Bureau of Indian Affairs at telephone number (202) 343-4594; or Dr. Eva M. Smith, Indian Health Service at telephone number (301) 443-4297.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

Memorandum of Agreement Between Department of Health and Human Services and Department of the Interior

I. Policy

It is the policy of the Department of Health and Human Services (DHHS) and the Department of the Interior (DOI) that all coordination of ongoing activities or new activities undertaken pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, Title IV, Sub Title C of Pub. L. 99–570, will be done in a manner that is least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.), and local control in accordance with Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010). To accomplish this policy of coordination, the Indian Health Service (IHS), DHHS, and the Bureau of Indian Affairs (BIA), DOI, shall outline both long-term and short-term goals. Furthermore, the BIA and IHS shall coordinate alcohol and substance abuse programs existing on the date of the enactment to Pub. L. 99–570 with all new activities undertaken pursuant of Pub. L. 99–570. The Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, BIA, and the Secretary of Health and Human Services (DHHS), acting through the Director, IHS, shall bear equal responsibility for the implementation of Pub. L. 99–570 in cooperation with Indian tribes, who have the primary responsibility for protecting and ensuring the well-being of their members and the coordination of resources made available under this Memorandum of Agreement (MOA) through implementation of Tribal Action Plans (TAP).

II. Purpose

The purpose of this agreement is to establish a management framework for implementation of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 that results in the coordination of resources and programs of the BIA and the IHS to assist Indian tribes and Alaskan Natives to achieve their goals in the prevention, intervention, treatment, and follow-up of alcohol and substance abuse.

III. Authority

Snyder Act (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638), and the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (Pub. L. 99–570).

IV. Background

The IHS and the BIA recognize alcohol and substance abuse as a *disease* which is both preventable and treatable. The IHS and the BIA recognize chemical dependency as a major serious health and social problem affecting the individual, family, and tribe.

The BIA and the IHS have multiple programs which already respond to the consequences of alcohol and substance abuse (i.e., education, social services, judicial services, law enforcement, mental health, acute and chronic medical care services, etc.), and prevention and treatment programs for alcohol and substance abuse. However, there is a need to provide a national focus on alcohol and substance abuse at all BIA and IHS Central, Area, Agency/Service Unit offices and schools to promote the efficient and effective use of resources and programs within the organizations as well as between organizations.

V. Organization Responsibilities

A. Central Office

The Central Office of IHS, as represented by the Associate Director, Office of Health Programs, and BIA, as represented by the Deputies to the Assistant Secretary for Education and Tribal Services, are responsible for ensuring compliance, monitoring of performance, subsequent evaluation and follow-up activities for this MOA. The Central Offices within 90 days of signature of this MOA will devise an Organizational Master Action Plan (OMAP) which will direct the cooperative efforts to accomplish the intent of Pub. L. 99–570. The OMAP will provide for long-term and short-term plans that include integration of data systems, identification of specific objectives and goals, capability to maintain progress toward these goals, development of standards, and review and evaluation of existing BIA/IHS regulations and manuals to identify potential changes to support the intent of Pub. L. 99–570 and this MOA.

Short-term immediate requirements include:

1. *Newsletter:* The IHS and the BIA will jointly fund the newsletter on an equal basis. The BIA will take the lead role in publishing the newsletter.

2. *Community training:* The IHS and the BIA will jointly fund community training. The IHS will take the lead role in providing the training with the BIA participating in the development of the minimum standards.

3. *Judicial services and law enforcement training:* The BIA will take the lead role in development and implementation of the training, but agrees to coordinate this training with the IHS training in Item 2.

4. *Identification of programs:* The IHS and the BIA agree to compile a listing of programs and resources on an Area basis through the use of Area teams consisting of designated IHS and BIA personnel.

5. *Emergency medical assessment:* The IHS and the BIA will jointly develop and implement procedures for emergency medical assessments by April 30, 1987, unless amended.

6. *Minimum standards:* The IHS and the BIA will develop and establish minimum standard as appropriate for new alcohol and substance abuse program responsibilities in consultation with Indian tribes, in the absence of Federal or State standards.

7. *Scope of problem:* The IHS, in cooperation with the BIA and tribes, will determine the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the IHS who are directly or indirectly affected by alcohol and substance abuse and the financial and human costs, by September 1987, unless amended.

8. *Assessment of resources:* The IHS, in cooperation with the BIA and tribes, will conduct an assessment of the existing and needed resources and provide an estimate of funding necessary for a program of prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, by September 1987, unless amended.

9. *Emergency shelters:* The BIA in cooperation with the IHS will promulgate standards by which the emergency shelters under Pub. L. 99–570, section 4213, subsection (a) shall be established and operating, by September 1987, unless amended.

10. *Tribal comprehensive report:* The IHS in cooperation with the BIA will provide tribes with an annual tribal comprehensive report of BIA and IHS alcohol and substance abuse data.

11. *Child abuse and neglect:* The BIA in cooperation with IHS will compile data relating to the number and types of child abuse and neglect cases and the type of assistance provided, reflecting those that involve, or appear to involve, alcohol and substance abuse, those which are recurring and those that involve other minor siblings.

12. *Curriculum:* The BIA in cooperation with the IHS will provide technical assistance as necessary to develop and implement curricula in kindergarten and grades 1 through 12 relating to alcohol and substance abuse prevention and treatment.

13. *Crisis intervention:* The BIA in cooperation with the IHS will provide for individual student crisis intervention in schools funded by BIA and a reporting of all incidents relating to alcohol and substance abuse by August 1987, unless amended.

14. *Model juvenile code:* The BIA, in cooperation with the IHS and in consultation with Indian tribes, will develop a model juvenile code by September 1987, unless amended.

B. Area Office

Area Directors for the IHS and the BIA and appropriate Education line officials are responsible for the implementation of this MOA through coordination of resources and programs and for providing requested and needed technical assistance to Agency Superintendents, principals, Service Unit Directors, tribes, and school boards.

IHS/BIA Area Directors and appropriate Education line official(s) shall develop a joint Area level workplan, within 60 days of the approval of the Central Office OMAP, which will identify specific organizational problems, resources, and programs within that jurisdiction.

C. Agency/Service Units

The BIA Agency and Education Superintendents and IHS Service Unit Directors are directed to cooperate fully with tribal requests pursuant to Pub. L. 99–570, section 4206, in the development of a Tribal Action Plan (TAP) and shall enter into an agreement with the tribe for the implementation of the TAP within funding constraints and program regulations.

If the tribal government does not initiate a tribal resolution to write a TAP within 90 days after publication of this MOA, the BIA/IHS shall develop a Local Action Plan (LAP). The IHS will take the lead in the development of the LAP unless the Service Unit is contracted, in which case the BIA will become the lead Agency. Details are to be defined in the Area workplan.

VI. Period of Agreement

This MOA shall remain in effect as long as is necessary to carry out the intent of the Congress.

VII. Modification/provisions amendment

This MOA, or any of its specific provisions, may be revised by written approval of both signatory parties or their designees, provided that a copy of the amended NOA shall be distributed to each Indian tribe.

VIII. Meetings and Reports

IHS/BIA Meetings

In order to assure that these cooperative efforts are pursued in a continuing and timely fashion, IHS and BIA representatives will meet on a regular basis, not less than semi-annually, to review the activities supported by this agreement and will share information, report on progress and explore new areas for cooperation. In addition, other meetings may be arranged to discuss specific projects.

Reports

Accomplishment reports and action plans shall be submitted by field offices through their respective organizations to BIA and IHS Central Offices. An annual progress report and a summary of meetings and activities conducted under this agreement will be prepared and submitted to the Director, Indian Health Service, and the Assistant Secretary for Indian Affairs at the completion of each fiscal year. This report will be shared with tribes. It shall also identify for Congress the progress or lack thereof in each of the specified areas of cooperation.

IX. Privacy Act

The confidentiality of information which identifies individual persons and is exchanged pursuant to this agreement between the Indian Health Service and the Bureau of Indian Affairs is to be safeguarded in accordance with requirements contained in the Privacy Act of 1974 (Pub. L. 93–579). In addition, regulations of the Department of Health and Human Services which implement the Privacy Act of 1974 within DHHS, contained at 45 CFR Part 5b, are to be followed.

Information exchanged between the IHS and the BIA which indicates a diagnosis, prognosis, referral or treatment of alcohol or drug abuse is to be protected in accordance with requirements contained in the "Confidentially of Alcohol and Drug Abuse Patient Records" regulations issued by DHHS at 42 CFR Part 2.

X. Review of the MOA

The Assistant Secretary for Indian Affairs and the Director, IHS, shall review this MOA annually within a month of the anniversary of the signing of this MOA. Upon completion of this review, the OMAP shall be revised and/or updated and Area/Agency workplans revised accordingly.

For: Department of Health and Human Services.

Otis R. Bowen,

Secretary, DHHS.

Dated: March 16, 1987.

For: Department of the Interior.

Donald Paul Hodel,

Secretary, DOI.

Dated: February 24, 1987.

[FR Doc. 87–6569 Filed 3–25–87; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR080 6310–12 GP7–137]

Salem District Advisory Council; Open Meeting

ACTION: Notice of Salem District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Salem District Advisory Council will be held April 23, 1987 at 1:00 p.m. at the Bureau of Land Management, Salem District Office, 1717 Fabry Road SE, Salem, Oregon.

Agenda for the meeting will include:

1—Introduction of new members
2—Election of officers
3—Status reports on:
  a. Table Rock Wilderness Management Plan
  b. Grand Ronde Indian Reservation Plan
  c. Walker Creek Water Supply Project Proposal
  d. Yaquina Head Outstanding Natural Area Management Plan
  e. Spotted Owl Management
  f. Vegetative Management
  g. Miscellaneous reports
4—Planning for the 90's
5—Reorganization

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306 by April 20, 1987. Written comments will also be received for the council's consideration. Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated March 16, 1986.

Melvin Chase,

Acting District Manager.

[FR Doc. 87-6537 Filed 3-25-87; 8:45 am]

BILLING CODE 4310-33-M

[CO-940-07-4220-11; C-081296]

Colorado; Notice of Proposed Continuation of Withdrawal

March 18, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the order which withdrew lands for an indefinite period of time for a dam project, be modified and the withdrawal be continued in its entirety for 50 years. The 125 acres of public land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received within 90 days of publication date.

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 Bureau of Reclamation proposes that the existing withdrawal made by Public Land Order 2884, dated January 18, 1963, for an indefinite period of time, be modified to expire in 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. This proposal will affect the following identified lands:

Sixth Principal Meridian

T. 14 S., R. 94 W.,
sec. 18, SE¼SW¼;
sec. 19, lot 1 and NE¼NW¼.

The area described aggregates 124.68 acres in Delta County.

The purpose of this withdrawal is for the operation, maintenance, and reconstruction of the Fruitgrowers Dam and Reservoir and the Dry Creek Diversion Dam and Ditch and associated features. 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 modified and 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.

Evelyn W. Axelson,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-6538 Filed 3-25-87; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-242]

Preshipment Inspection Programs and Their Effect on U.S. Commerce; Public Hearing

AGENCY: United States International Trade Commission.

ACTION: Notice of Public Hearing.

DATE: April 14, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Hamilton, Office of Economics, U.S. International Trade Commission, Washington, DC, 20436, telephone 202-523-1179.

Background

The Commission instituted the investigation, No. 332-242, on December 16, 1986, under sectin 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) following receipt on October 24, 1986 of a request therefor from the U.S. Trade Representative. Notice of the investigation was presented in the **Federal Register** December 31, 1986.

Public Hearing

The Commission will hold a public hearing in connection with the investigation in Washington, DC at the U.S. International Trade Commission, 701 E Street, NW., Room 331, beginning at 9:30 a.m. on April 14, 1987. All interested persons shall have the right to appear by counsel or in person, to present information and to be heard. The deadline for filing pre-hearing briefs and requests to testify is April 7, 1987. Requests to tetify should be made to Ms. Kay Mills, (202) 523-0430. Interested persons not wishing to testify are invited to submit written statements concerning the investigation. All written statements, including post-hearing briefs, should be received by the close of business on April 21, 1987. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *rules of practice and procedure* (19 CFC 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Issued: March 23, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-6581 Filed 3-25-87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30997]

Carolina and Northwestern Railway Co.; Merger Exemption for Durham and South Carolina Railroad Co.

The Durham and South Carolina Railroad Company (D&SC) and Carolina and Northwestern Railway Company (C&NW) jointly filed a notice of exemption for D&SC to merge into C&NW.[1] All of the properties of D&SC are located in the State of North Carolina and are presently leased to C&NW pursuant to a ninety-nine year lease which commenced May 27, 1920.

C&NW owns all the capital stock of D&SC. C&NW is a wholly owned subsidiary of the Southern Railway Company (Southern). Norfolk Southern Corportion (NS) owns all the common stock of Southern. The primary purpose of the proposed merger is simplification of Southern's corporate structure. Corporate simplification will eliminate the expense burden associated with maintaining D&SC's separate corporate entity. Under the merger plan, D&SC will be dissolved as a separate corporate entity, all of its capital stock will be canceled and C&NW, the parent company, will succeed to the properties

[1] C&NW is a class II railroad. D&SC leases its railroad properties to C&NW.

and become responsible for the liabilities of D&SC. No reduction in transportation facilities are contemplated and no obligations of D&SC will be impaired.

D&SC and C&NW are wholly owned corporations within the Southern corporate family. This is, therefore, a transaction within a corporate family of the type specifically exempted under 49 CFR 1180.2(d)(3) from the necessity of prior review and approval. This transaction will not result in adverse changes in the level of service to shippers or in significant operational changes. Nor will it have any impact on the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the merger shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern District*, 360 I.C.C. 60 (1979).

Decided: March 18, 1987

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-6545 Filed 3-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30969]

Railroad Car Service Pooling Application; Notice of Filing and Proposed Special Rules of Procedure; the Atchison, Topeka and Santa Fe Railway Co., et al.

An application, as summarized below, has been filed by certain railroad companies under 49 U.S.C. 11342(a) for authority to enter into an agreement for the pooling of car service (pooling agreement) with respect to boxcars (defined to include all Association of American Railroad boxcar mechanical designations) and for prior approval of that agreement. The railroads listed as applicants are:

The Atchison, Topeka and Santa Fe Railway Company
Bangor and Aroostock Railroad Company
Burlington Northern Railroad Company
CP Rail (Canadian Pacific Limited)
Canadian National Railways
Chicago and North Western Transportation Company
Consolidated Rail Corporation
Denver and Rio Grande Western Railroad Company
Grand Trunk Western Railroad Company
Illinois Central Gulf Railroad Company
Kansas City Southern Railroad Company/Louisiana and Arkansas Railway Company
Missouri-Kansas-Texas Railroad Company
Norfolk and Western Railway Company/Southern Railway System
St. Louis Southwestern Railway Company
SOO Line Railroad Company
Southern Pacific Transportation Company
Union Pacific Railroad Company

Applicants' representative is: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604, (312) 786-6889.

Description of the Transaction

The applicants propose to establish an Executive Committee to formulate general policy and guidelines for the conduct of the proposed pooling operation and to select a specific pool operator. The pool operator will manage the size of the fleet of boxcars that have been contributed to the pool by the participating carriers. A procedure will be formulated for the periodic sizing of the pool or subpools to meet projected shipper demand. An equitable formula will be developed for the allocation of cars during periods of surplus and shortage in supply. During the period provided for the filing of other verified statements in support of the application, the application should be supplemented to provide more detail on the size limits on the total number of cars in the pool, and the procedure to determine whose cars go into the pool.

The pool operator will act as agent for the participating carriers for the purpose of directing the optimal routing of the empty boxcars assigned to the pool. Applicants indicate that the ability to select and change the pool operator (if service is not performed in an efficient and economic manner) is an important element of the pooling agreement.

Applicants assert that the proposed transaction involves no pooling of car hire earnings. All existing bilateral agreements will remain in place, thus preserving competition among railroads in setting car hire rates. The pool operator will not own or contribute cars. Its costs will be prorated among participating carriers. Through the pool operator's management of the fleet, the participants expect to decrease the empty return mileage for boxcars by directing reloading of empty cars at demand points closer to the original point of unloading than is feasible under the common practice of either returning each empty car to its owner or to its assigned loading point. The overall effect is expected to be an increase in both efficiency and utilization and return on investment from the existing fleet of boxcars.

Participation in the pool will not be limited to the railroads that have joined in the filing of the application, but will be open to other railroads that become signatories to the pooling agreement and comply with its provisions. If a carrier executes the necessary documents while the application is pending, applicants will submit a motion for leave to amend the application by including additional applicants. If the application is approved, applicants have requested that the Commission establish an expedited procedure for approval of other railroads' participation.

A copy of the application is on file and can be examined in the Office of the Secretary, Interstate Commerce Commission, Washington, DC. A copy of the application may also be requested from applicants.

In the opinion of applicants, the requested Commission action will not significantly affect either the quality of the human environment or energy conservation. Any protest may include a statement indicating the presence or absence of any impact of the requested Commission action on energy conservation, energy efficiency, or the environment. If any such impacts are alleged, the statement shall be accompanied by supporting data, indicating the nature and degree of the anticipated impact.

Evidence will be received through written verified statements in accordance with the following schedule: (a) applicants' verified statements are those accompanying their application; (b) other verified statements in support of the application and the supplemental information requested in this notice shall be due on April 15, 1987; (c) any protests and verified statements in opposition to the application shall be filed with the Commission by April 27, 1987, with a copy to be served on applicants' counsel at the address listed above; and (d) reply statements shall be due on May 15, 1987. No oral hearing is contemplated.

Decided: March 19, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-6546 Filed 3-25-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 2-87]

Privacy Act of 1974; Modified System of Records

Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Civil Rights Division, Department of Justice, proposes to modify an existing system of records entitled "Freedom of Information; Privacy Act Records (JUSTICE/CRT-010)." Notice of the system was last published in the **Federal Register** on December 17, 1985 (50 FR 51486).

The system notice is being revised to modify the "Storage," "Retrievability," and "Safeguards" sections to reflect that data are being stored on magnetic tapes and disks, and will be accessed by on-line retrieval methods. In addition, the routine use which now permits release of records to the National Archives and Records Administration during records management inspections has been modified. The modified routine use will also permit release of the records to the General Services Administration. Other changes have been made to more fully and accurately describe the system. These changes have been italicized for public convenience.

Title 5 U.S.C. 552(e)(4) and (11) provide that the public be given 30 days in which to comment on new routine uses. In addition, the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires 60 days in which to review proposed changes to the system. Therefore, the public, OMB, and the Congress are invited to submit written comments. Comments should be addressed to J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street, NW, Washington, D.C. 20530. If no comments are received by May 26, 1987, the proposed changes will be implemented without further notice in the **Federal Register** .

Dated: March 6, 1987.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

JUSTICE/CRT-010

SYSTEM NAME:

Freedom of Information; Privacy Act Records.

SYSTEM LOCATION:

U.S. Department of Justice, Civil Rights Division (*CRT*), 10th and Constitution Avenue, N.W., Washington, D.C. 20530 and Federal Record Center, Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in *CRT* systems of records pursuant to the Privacy Act; and where applicable, persons about whom records have been requested or about whom information is contained in requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of all Freedom of Information/Privacy Act *(FOI/PA)* requests received by *CRT* since January 1, 1975, copies of CRT responses to the requesters, internal memoranda and correspondence related to the requests, copies of the documents responsive to the requests, and records of appeals or litigation, and disclosure accounting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et seq. and 28 CFR 16.40 et seq.

PURPOSE OF THE SYSTEM:

The FOI/PA Branch of CRT is the designated unit to receive, process and respond to CRT FOI/PA requests. The purpose of the system is to enable the unit to perform its various receipt and response functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records contained in systems of records maintained by *CRT*; (3) A record may be disseminated to volunteer student workers and students working under a work-study program as is necessary to enable them to perform their assigned duties; (4) a record relating to this system, or any facts derived therefrom, may be disseminated in a proceeding before a court, grand jury, administrative or regulatory proceeding or any other adjudicative body before which *CRT* is authorized to appear, when the United States, or any agency or subdivision thereof, is a party to litigation or has an interest in litigation and such records are determined by *CRT* to be arguably relevant to the litigation; and (5) a record relating to this system may be disseminated to an actual or potential party to litigation or the party's attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining or in formal or informal discovery proceedings.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information in the system may be disclosed as is necessary to respond to inquiries by Members of Congress on behalf of individual constituents that are subjects of CRT records.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION:

(NARA) AND TO THE GENERAL SERVICES ADMINISTRATION (GSA):

A record from a system of records may be disclosed as a routine use *NARA and GSA* to in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in alphabetical order in *file folders in a storage facility; abbreviated or summarized information is stored on manual index cards; in chronological, cumulative, notebooks; on disks in automated office equipment; and on magnetic disks and tapes.*

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records.

Summary data on requests received through 1986, and part of 1987, is retrieved from the manual index cards, and from chronological cumulative notebooks; summary data as of the 1987 implementation of the computer system is retrieved from magnetic disks and tapes. Summary data consists of such data elements as name of requester, date and subject of request, response date a summary of the response letter, case number, and date appealed, if applicable.

SAFEGUARDS:

Access to records is limited to personnel of the FOI/PA Branch of *CRT* and known Department of Justice personnel who have a need for the record in the performance of their duties.

Records in manual and computer form are safeguarded and protected in accordance with applicable Departmental security regulations for systems of records. Only a limited number of FOI/PA Branch staff who are assigned specific identification codes will be able to use the computer and to access the stored information. All records in the system are protected by locks on the storage facility, the computer, and the room that contains the records.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with General Records Schedule 14, items 16, 17, 18 and items 25, 26, 27 and 28.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Parts of this system are exempted from this requirement under 5 U.S.C. 552a(j)(2) or (k)(2). Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Parts of this system are exempted from this requirement under 5 U.S.C. 552a (j)(2), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or any other information which is known and may be of assistance in locating the record. The requester shall also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend non-exempt information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in CRT.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain categories of records in the system *pursuant to the provisions of 5 U.S.C. 552a (j)(2) from subsections (c)(3), (d), and (g) of 5 U.S.C. 552a; in addition, certain categories of records are exempted pursuant to the provisions of 5 U.S.C. 552a (k)(2) from subsections (c)(3), and (d) of 5 U.S.C. 552a.* These exemptions apply only to the extent the records contained in the system reflect investigatory law enforcement information. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

[FR Doc. 87-6075 Filed 3-25-87; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Clean Air Act Enforcement Action; Dow Chemical Co.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Dow Chemical Company* (G-85-351) was lodged with the United States District Court for the Southern District of Texas on March 9, 1987. The proposed decree concerns compliance with the National Emission Standard for Hazardous Air Pollutants (NESHAP) for vinyl chloride at Dow's ethylene dichloride/vinyl chloride facility in Freeport, Texas. The proposed decree requires the defendant to comply with the Clean Air Act and the NESHAP for vinyl chloride and to pay a total civil penalty of $117,500.

The Department of Justice will receive for thirty (30) days from the publication date of this notice written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States* v. *Dow Chemical Company*, 90-5-2-1-773.

The proposed consent decree can be examined at the office of the United States Attorney, Courthouse and Federal Bldg., 515 Rusk Avenue, Houston, Texas 77002 and at the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree can be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.44 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-6358 Filed 3-25-87; 8:45 am]

BILLING CODE 4410-01-M

Information Collection Activities Under OMB Review

March 23, 1987.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of informamtion under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Agency Clearance Oficer (from whom a copy of the form/supporting documents is available); (2) the office of the agency issuing the form; (3) the title of the form; (4) the agency form number, if applicable; (5) how often the form must

be filled out; (6) who will be required or asked to report; an estimate of the number of responses.; (7) an estimate of the total number of respondents; (8) an estimate of the total number of hours needed to fill out the form; (9) an indication of whether Section 3504(h) of Pub. L. 96-511 applies; and, (10) the name and the telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *AND* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer *AND* the Agency Clearance Officer of your intent as early as possible.

Department of Justice Agency Clearance Officer: Larry E. Miesse, 202/633-4312.

New Collection(s)

(1) Larry E. Miesse, 202/633-4312
(2) Bureau of Justice Statistics, Department of Justice
(3) NATIONAL CRIME SURVEY (NCS) PRETEST
(4) NCS-1(X), NCS-2(X), NCS-3(X), NCS-500
(5) Quarterly (pretest, twice only)
(6) Individuals or households. The National Crime Survey is a program for gathering, analyzing, publishing and disseminating statistics on the kinds and amount of crime committed against households and individuals throughout the Country. Respondents in this pretest include persons 12 years or older living in 150 households in the Washington, DC, area
(7) 150 respondents
(8) 225 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill-395-7440

(1) Larry Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) AFFIDAVIT CONFIRMING SEASONAL AGRICULTURAL EMPLOYMENT OF AN APPLICANT FOR TEMPORARY RESIDENCE STATUS
(4) I-705
(5) One time
(6) Individuals or households, businesses or other for-profit, small businesses or organizations, farms. Public Law 99-603 provides in part for the granting of temporary residence to aliens who can establish that they performed seasonal agricultural services in the United States.
(7) 700,000 respondents
(8) 116,200 burden hours
(9) Not applicable under 3504(h)
(10) Jeff Hill, 395-7340

Larry E. Miesse,

Clearance Officer, Department of Justice.

[FR Doc. 87-6539 Filed 3-25-87; 8:45am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Termination of Final Judgment; United States v. The Greyhound Corp.

Notice is hereby given that The Greyhound Croporation ("Greyhound") and GLI Holding, Inc. ("Holding") have filed with the United States District Court for the Northern District of Illinois, Eastern Division a motion to terminate the final judgment in *United States* v. *The Greyhound Corporation,* Civil No. 57C1107; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on June 27, 1957) alleged that Greyhound had monopolized and engaged in a combination and conspiracy to monopolize the intercity bus transportation industry. The judgment (entered on June 27, 1957) enjoins Greyhound from: (1) Entering into agreements to restrict the sale of buses; (2) allocating territories with other bus operators; (3) restricting other bus operators from using any terminal facilities not owned or controlled by Greyhound; (4) purchasing any commodity from any person owning more than three percent of Greyhound's capital stock; (5) having as an officer, director, or employee any person also an officer, director, or employee of any domestic bus manufacturer not owned by Greyhound; (6) seeking or knowingly receiving terms, prices or services in connection with the purchase of buses or fuel which are not available to other bus operators; (7) selling any bus under terms limiting its use or resale; (8) having its directors, officers, employees or agents comprise more than one-third of the board of the National Bus Traffic Association; (9) conditioning the use of its terminals by other bus operators on agreements not to compete with Greyhound; (10) discriminating against a bus operator using its terminals; or (11) evicting another bus operator from its terminals except for noncompliance with reasonable tenancy agreements.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the compliant and final judgment, Greyhound and Holding's motion papers, the stipulation containing the Government's consent, the Department's memoraudum and all further papers filed with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202/633-2481), and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Federal Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the thirty day period established by court order, and will be filed with the court. Comments should be addressed to James R. Weiss, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 Fourth Street, NW., Washington, DC 20001 (telephone 202/724-6349).

Dated: March 18, 1987

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 87-6662 Filed 3-25-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances; Proposed Revised 1987 Aggregate Production Quota for Methylphenidate

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed revised 1987 aggregate production quota for methylphenidate.

SUMMARY: This notice proposes a revision in the 1987 aggregate production quota for methylphenidate, a Schedule II controlled substance. Since the establishment of the 1987 aggregate production quota on December 30, 1986 (51 FR 47071), the Drug Enforcement Administration has reviewed data submitted by the registered manufacturers on actual 1986

dispositions, year-end inventories, and other information and has determined that a revision of the previously established quota for methylphenidate is necessary.

DATE: Comments or objections should be received on or before April 27, 1987.

ADDRESS: Send comments or objections in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On December 30, 1986, a notice of the 1987 aggregate production quotas was published in the **Federal Register** (51 FR 47071). Ciba-Geigy and MD Pharmaceutical filed various responses, including a petition for review and requests for a hearing on either the initial aggregate production quota for methylphenidate or the manufacturer's initial individual manufacturing quota for that substance.

The December 30, 1986 notice stated that the quotas assigned therein were subject to adjustment in early 1987. Pursuant to 21 CFR 1303.23(c), the Drug Enforcement Administration has examined 1986 disposals, year-end inventories, the Food and Drug Administration's estimate of legitimate medical need for methylphenidate (from 1986 to 1987) and the requirements for a new dosage form of methylphenidate to be manufactured by one of the aforementioned registrants in 1987. Based on the evaluation of previously mentioned information, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the following changes in the 1987 aggregate production quota for methylphenidate, expressed in grams of anhydrous base:

Schedule II	Previously established 1987 aggregate production quota	Proposed revised 1987 aggregate production quota
Methylphenidate	1,566,000	2,682,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Dated: March 11, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–6520 Filed 3–25–87; 8:45 am]

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Immigration and Naturalization Service

Cooperative Agreement; Designated Entities Authorized to Receive Legalization and Special Agricultural Worker Applications for Temporary Residence on Behalf of the Attorney General; Availability of Funds for Fiscal Years 1987, 1988 and 1989; Republication

Summary: The Service has amended its notice regarding the availability of funds in fiscal years 1987, 1988 and 1989 for cooperative agreements in response to requests received from the public.

The Service has also extended the deadline for submitting applications for cooperative agreements from March 31, 1987 to April 10, 1987.

The Service will award cooperative agreements to organizations and persons to provide information and assistance to aliens applying for temporary residence under the legalization and special agricultural worker provisions of the Immigration Reform and Control Act of 1986.

The notice on the cooperative agreement was published by the Service on Monday, March 2, 1987, Notices; **Federal Register** Vol. 52, No. 40, Page 6230.

In response to requests from potential qualified Designated Entities interested in participating in the program, the Service has made the following changes in the cooperative agreement notice.

The Service has amended the definition of "association of agricultural employers" in order to encourage more participation of farmer and grower groups. The new definition is more flexible, while maintaining the requirements of nonprofit status, nominal fees/donations and immigration counseling or other similar benefit counseling expertise.

The Service has clarified the matter of Designated Entities interested in limiting their services to a class or classes of temporary residence applicants. In keeping with the nondiscrimination prohibitions of the cooperative agreement, a Designated Entity may limit its services to a class or classes of applicants, provided it does not discriminate on the basis of race, sex, age, religion, national origin, handicapped persons, etc., and if based on membership, so long as that membership is not defacto discriminatory.

A Designated Entity limiting its services accordingly shall not link its services to any future act on the part of the applicant; it shall not coerce persons to become members or accept a job in return for performing counseling assistance. Moreover, such Designated Entities must refer applicants not included in the classes they assist to alternative non-restrictive Direct Service Provider sites.

The Service has clarified the matter of nominal fees/donations assessed by Designated Entities counseling their applicants. The Service has determined that the Seventy-five ($75.00) dollar limit imposed on counseling services and Twenty-five ($25.00) dollar limit for photography and fingerprinting are fair and reasonable and will be maintained in the cooperative agreement. Since the INS never intended ancillary services incidental to counseling, such as photocopying, correspondence, postage, telephone calls, etc., to be covered by

the $75.00 limit, these expenses are exempted from the cap. Because of the considerable documentary requirements of applicants seeking temporary residence, exempted also are extensive counseling related to documentation retrieval and waiver preparation. The Designated Entity may perform ancillary and extensive counseling services, provided nominal fees and/or donations are assessed for these services. The Service will give preference to applications from Designated Entities that contain nominal fees/donations for ancillary and extensive counseling services within the $75.00 cap.

The Service has raised the start-up funding for National Coordinators in order that such entities enhance the implementation of their programs. Start-up funding is available only in federal fiscal year 1987 and will be based on the National Coordinators' reasonable and credible projections of the numbers of qualified applications to be filed with INS during the temporary residence program. Upon INS approval of the projections, National Coordinators will be paid Seventy-five (.75) cents for each of the total number of projected applications to be filed with INS. The Service had previously set Fifty (.50) cents per projected application as the start-up funding basis.

The Service has determined also to pay the National Coordinators the established amount of Sixteen ($16.00) dollars per qualifying application, once the National Coordinators have submitted sufficient applications to equal their start-up payment. Previously, the Service had stated it would reconcile the payments after the temporary residence application period ended.

Solely for clarity and technical reasons, the Service has restructured the section on the obligation of funds to National Coordinating Agencies and Direct Service Providers in fiscal years 1987, 1988 and 1989.

DATE: Applications for cooperative agreements are now due on or before April 10, 1987.

Introduction: The Immigration and Naturalization Service (INS) announces the availability of funds in fiscal years 1987, 1988 and 1989 for cooperative agreements for organizations and persons to provide information and assist aliens applying for temporary residence under the legalization and special agricultural worker provisions of the Immigration Reform and Control Act of 1986 (IRCA or "The Act").

The cooperative agreement will be awarded and administered by INS under the authority of Title II, section 201 of the Act. Cooperative agreements will be in operation from their award dates to the end of fiscal year 1987 (September 30, 1987) with extensions possible upon written mutual consent.

The purpose of the cooperative agreement program is for voluntary organizations and other qualified State, local, community, farm labor organizations, associations of agricultural employers and certain qualified persons (hereinafter all known as "Designated Entities"), to provide information and assistance in a risk-free environment to aliens seeking to apply for legalization/special agricultural worker temporary residence. This effort is designed to encourage mass participation by eligible applicants.

The INS will ensure that such designated entities involved in the cooperative agreement program are trained to assist applicants. This will enable the INS to receive properly completed and documented applications from such organizations or persons, thus reducing INS officers' adjudication time. It will also discourage aliens from submitting frivolous applications at INS offices, thus avoiding an unnecessary workload.

The broad range of activities covered in the cooperative agreement fall within the scope of the Service's implementation tasks.

The objectives of this program are as follows:

1. To implement the Immigration Reform and Control Act of 1986 and encourage mass participation of eligible aliens in the legalization/special agricultural worker programs.

2. To develop qualifications and standards for voluntary organizations and other qualified State, local, community and farm labor organizations, associations of agricultural employers and certain qualified persons to participate in the legalization/special agricultural worker programs.

3. To sign cooperative agreements and develop a network of qualified and trained designated entities to assist the application process.

4. To develop, organize and train staffs of designated entities to assist applicants seeking to file applications for temporary residence under the Act.

5. To monitor the activities of the designated entities, i.e., quality control of application assistance and preparation of applications according to law and regulations, production standards, dissemination of information to general public, required reports, training, etc., and general compliance of the cooperative agreement.

The Deputy Commissioner, INS, shall be authorized to approve cooperative agreements with designated entities. An INS Contracting Officer will execute approved cooperative agreements. The INS shall appoint a Government Project Manager (GPM) who shall have authority under the Commissioner, INS, to direct the overall implementation and coordination of this cooperative agreement.

Cooperative Activities

I. Designated Entities

Designated entities will participate in the cooperative agreement as National Coordinating Agencies or Direct Service Providers. Organizations referred to as coordinators of affiliates are designated as National Coordinating Agencies. Independent counseling organizations and national coordinating affiliates that provide direct information and assistance are designated as Direct Service Providers. In certain situations, it may be possible for a National Coordinating Agency to function also as a Direct Service Provider. Persons will participate as Direct Service Providers.

Direct Service Providers will be given the option of providing facilities for INS to interview applicants for adjudication.

A. National Coordinating Agencies will perform the following tasks:

1. Appoint a national project director who has the authority and ability to carry out the following tasks regarding the establishment, operation and closure of direct service sites:

a. For the purpose of program coordination, consult with INS regarding direct service site location and time phase-in of sites.

b. Develop for INS approval written agreements with local direct service sites that incorporate the requirements and provisions established in the cooperative agreement.

c. Assure the continued efficient operation of each direct service site within agreed-upon service levels.

d. No unilateral site closures or openings will be permitted without prior notification, negotiation and approval of the INS.

2. In the areas of training, technical assistance and public information, the national project director shall perform the following tasks:

a. Cooperate and coordinate with INS in the training of direct service site staff both initially and on an as-needed basis.

b. Provide technical assistance to direct service sites as required.

c. Resolve problems that may be detected in the monitoring system or that might otherwise come to the attention of the National Coordinating Agency or INS.

d. Distribute public information materials prepared by the INS for the legalization/special agricultural worker programs.

3. Reports:

a. Brief, one to two-page quarterly activity reports will be submitted to the INS by the thirtieth (30th) day of the third month of each quarter. These reports will include: a statement of National Coordinating Agency activities conducted during the current quarter, activities planned for the next quarter, problems encountered, related technical assistance needs, and issues regarding the overall operation of the program, and interim recommendations.

b. A draft final report will be submitted to the INS thirty (30) days prior to expiration date of the cooperative agreement. This report is not to be a compilation of monthly reports, but rather a summarization of activities and observations of the program from the viewpoint of the National Coordinating Agency so that future efforts may be able to rely on the experiences of this effort. After ten (10) days review and comment by INS, the draft final report will be returned to the National Coordinating Agency, with the final copy due to the INS on the final day of the agreement period.

c. Other reasonable work-flow reports as requested.

4. Meetings: The national project director will meet with INS representatives, as scheduled or as needed.

5. Biographic Information: National Coordinating Agencies, all their affiliates (through the National Coordinating Agencies) shall maintain on file the following information on all their employees working under this Cooperative Agreement: complete name, date and place of birth, citizenship or nationality and current address. This shall be made available to INS representatives upon request.

6. All program files and records must be kept for at least three years after the expiration date of the cooperative agreement or after the date of receipt of the last payment, whichever is later.

7. No information gained about specific applicants, other than summary statistics, may be released to INS or to other individuals, agencies or offices, except in accordance with Privacy Act regulations.

B. Direct Service Providers

1. A Direct Service Provider is one that has satisfied all the terms and conditions stated below and has entered into an INS approved written agreement, either directly as an independent Direct Service Provider or as an affiliate of a National Coordinating Agency which in turn has an approved written agreement directly with INS.

A Direct Service Provider will provide information and assist applicants to complete and submit their applications at an appropriate INS Legalization Office. Such applications filed with a Direct Service Provider shall be stamped with an endorsement as to the date of preparation and authorization for transmittal. An application is considered "filed-and-accepted" by INS when it has been accepted for adjudication by INS. It will be accepted by the Service when a complete application and filing fee, if required, has been accepted and a receipt issued.

The Direct Service Provider will appoint an on-site manager with the authority and ability to carry out the following tasks:

a. For the purposes of program coordination, consult with INS regarding direct service site location and time phase-in of sites. If the Direct Service Provider is an affiliate of a National Coordinating Agency, this task will be coordinated by the National Coordinating Agency and the INS.

b. Assure the continued efficient operation of the direct service site.

c. No unilateral site closures or openings will be permitted without prior negotiation with and approval by the INS. If the Direct Service Provider is an affiliate of a National Coordinating Agency, this activity will be coordinated by the National Coordinating Agency and the INS.

2. The Direct Service Provider will perform the following tasks regarding the facility and equipment:

a. The local Direct Service Provider site will be furnished and meet all State and local fire codes and other codes designed to protect the health and safety of staff and visitors.

b. The facility will be equipped with sufficient chairs, tables, desks, phones, files, etc., to allow the orderly flow of work and public waiting, and provide information and assistance in a secure, private, orderly fashion.

c. The facility will have controlled storage space for INS forms.

3. Staff Responsibilities:

a. Sufficiently trained staff will be made available to provide information and assist applicants to complete the required forms (training will be provided by INS and National Coordinating Agency).

b. The staff will comply with all legalization program and related regulations and follow the procedures prescribed by INS.

4. Information and Assistance includes the following:

a. Distribute forms and provide information regarding eligibility requirements to interested persons.

b. Review and assure accuracy of applicant's claim to legalization or special agricultural worker temporary residence, provide general information regarding supporting documentation requirements, review applicant's application for completeness.

c. Provide general assistance as is necessary (type or print) in order to help complete the INS application form.

d. Assure accuracy and assemble the supporting documents, provide certification of copies of documents, assemble and attach documentation to the INS application.

e. Complete the fingerprint form and attach photographs to application.

f. Attach the medical record to the application.

g. Provide general information about waiver requirements.

h. Advise the applicant to purchase the required financial instruments to cover the INS filing fee, if required, for each applicant and submit with the application and fee to INS.

i. Filing date: The date the alien submits a completed application to an INS Legalization Office or Direct Service Provider shall be considered the filing date of the application, provided that in the case of an application filed at a Designated Entity the alien has consented to having the Designated Entity forward the application to the Legalization Office having jurisdiction over the location of the alien's residence. The designated entities are required to forward completed applications to the appropriate INS Legalization Office within sixty (60) days of receipt.

j. Advise the applicant about filing the application: According to IRCA, the applicant must provide consent in writing before application is forwarded to INS; consent certification must be signed by both the applicant and the preparing member of the Direct Service Provider; such consent documentation must be attached to the application to be submitted to INS.

k. Provide other advice to applicant, including:

(1) Where, when and how to file the application, including financial instruments to cover application filing fee.

(2) The responsibilities of residency, if approved, including taxes, Selective Service registration, etc.

(3) The procedures if the application is not approved including INS procedures for making criminal record checks,

employment checks, public charge checks, etc.

(4) The penalties for fraudulent documents. Applicants with fraudulent documents shall be advised not to file applications with the Service. Applicants not qualified shall be advised that they will remain in an illegal status and are subject to possible apprehension and deportation.

5. The site manager will respond to inquiries from INS officers in a timely manner on cases requiring return and follow-up action and other related application inquiries.

6. Fingerprinting/Photographic Services: The Direct Service Provider site may maintain on-site facilities, equipment and trained staff for fingerprinting and photographic services. Applicants will be given the option of having their fingerprints taken on-site or at any other non-INS facility (e.g., police station). A nominal fee reflecting local price structures may be charged for these services. This fee is subject to the review and approval of INS. The fee for photography and fingerprinting shall not exceed Twenty-five ($25.00) dollars. Direct Service Providers may not take fingerprints or photographs of applicants at INS facilities, unless authorized by the District Director or Officer-in-Charge.

7. Public Information: The Direct Service Provider will publicize the availability of the facility on a regular basis through the area media and through churches, schools, community organizations, ethnic groups, etc.

8. Representation and Referral Conditions:

a. To avoid any action which might result in or create the appearance of giving preferential treatment to any person, losing independence or impartiality, or affecting adversely the confidence of the public in the integrity of the program or the Government, no fee or donation may be solicited, accepted or required by the Director Service Provider site for the information and assistance activities covered in items 4.a through 4.k of this section above except photographic and fingerprint services as discussed.

(1) The Direct Service Provider may request a suggested nominal fee or donation for immigration counseling services related to the preparation of the application. The cumulative fees/donations for any applicant shall not exceed Seventy-five ($75.00) dollars for counseling services plus photography and fingerprinting not exceeding Twenty-five ($25.00) dollars.

(2) Ancillary expenses incident to counseling, such as photocopying, correspondence, postage, telephone calls, messenger service, notarizations and translations are exempted from the $75.00 counseling cap. Exempted also are extensive counseling related to documentation retrieval and waiver preparation. The Designated Entity may perform the ancillary and extensive counseling services, provided nominal fees and/or donations are assessed for these services.

(3) Nominal fees/donations are subject to review and approval of INS. Such nominal fees/donations must be nominal for the applicant, not the Designated Entity.

(4) The Service will give preference to Designated Entities that contain the nominal fees/donations for ancillary and extensive counseling services within the $75.00 cap.

b. No monies derived from the federal government in this agreement may be used in whole or in part to fund attorneys or representatives appearing before the Service in filing a G–28 Notice of Appearance in behalf of their clients.

c. Any referrals of applicants to fee-charging or donation-accepting centers must be general rather than specific (i.e., a list of organizations, attorneys etc.).

9. Monitoring and technical assistance: The certified Direct Service Provider site will cooperate in all monitoring activities by the INS as set out in this agreement. Monitoring is limited to the review of site personnel and procedures as specified in this agreement. Such monitoring shall not, however, relate to any confidential information regarding applicants for the legalization/special agricultural worker programs.

10. Reports:

a. The following records and reports are to be maintained by Direct Service Providers and reported to the INS upon request.

(1) Number of persons provided information (no names required).

(2) Other reasonable work-flow statistics requested by INS. (For example, existing caseloads, currency of interviews, case backlogs, number of persons seeking assistance during regular (8:00 a.m. to 5:00 p.m.) work hours versus extended hours; number of persons screened out as not qualified; more or less persons visiting site during first few months; frequent questions posed by those seeking information; or other trends indicating aliens' participation or non-participation in the legalization and special agricultural workers programs.)

(3) If the Direct Service Provider is an affiliate of a National Coordinating Agency, these reports will normally be reported to the INS through the National Coordinating Agency. In order for the INS to plan for anticipated workloads at INS offices or for INS interviews at facilities provided by Direct Service Providers, the INS may request and receive these reports directly from the Direct Service Providers.

b. Meetings: Direct Service Providers shall meet with the INS or its designated individuals on a mutually agreed upon schedule as necessary.

11. Biographic Information: Independent Direct Service Providers shall maintain on file the following information on all their employees working under this Cooperative Agreement: complete name, date and place of birth, citizenship or nationality and current address. This shall be made available to INS representatives upon request.

12. All program files and records must be kept by independent Direct Service Providers for at least three years after the expiration date of the cooperative agreement or date of receipt of final payment whichever is later.

13. No information gained about specific legalization applicants, other than summary statistics, may be released to INS or to other individuals, agencies or offices, except in accordance with Privacy Act regulations.

14. Direct Service Providers that provide INS with facilities to accept applications or conduct adjustment interviews for legalization/temporary resident applicants shall coordinate this activity through the district legalization officers. The government shall not pay or reimburse the direct Service Provider or any other entity for the use and maintenance of the facilities used for INS interviews. Tasks of the Direct Service Providers include:

a. Notifying INS of completed applications of persons consenting to be interviewed at the facilities.

b. Setting dates for the interviews, in coordination with INS.

c. Arranging for suitable facilities for interviews (tables, chairs, access to restroom facilities, etc.).

d. Notifying applicants of interview dates.

e. Assisting INS personnel assigned to facilities in the efficient interviewing of the applicants (queing, crowd control, arranging for photograph and fingerprint services, etc.).

II. INS Activities

The following activities relate to the collaborative and programmatic role of the INS:

A. Monitoring, training and technical assistance: INS will monitor, provide

technical training and technical assistance to Direct Service Providers. Both through its regional and district structures and national Outreach Program, INS will provide training, technical assistance and monitoring services. This may entail direct on-site observation and needs analysis, reports, and recommendations for improvements. Such monitoring, however, shall not involve access to confidential information, including all personal information as specified in the IRCA, without the consent of the applicant.

B. Disputes: Any dispute concerning a question of fact arising under the cooperative agreement which is not disposed of by agreement shall be decided by INS which shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the Direct Service Provider and its National Coordinating Agency, if applicable. The Designated Entity may appeal the decision to the INS Cooperative Agreement Review Panel.

C. Payments to National Coordinating Agencies and Direct Service Providers in fiscal years 1987, 1988 and 1989:

1. Obligation of funds:

a. Obligation of funds to provide payments on the basis of processed qualifying applications will be made by INS as necessary and appropriate during the term of this agreement. For financial management and other administrative purposes only, based on the projected number of qualified applications to be processed by the Designated Entity during this program, as specific amount of funds based on the project number of qualified applications at either $16 or $15 each is expected to be obligated and paid to the Designated Entity party to this agreement.

b. If the Designated Entity party to this agreement is a National Coordinator whose application for start-up funds has been approved by INS, a specific amount of funds will be obligated upon execution and consistent with the terms of this agreement. The amount of start-up funds is calculated in accordance with section 2. of this article.

2. Payments: Payments under this agreement shall be based on two measures: (a) for both National Coordinators and Independent Direct Service Providers, numbers of filing fee-supported temporary resident applications accepted for adjudication by INS (i.e., qualifying applications); and (b) for National Coordinators only, start-up efforts supported by agreement application data.

a. Payment for Temporary Resident Application Assistance: Fixed payments of Sixteen ($16.00) dollars for National Coordinators and Fifteen ($15.00) for Independent Director Service Providers will be authorized for each completed, filing-fee supported temporary resident application filed with and accepted for adjudication by INS. There will be no payments for applications not requiring INS filing fees.

b. Payment for Start-Up Efforts:

(1) National Coordinators may request start-up payment. Approved start-up payments are to be used to: (a) Organize nationwide networks of affiliates to which INS can refer persons seeking application and other assistance; (b) train affiliate staffs to prepare temporary resident applications; and (c) provide technical assistance, to monitor and to coordinate their affiliate networks.

(2) Start-up funding is available only in federal fiscal year 1987 and will be based on the National Coordinators' reasonable and credible projections of the numbers of qualified applications to be filed with INS during the temporary residence program. Projections shall be based on the site plans submitted with the cooperative agreement applications which will identify: (1) Specific locations of affiliated sites; (2) numbers of full-time and part-time staff to be employed in this program; (3) use of volunteers; and (4) application capacities of the sites. The INS GPM will review the projections for reasonableness and accuracy and may adjust them if necessary or appropriate.

(3) Upon INS approval of the projections, National Coordinators will be paid Seventy-five (.75) cents for each of the total number of projected applications to be filed with INS. (For example, a National Coordinator projecting a total of 300,000 applications during the program period may be initially paid up to $225,000.)

(4) INS will reduce its otherwise normal payment of Sixteen ($16.00) dollars per qualifying application at the rate of at least One ($1.00) dollar per qualifying application until the start-up payment amount has been equaled. Thereafter, National Coordinators will be paid the established amount of Sixteen ($16.00) dollars per qualifying application. The "sixteenth" or extra dollar paid to National Coordinators will support continuing satisfaction of the requirements noted in 2.b.(1.) above.

(5) INS reserves the right to demand immediate return of unspent start-up funds or to withhold payment of any start-up funds remaining with INS if a National Coordinator's cooperative agreement is suspended or terminated.

3. Payment Procedures:

a. Upon periodic receipt of INS data the GPM will authorize payment of the appropriate and established fixed amount (either $16.00 and $15.00 as described earlier) for each qualifying application (i.e., applications requiring an INS filing fee which have been filed with and accepted by INS for adjudication). A numerical total of qualifying applications, subtotaled for National Coordinators by affiliated Direct Service Provider sites, along with a notice of scheduling for payment of the approved total, will be sent to the recipient.

b. Payments will be made monthly for qualified applications received by INS during the preceding month. The processing of applications from the time of receipt at the INS processing center to data entry is not expected to exceed sixty (60) days.

c. Payments under this program are considered to be reasonable for services rendered and to have been earned when received. No further accounting for or of these funds is required.

d. Any alleged discrepancy between the recipient and INS on payment amounts shall, within a reasonable time, be submitted to the INS GPM in writing with substantiating documentation.

D. Suspension and Termination for Cause: Should a Direct Service Provider be found by INS monitors not to be adequately performing under the terms of this cooperative agreement or promoting, or engaging in, a violation of the immigration laws, the INS may suspend or terminate the agreement. Notice of intent to suspend or terminate the agreement shall be given in writing to the Site Manager and/or the National Coordinator. After consultation, with opportunity for timely and effective remedial action by the National Coordinating Agency or the Direct Service Provider, whichever is applicable, the INS may suspend or terminate the agreement. The site will remain under suspension until it is able to demonstrate to the satisfaction of the INS that remedial actions have been taken. During the period of suspension no reimbursements will be made for applications submitted from that site, nor may the site represent itself or be affiliated in any way with INS. Notice of suspension or termination may be made by INS in the **Federal Register** or the media as deemed necessary or appropriate.

E. Responsibilities:

1. The INS staff assigned on-site will be responsible for reviewing applications completed by the Direct Service Provider and interviewing applicants. Applicants will not be arrested at the Direct Service Provider sites because of their illegal alien status.

Applicants may come to a site to seek information without risk. No INS staff will be assigned to Direct Service Provider sites that decide not to provide facilities for INS adjustment of status interviews.

2. INS recognizes that the Designated Entity may be engaged in a wide range of other immigration counseling, refugee resettlement, social services and other business activities, and it does not in any way intend to limit the performance of such other activities for the receipt of fees, or donations for these services. Nothing in the cooperative agreement shall be construed as a prohibition against performances of such other services or activities not related to the legalization/special agricultural worker programs.

III. Compliance With Federal and State Laws

A. In the performance of the work authorized pursuant to this Cooperative Agreement, the Designated Entity agrees to comply with all applicable federal and state laws, rules and regulations which deal with or relate to the employment by the recipient of the employees necessary for such performance.

B. In compliance with IRCA and INS regulations, all Designated Entities shall hire only United States citizens or aliens authorized to be employed. Designated Entities shall comply with INS regulations relating to interviewing acceptable prospective employees, checking acceptable documents establishing both identity and employment authorization, and preparing in a timely manner required by INS regulations and maintaining on file Form I–9 "Employment Eligibility Certification" for each employee hired. Form I–9 will be made available for inspection by the Service or the Department of Labor.

C. Nondiscrimination:

1. The Designated Entity agrees to assist any and all temporary resident applicants without discrimination in accordance with the following laws:

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d 1–4)

b. The Age Discrimination Act of 1965 (42 U.S.C. 6101).

c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

2. A Designated Entity may limit its services to a class or class of applicants (special agricultural workers, union members, civic or cultural organization members, etc.,) provided that it does not discriminate on the basis of race, sex, age, religion, national origin, handicapped persons, etc., and if based on membership, so long as that membership is not defactor discriminatory.

a. A Designated Entity choosing to limit its services to a class or classes of applicants for reasons described above may not in its public or private representation of the temporary resident program intimate in any manner that the benefits of the program are in any way affiliated with membership in that organization.

b. A Designated Entity limiting its services to a class or classes of applicants shall not link its services to any future act on the part of the applicant; it shall not coerce persons to become members or accept a job in return for performing counseling assistance.

c. A Designated Entity limiting its services to a class or classes of applicants must publicly display in its facilities alternative non-restrictive Direct Service Provider sites in the area to which other applicants can be referred.

IV. Eligible Applicants

For purposes of expediency and efficiency, the INS has set a deadline for the initial review cycle of proposals. Later applications may be reviewed at the discretion of the INS. Eligible applicants are the following: national voluntary agencies and other national organizations and their affiliates; local independent voluntary agencies; community and ethnic organizations; state, county or municipal organizations; farm labor organizations, associations of agricultural employers, and designated persons whom the Attorney General determines are qualified and have substantial experience, demonstrated competence and traditional long-term involvement in the preparation of applications under section 209 or 245 of the Immigration and Nationality Act or Pub. L. 89–372 or Pub. L. 95–145.

In order for a voluntary agency or other national organization, farm labor organization or association of agricultural employers to be designated as a National Coordinator, such organization must demonstrate that it projects to receive and has the capability to process at least 50,000 temporary resident applications during the duration of the legalization and special agricultural workers application periods.

Entities recognized by the Board of Immigration Appeals (BIA) on or before March 2, 1987, are prima facie eligible to participate in the program. Other entities must meet the following eligibility requirements:

A. National Voluntary Agencies and Other National Organizations

1. To be designated as a national voluntary agency or other national organization (social service, religious, ethnics, civic, patriotic, labor, etc.) with established networks of community-based affiliates to participate in the legalization/special agricultural worker programs on a cooperative agreement basis, such organizations must meet the following requirements:

a. It shall have a 501(c) (3), (4), (5), (6), (16) or (20) nonprofit status (i.e., religious, charitable, social service or similar organization established in the United States). Such organization must also establish that it:

(1) Assesses only nominal fees or donations and does not charge excessive membership dues for person given application assistance; and

(2) Has at its disposal adequate immigration knowledge, information and experience, or has experience in immigration counseling or similar counseling for other statutory benefits provided under federal, state or local law, or has a staff with previous immigration counseling experience or experience in similar statutory benefit counseling.

b. A local organization shall be officially affiliated through a subagreement with a recognized, national nonprofit voluntary agency and shall itself meet the following requirements: It has a nonprofit status as described above. Such organization must also establish that it:

(1) Assesses only nominal fees or donations and does not charge excessive membership dues for person given application assistance; and

(2) Has at its disposal adequate immigration knowledge, information and experience, or has experience in immigration counseling for other statutory benefits provided under federal, state or local law; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

2. To reduce the number of cooperative agreements the INS would have to enter into, the INS shall not enter into agreements directly with organizations affiliated with national agencies, unless such national agencies do not enter into a cooperative agreement with the INS or consent to the affiliate's independent application. In order to participate in the legalization/special agricultural worker program the affiliates shall work through their national organization on a

subcontract or subordinate agreement basis.

B. Local Independent Voluntary or Community Organization

1. A local independent voluntary agency or community or ethnic organization, not affiliated with a national voluntary agency, shall be designated as a qualified Direct Service Provider if such organization meets the following requirements: It has a nonprofit status as described above. Such organization must also establish that it:

(a) Assesses only nominal fees or donations and does not charge excessive membership fees for persons given application assistance; and

(b) has at its disposal adequate immigration knowledge, information and experience; or has experience in immigration counseling for other statutory benefits provided under federal, state or local law, or a staff with previous immigration counseling experience, or similar experience in statutory benefit counseling.

2. Affiliates of national organizations that do not enter into a cooperative or other subagreement with their national organization according to section A (2) above shall be considered as local independent organizations if such entities meet the requirements in this section B (1) above.

3. Local independent voluntary agencies shall be permitted to subcontract or enter into agreements with independent voluntary agencies in their areas, provided that latter agencies meet the definition of a qualified voluntary agency as defined in part A above under this Section III.

C. State, County or Municipal Government Agencies

1. An official agency of a state, county or municipal government shall be designated as a Direct Service Provider if such agency meets the following requirements:

a. It makes only nominal charges for services rendered in the application process; and

b. It has at its disposal adequate immigration knowledge, information and experience, or has experience in counseling aliens for other statutory benefits provided under federal, state or local laws; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

2. A state, county or municipal government agency may include geographical government units in the legalization/special agricultural worker programs provided the geographical government units meet the requirements cited above under part A in this Section III.

D. Farm Labor Organizations

1. A farm labor organization shall be designated as a National Coordinator or a Direct Service Provider if it can establish that:

a. The organization is an entity that provides job training/employment services to migrant and seasonal farm workers, or

b. The organization is an official labor union affiliated with the American Federation of Labor–Congress of Industrial Organizations ((AFL–CIO) or other similar national labor organization recognized by the National Labor Relations Board or federal, state, county or municipal government.

2. In addition, the organization must also establish that:

a. It has a nonprofit status as described above;

b. It assesses only nominal fees or requests donations for the application process and does not charge excessive dues for persons given application assistance;

c. It has at its disposal adequate immigration knowledge, information and experience, or has experience in counseling aliens for other statutory benefits provided under federal, state or local laws; or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

E. Association of Agricultural Employers

1. An association of agricultural employers shall be designated as a National Coordinator or a Direct Service Provider if it establishes that the organization meets the following definition: The term "association of agricultural employers" means any nonprofit or cooperative association of farmers or growers, or of associations, federations, or consortia of farmers or growers, incorporated or qualified under applicable state law.

2. In addition, the organization must also establish that:

a. It has a nonprofit status as described above;

b. It assesses only nominal fees or requests donations for the application process of the legalization/special agricultural worker programs;

c. It has at its disposal adequate immigration knowledge, information and experience, or has experience in counseling aliens for other statutory benefits provided under federal, state, or local laws, or has a staff with previous immigration counseling experience or similar statutory benefit counseling.

F. Persons Designated as Direct Service Providers

1. A person may be designated as a Direct Service Provider if he/she has demonstrated substantial experience, competence and long-term (e.g., ten (10) or more years) involvement in the preparation and submission of applications to the INS for adjustment of status under sections 209 or 245 of the Immigration and Nationality Act of Pub. L. 89–372 or Pub. L. 95–145.

2. Such person must assess only nominal charges to applicants or potential applicants assisted in the legalization/special agricultural worker programs.

3. Such person may function alone or with staff counselors as the owner or proprietor of a private organization which has at its disposal adequate knowledge, information and experience in immigration counseling.

V. Submission and Review of Applications (Initial Cycle)

A. For consideration in the initial cycle, an original and six copies of the application should be received on or before 4:30 p.m., April 10, 1987, at:

Immigration and Naturalization Service,
425 I Street, NW., Room 6230,
Washington, DC 20536.

B. Applications from National Coordinators and their affiliates will be reviewed by a panel headed by the Deputy Commissioner, INS. Applications from independent Direct Service Providers will be reviewed by District Directors in whose jurisdiction the Direct Service Providers are located. Final approval and selection authority for all applications rests with the INS Deputy Commissioner. An INS Contracting Officer will execute approved cooperative agreements.

C. Late or incomplete applications may be deferred until other review cycles are accepted for review to assure adequate geographic coverage as solely determined by INS.

Questions should be directed to the INS Government Project Manager—Phone: (202) 633–4123. For copies of the application package and the cooperative agreement contract the GPM at the address above.

Dated: March 20, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87–6559 Filed 3–25–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period *March 9, 1987–March 13, 1987.*

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreases absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–98,988; Meridian Oil Co. (Formerly Southland Royalty Co), Midland, TX

TA–W–19,007; Siemens Energy & Automation, Inc., Norwood, OH

TA–W–18,954; The Anschutz Corp., Denver, CO

TA–W–18,955; The Anschutz Corp., Midland, TX

TA–W–18,973; Presto Lock, Inc., Garfield, NJ

TA–W–18,741; Bucyrus-Erie Co., South Milwaukee, WI

TA–W–18,811; American Recreation Products, Fayette, AL

TA–W–18,638; C–E Air Preheater, Marion, NC

TA–W–18,766; General Portland, Inc., Fort Worth, TX

TA–W–18,940; Rival Manufacturing Co., Albany, MO

TA–W–18,891; Floating Point Systems, Inc., Beaverton, OR

TA–W–18,861; Kay Townes, Inc., Rome, GA

TA–W–18,862; Astoria Oil Service, Inc., Astoria, OR

TA–W–18,890; Spear & Jackson, Inc., Eugene, OR

TA–W–18,873; Modern Industrial Plastics Div., The Duriron Co., Inc., Dayton, OH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–19,165; Westinghouse Electric Corp., Corporate Trucking Div., North Huntingdon, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,999; Island Creek Coal Co., Northern Div., North Branch Mine, Bayard, WV

U.S. imports of coal are negligible.

TA–W–19,079; Wolley Tool Manufacturing, Inc., Odessa, TX

U.S. imports of oil field machinery are negligible.

TA–W–19,133; Quanex Corp., Altantic Tube Div., South Plainfield, NJ

U.S. imports of seamless and welded carbon steel pipe and tubing declined absolutely and relative to U.S. shipments in 1985 compared with 1984 and in 1986 compared with 1985.

TA–W–18,887; National Supply Co., Gainesville, TX

U.S. imports of oil field machinery and pumps for oil field drilling are negligible.

TA–W–19,269; Cameron Iron Works, Inc., Houston, TX

U.S. imports of oil field equipment are negligible.

TA–W–19,060; Consolidation Coal Co., Horspen Strip Mine, Horspen, WV

U.S. imports of coal are negligible.

TA–W–19,115; Consolidation Coal Co., Coal Bank Strip Mine, Bishop, VA

U.S. imports of coal are negligible.

TA–W–19,070; Ranger Fuel Corp., Beckley #4 Mine, Beckley, WV

U.S. imports of coal are negligible.

TA–W–18,995; EIS Div., Standard Motor Products (Formerly Parker Hannifin Corp), West Bend, WI

Production declines at the subject firm resulted from a transfer of production to other domestic facilities.

TA–W–18,957; Tri-Valley Growers, Plant M, Merced, CA

U.S. imports of prepared or preserved peaches declined absolutely and relative to domestic shipments in 1985 compared with 1984 and declined absolutely in the first three quarters of 1986 compared with the same period in 1985.

TA–W–19,123; USX Corp., Edgar Thomson Works, Braddock, PA

U.S. imports of carbon steel sheet and strip and galvanized steel sheet declined absolutely and relative to domestic shipments in 1985 compared with 1984 and in the first three quarters of 1986 compared with the same period in 1985.

TA–W–19,192; LTV Steel Co., Cold Finished bar Plant, (Formerly Union Drawn Div. Plant), Massillon, OH

U.S. imports of cold finished carbon steel bars declined absolutely and relative to domestic shipments in the first three quarters of 1986 compared with the same period in 1985.

TA–W–19,265; The Western Co. of North America, Alice, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,039; Metro Hanger Corp., Metro Trimming Co., Boston, MA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,965; Crystal Spring Oil, Inc., Seneca, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,037; Roblin Steel Co., North Tonawanda, NY

U.S. imports of carbon steel bars and bar size light shapes and hot and cold rolled alloy steel farbs declined absolutely and relative to domestic shipments in January through September 1986 compared to the same period in 1985.

TA–W–19,188; International Shoe Co., Upper Shoe Dept., St. Louis, MO

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,003; Brown Shoe Co., North Jefferson St Plant, St. Louis, MO

The investigation revealed that criterion (1) has not been met. Production workers were essentially the same from 1984 to 1985 and increased in 1986 compared to 1985.

TA–W–19,286; C.R.C. Wireline Services, Odessa, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,291; Digicon Geophysical Corp., Denver, CO

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,294; Dual Drilling Co., Dallas, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,298; Grace Drilling Co., Odessa, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,319; Stanco Indulation, Roosevelt, UT

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,310; Neo-Seis, Inc., Billings, MT

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,326; Veritas Technical Service, Inc., Houston, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,329; Well Tech, Inc., McAllen, TX

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,118; LaBelle Processing Co., LaBelle, PA

U.S. imports of coal are negligible.

TA–W–19,010; Royal Coal Co., Beckley, WV

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,998; U.S. Steel Mining Co., Everson Central Shop, Everson, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,998A; U.S. Steel Mining Co., Filbert Central Shop, Filbert, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–19,293; Dresser Industries, Inc., Houston, TX

U.S. imports of oil field machinery are negligible.

Affirmative Determinations

TA–W–18,867; Kriewaldt Glove Mfg, Inc., Oconto, WI

A certification was issued covering all workers of the firm separated on or after December 17, 1985 and before January 19, 1987.

TA–W–18,943; Ideal of Scotty's Fashions, Pan Argyl, PA

A certification was issued covering all workers of the firm separated on or after December 22, 1985.

TA–W–18,876; Cylca Industries, Sanford, ME

A certification was issued covering all workers of the firm separated on or after December 12, 1985.

TA–W–18 877; Goetze Corp., of America, Muskegon Piston Ring Div., Muskegon, MI

A certification was issued covering all workers of the firm separated on or after December 7, 1985.

TA–W–18,878; HPM Corp., Mt. Gilead, OH

A certification was issued covering all workers of the firm separated on or after December 12, 1985.

TA–W–18,937; Interstate Diesel, Inc., North Lawrence, OH

A certification was issued covering all workers of the firm separated on or after December 29, 1985.

TA–W–19,013; Troutman Industries, Inc., Sparta, NC

A certification was issued covering all workers of the firm separated on or after December January 15, 1986 and before March 1, 1987.

TA–W–19,018; Lowe Alpine Systems, Lafayette, Co

A certification was issued covering all workers of the firm separated on or after October 1, 1986.

TA–W–18,886; BHP Petroleum (Americas), Inc., (Formerly Monsanto Oil Co), Plainsville, KS

A certification was issued covering all workers of the firm separated on or after December 24, 1985.

TA–W–18,966; Viking Glass Co., New Martinsville, WV

A certification was issued covering all workers of the firm separated on or after December 30, 1985 and before December 6, 1986.

TA–W–18,875; Letisse, Inc., Reading, PA

A certification was issued covering all workers of the firm separated on or after December 9, 1985 and before August 1, 1986.

TA–W–19,085; Adelphia Button Co., Philadelphia

A certification was issued covering all workers of the firm separated on or after January 21, 1986.

TA–W–18,935; Link-Belt Construction equipment Co., Lexington, KY

A certification was issued covering all workers of the firm separated on or after December 19, 1985.

TA–W–18,952; H.D. Lee Co., Ottawa, KS

A certification was issued covering all workers of the firm separated on or after December 4, 1985.

TA–W18, 961; Kaneb Operating Co., Ltd, Midland, TX

A certification was issued covering all workers of the firm separated on or after December 17, 1985.

TA–W–19,059; Trimfoot Co., Carlyle, IL

A certification was issued covering all workers of the firm separated on or after January 21, 1986 and before March 15, 1987.

TA–W–18,687; Miss Charming Coat, Hoboken, NJ

A certification was issued covering all workers of the firm separated on or after October 24, 1985.

TA–W–19,108; Nutone, Inc., Hallmack-Parker Div., Harrodsburg, KY

A certification was issued covering all workers of the firm separated on or after January 17, 1986.

TA–W–18,987; Jackson Blouse, Minersville, PA

A certification was issued covering all workers of the firm separated on or after January 8, 1986.

TA–W–19,038; Milwaukee Faucets, Inc., Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after December 23, 1985.

TA–W–18,934; Billy The Kid Industries, El Paso, TX

A certification was issued covering all workers of the firm separated on or after December 11, 1985.

TA–W–18,941; Miniature Precision Components, Inc., Walworth, WI

A certification was issued covering all workers of the firm separated on or after December 19, 1985.

TA–W–19,055; General Electric Co., Medical Systems Group, X-Ray Manufacturing Operation, Mechanical & Electrical Component Manufacturing Operations, Electric Ave. (W. Milwaukee Edgerton Ave. (Milwaukee), Glendale Road (New Berlin), Grandview Blvd (Waukesha), Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after January 23, 1986.

TA–W–18,860; ADM Corn Sweetners, Montezuma, NY

A certification was issued covering all workers of the firm separated on or after December 17, 1985.

I hereby certify that the aforementioned determinations were issued during the period March 9, 1987–March 13, 1987. Copies of these

determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 17, 1986.

[FR Doc. 87-6524 Filed 3-25-87; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 6, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 6, 1987.

The petitioners filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 16th day of March 1987.

Marvin M. Fooks,

Director, Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Worker/Firm)	Location	Date received	Date of petition	Petition No.	Article produced
A.C. Lawrence Lea/Co. (Workers)	Danvers, MA	3/16/87	3/6/87	19,332	Side leather for shoes, belts, and bags.
Abex-Denison (USWA)	Delaware, OH	3/16/87	3/5/87	19,333	Hydraulic vane pumps & pts.
ALCO Power, Inc. (Workers)	St. Louis, MO	3/16/87	3/6/87	19,334	Comp. parts for diesel eng.
ATAPCO (Amer. Trad. & Prod., Co.) (Workers)	Midland, TX	3/16/87	1/2/87	19,335	Oil & gas prod. for ATAPCO.
B&B Logging (Workers)	Laredo, TX	3/16/87	2/27/87	19,336	Oilfield engineering.
B.J. Titan (Workers)	Roosevelt, UT	3/16/87	3/2/87	19,337	Oil well serv.
Control Data Corp. (Workers)	Minneapolis, MN	3/16/87	3/3/87	19,338	Computer parts.
Evans Products Co. (IWA)	Aberdeen, WA	3/16/87	3/4/87	19,339	Plywood.
Gates Mill, Inc. (ACTWU)	Johnstown, NY	3/16/87	3/6/87	19,340	Gloves.
Geosource, Inc. (Workers)	Houston, TX	3/16/87	3/3/87	19,341	Geophysical survey eqpt.
Halliburton Co. (Workers)	Duncan, OK	3/16/87	3/3/87	19,342	Oil field down hole prod.
Int'l Boiler Works Co. (Workers)	E. Stroudsburg, PA	3/16/87	2/24/87	19,343	Boilers & pressure vessels.
Int'l Computers Limit. (Workers)	Utica, NY	3/16/87	3/5/87	19,344	Rsch & develop. & sup. serv.
Kardex Systems, Inc. (USWA)	Reno, OH	3/16/87	3/6/87	19,345	Filing systems.
Kenner Products (Workers)	Cincinnati, OH	3/16/87	2/24/87	19,346	Toy prototypes.
Memtec Caribe Inc. (Workers)	Luquillo, PR	3/16/87	3/3/87	19,347	PCB controlled tape drive.
Nordrill, Inc. (Workers)	Beaumont, TX	3/16/87	3/6/87	19,348	Oil drilling serv.
Pengo Industries, Inc. (Workers)	Odessa, TX	3/16/87	3/1/87	19,349	Oil well serv.
Quail Well Serv. Inc. (Workers)	Abilene, TX	3/16/87	2/23/87	19,350	Oil well serv.
R-J Drilling (Workers)	Sebree, KY	3/16/87	3/7/87	19,351	Oil well spudder work.
Roanoke Fashion Co. (Workers)	Salem, VA	3/16/87	3/3/87	19,352	Women's sportswear T/B.
Robinson Steel Co. (BSIW)	Phila, PA	3/16/87	3/5/87	19,353	Metal lockers & shelving.
T/C Materials Ct. (Workers)	Midland, TX	3/16/87	3/2/87	19,354	Hareward & lumber sales.
Tek-Sun Glove (Workers)	Corsicana, TX	3/16/87	3/5/87	19,355	Work gloves.
Tex-Hughes (I.U.E.)	Watervliet, NY	3/16/87	3/3/87	19,356	Toothbrushes.
(The) Meeker Co. (Workers)	Joplin, MO	3/16/87	2/23/87	19,357	Personal leathergoods.
Therma Technology (Workers)	Tulsa, OK	3/16/87	3/2/87	19,358	Heat exchangers.
Thomson-CGR Med. Corp. (I.U.E.)	Columbia, MD	3/16/87	3/5/87	19,359	Conventional X-ray.
Twin Disc, Incorp. (Workers)	Racine, WI	3/16/87	3/3/87	19,360	Transmissions.
White Consolidated, Ind. (USWA)	Cincinnati, OH	3/16/87	3/5/87	19,361	Machine tools (lathes).
[FR Doc. 87-6523 Filed 3-25-87; 8:45 am]					

[FR Doc. 87-6523 Filed 3-25-87; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the labor surplus area list are effective March 1, 1987.

SUMMARY: The purpose of this notice is to announce additions to the list of labor surplus areas, which has been extended until further notice while the Department of Labor completes implementation of Pub. L. 99-272.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470, Attention: TEESS, Washington, DC 20213. Telephone: 202-535-0185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to

assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 11, 1985 (50 FR 41606).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the list of labor surplus areas, effective March 1, 1987.

The following additions to the list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC, on March 4, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

(March 1, 1987)

Labor surplus area	Civil jurisdiction included
Texas:	
Dawson County	Dawson County.
Midland City	Midland City in Midland County.
Balance of Midland County.	Midland County Less Midland City.

[FR Doc. 87-6526 Filed 3-25-87; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective April 1, 1987, through September 30, 1987.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas, which includes civil jurisdictions with a population of twenty-five thousand or more as required by Pub. L. 99-272.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470, Attention: TEESS, Washington, DC 20213. Telephone: 202-535-0185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is publishing the annual list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are effective April 1, 1987, through September 30, 1987.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC, on March 11, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

Labor Surplus Areas Eligible for Federal Procurement Preference From April 1, 1987 Through September 30, 1987

Eligible labor surplus areas	Civil jurisdictions included
Alabama:	
Anniston City	Anniston City in Calhoun County
Autauga County	Autauga County
Baldwin County	Baldwin County
Barbour County	Barbour County
Bessemer City	Bessemer City in Jefferson County
Bibb County	Bibb County
Birmingham City	Birmingham City in Jefferson County
Bullock County	Bullock County
Butler County	Butler County
Cherokee County	Cherokee County
Chilton County	Chilton County
Choctaw County	Choctaw County
Clarke County	Clarke County
Clay County	Clay County
Cleburne County	Cleburne County
Colbert County	Colbert County
Conecuh County	Conecuh County
Covington County	Covington County
Crenshaw County	Crenshaw County
Cullman County	Cullman County
De Kalb County	De Kalb County
Decatur City	Decatur City in Morgan County
Dothan County	Dothan City in Houston County
Escambia County	Escambia County
Balance of Etowah County.	Etowah County Less Gadsden City
Fayette County	Fayette County
Florence City	Florence City in Lauderdale County
Franklin County	Franklin County
Gadsden City	Gadsden City in Etowah County
Geneva County	Geneva County
Greene County	Greene County
Hale County	Hale County
Henry County	Henry County
Jackson County	Jackson County
Lawrence County	Lawrence County
Lowndes County	Lowndes County
Macon County	Macon County
Marengo County	Marengo County
Marion County	Marion County
Marshall County	Marshall County
Mobile County	Mobile City in Mobile County
Balance of Mobile County.	Mobile County Less Mobile City, Prichard City
Monroe County	Monroe County
Perry County	Perry County
Phenix County	Phenix City in Lee County, Russell County
Pickens County	Pickens County
Pike County	Pike County
Prichard City	Prichard City in Mobile County
Randolph County	Randolph County
Balance of Russell County.	Russell County Less Phenix City in Dallas County
Selma City	Selma City in Dallas County
St. Clair County	St. Clair County
Sumter County	Sumter County
Talladega County	Talladega County
Walker County	Walker County
Washington County	Washington County
Wilcox County	Wilcox County
Winston County	Winston County
Alaska:	
Bethel Census Area	Bethel Census Area

Eligible labor surplus areas	Civil jurisdictions included
Fairbanks City	Fairbanks City in Fairbanks North Star Borough
Balance of Fairbanks North Star Borough.	Fairbanks North Star Borough
Haines Borough	Haines Borough
Juneau Borough	Juneau Borough
Kenai Peninsula Borough	Kenai Peninsula Borough
Ketchikan Gateway Borough.	Ketchikan Gateway Borough
Kobuk Census Area	Kobuk Census Area
Matanuska-Susitna Borough.	Matanuska-Susitna Borough
Nome Census Area	Nome Census Area
North Slope Borough	North Slope Borough
Prince of Wales Outer Ketchikan Area.	Prince of Wales Outer Ketchikan Area
Sitka Borough	Sitka Borough
Skagway Yakutat Angoon Census Area.	Skagway Yakutat Angoon Census Area
Southeast Fairbanks Census Area.	Southeast Fairbanks Census Area
Valdez Cordova Census Area.	Valdez Cordova Census Area
Wade Hampton Census Area.	Wade Hampton Census Area
Wrangell-Petersburg Census Area.	Wrangell-Petersburg Census Area
Yukon-Koyukuk Census Area.	Yukon-Koyukuk Census Area
Arizona:	
Apache County	Apache County
Balance of Coconino County.	Coconino County Less Flagstaff City
Gila County	Gila County
Graham County	Graham County
Greenlee County	Greenlee County
La Paz County	La Paz County
Mohave County	Mohave County
Navajo County	Navajo County
Pinal County	Pinal County
Santa Cruz County	Santa Cruz County
Yuma City	Yuma City in Yuma County
Balance of Yuma County	Yuma County Less Yuma City
Arkansas:	
Ashley County	Ashley County
Bradley County	Bradley County
Chicot County	Chicot County
Clay County	Clay County
Cleburne County	Cleburne County
Cleveland County	Cleveland County
Conway County	Conway County
Balance of Crittenden County.	Crittenden County Less West Memphis City
Cross County	Cross County
Desha County	Desha County
Drew County	Drew County
Franklin County	Franklin County
Fulton County	Fulton County
Grant County	Grant County
Greene County	Greene County
Hot Spring County	Hot Spring County
Hot Springs City	Hot Springs City in Garland County
Independence County	Independence County
Jackson County	Jackson County
Jacksonville City	Jacksonville City in Pulaski County
Johnson County	Johnson County
Lafayette County	Lafayette County
Lawrence County	Lawrence County
Lee County	Lee County
Lincoln County	Lincoln County
Little River County	Little River County
Logan County	Logan County
Madison County	Madison County
Missippissi County	Missippissi County
Monroe County	Monroe County
Montgomery County	Montgomery County
Newton County	Newton County
Ouachita County	Ouachita County
Perry County	Perry County
Phillips County	Phillips County
Pike County	Pike County
Pine Bluff City	Pine Bluff City in Jefferson County
Poinsett County	Poinsett County
Polk County	Polk County
Prairie County	Prairie County
Randolph County	Randolph County
Searcy County	Searcy County
Balance of Sebastian County.	Sebastian County Less Fort Smith City
Sharp County	Sharp County
St. Francis County	St. Francis County
Stone County	Stone County
Van Buren County	Van Buren County
White County	White County
Woodruff County	Woodruff County
California:	
Amador County	Amador County
Baldwin Park City	Baldwin Park City in Los Angeles County
Bell Gardens City	Bell Gardens City in Los Angeles County
Balance of Butte County	Butte County Less Chico City
Calaveras County	Calaveras County
Chico City	Chico City in Butte County
Colusa County	Colusa County
Compton City	Compton City in Los Angeles County
Del Norte County	Del Norte County
El Centro City	El Centro City in Imperial County
El Monte City	El Monte City in Los Angeles County
Fairfield City	Fairfield City in Solano County
Fontana City	Fontana City in San Bernardino County
Fresno City	Fresno City in Fresno County
Balance of Fresno County.	Fresno County Less Clovis City, Fresno City
Gilroy City	Gilroy City in Santa Clara County
Glenn County	Glenn County
Humboldt County	Humboldt County
Huntington Park City	Huntington Park City in Los Angeles County
Balance of Imperial County.	Imperial County Less El Centro City
Indio City	Indio City in Riverside County
Balance of Kern County	Kern County Less Bakersfield City
Kings County	Kings County
Lake County	Lake County
Lassen County	Lassen County
Lodi City	Lodi City in San Joaquin County
Lompoc City	Lompoc City in Santa Barbara County
Lynwood City	Lynwood City in Los Angeles County
Madera County	Madera County
Manteca City	Manteca City in San Joaquin County
Marina City	Marina City in Monterey County
Mendocino County	Mendocino County
Merced City	Merced City in Merced County
Balance of Merced County.	Merced County Less Merced City
Modesto City	Modesto City in Stanislaus County
Modoc County	Modoc County
Mono County	Mono County
Balance of Monterey County.	Monterey County Less Marina City, Monterey City Salinas City, Seaside City,
Oakland City	Oakland City in Alameda County
Oxnard City	Oxnard City in Ventura County
Paramount City	Paramount City in Los Angeles County
Plumas County	Plumas County
Pomona City	Pomona City in Los Angeles County
Redding City	Redding City in Shasta County
Richmond City	Richmond City in Contra Costa County
Salinas City	Salinas City in Monterey County
San Benito County	San Benito County
Balance of San Joaquin County.	San Joaquin County Less Lodi City, Manteca City, Stockton City
Santa Maria City	Santa Maria City in Santa Barbara County
Seaside City	Seaside City in Monterey County
Balance of Shasta County.	Shasta County Less Redding City
Sierra County	Sierra County
Siskiyou County	Siskiyou County
Balance of Stanislaus County.	Stanislaus County Less Modesto City, Turlock City
Stockton City	Stockton City in San Joaquin County
Sutter County	Sutter County
Tehama County	Tehama County
Trinity County	Trinity County
Tulare City	Tulare City in Tulare County
Balance of Tulare County.	Tulare County Less Tulare City, Visalia City
Tuolumne County	Tuolumne County
Turlock City	Turlock City in Stanislaus County
Visalia City	Visalia City in Tulare County
Watsonville City	Watsonville City in Santa Cruz County
Woodland City	Woodland City in Yolo County
Balance of Yolo County	Yolo County Less Davis City, Woodland City
Yuba County	Yuba County
Colorado:	
Chaffee County	Chaffee County
Conejos County	Conejos County
Costilla County	Costilla County
Delta County	Delta County
Fremont County	Fremont County
Grand Junction City	Grand Junction City in Mesa County
Huerfano County	Huerfano County
Lake County	Lake County
Las Animas County	Las Animas County
Balance of Mesa County	Mesa County Les Grand Junction City
Mineral County	Mineral County
Moffat County	Moffat County
Montezuma County	Montezuma County
Montrose County	Montrose County
Ouray County	Ouray County
Pueblo City	Pueblo City in Pueblo County
Balance of Pueblo County.	Pueblo County Less Pueblo City
Rio Grande County	Rio Grande County
Saguache County	Saguache County
San Juan County	San Juan County
Florida:	
Balance of Bay County	Bay County Less Panama City
Calhoun County	Calhoun County
Fort Pierce City	Fort Pierce City in St. Lucie County
Glades County	Glades County
Gulf County	Gulf County
Hardee County	Hardee County
Hendry County	Hendry County
Hialeah County	Hialeah City in Dade County
Holmes County	Holmes County
Indian River County	Indian River County
Lake County	Lake County
Lakeland City	Lakeland City in Polk County
Miami Beach City	Miami Beach City in Dade County
Miami City	Miami City in Dade County
Okeechobee county	Okeechobee County
Panama City	Panama City in Bay County
Balance of Polk County	Polk County Less Lakeland City
Balance of St. Luice County.	St. Lucie County Less Fort Pierce City, Port St. Lucie City
Sumter County	Sumter County
Washington County	Washington County
Georgia:	
Albany City	Albany City in Dougherty County
Augusta City	Augusta City, in Richmond County
Bartow County	Bartow County
Brantley County	Brantley County
Calhoun County	Calhoun County
Chattooga, County	Chattooga County
Crisp County	Crisp County
Dodge County	Doge County
Early County	Early County
Elbert County	Elbert County
Emanuel County	Emanuel County
Evans County	Evans County
Fannin County	Fannin County
Greene County	Greene County
Lamar County	Lamar County
Lincoln County	Lincoln County
Macon County	Macon County
Mc Intosh County	Mc Intosh County
Meriwether, County	Meriwether County
Pierce County	Pierce County
Pike County	Pike County
Polk County	Polk County
Pulaski County	Pulaski County
Quitman County	Quitman County
Rome City	Rome City in Floyd County
Stewart County	Stewart County
Talbot County	Talbot County
Taliaferro County	Taliaferro County
Taylor County	Taylor County

Eligible labor surplus areas	Civil jurisdictions included
Telfair County	Telfair County
Terrell County	Terrell County
Turner County	Turner County
Union County	Union County
Upson County	Upson County
Wayne County	Wayne County
Webster County	Webster County
Wilkes County	Wilkes County
Worth County	Worth County
Idaho:	
Adams County	Admas County
Benewah County	Benewah County
Boise County	Boise County
Bonner County	Bonner County
Boundary County	Boundary County
Camas County	Camas County
Cassia County	Cassia County
Clearwater County	Clearwater County
Fremont County	Fremont County
Gem County	Gem County
Idaho County	Idaho County
Kootenai County	Kootenai County
Lemhi County	Lemhi County
Nampa City	Nampa City in Canyon County
Balance of Nez Perce County.	Nez Perce County Less Lewiston City
Power County	Power County
Shoshone County	Shoshone County
Valley County	Valley County
Illinois:	
Balance of Adams County.	Adams County Less Quincy City
Addison Village	Addison Village in Du Page County
Alexander County	Alexander County
Alton City	Alton City in Madison County
Aurora City	Aurora City in Du Page County, Kane County
Belleville City	Belleville City in St. Clair County
Bond County	Bond County
Brown County	Brown County
Burbank City	Burbank City in Cook County
Bureau County	Bureau County
Calhoun County	Calhoun County
Calumet City	Calumet City in Cook County
Carroll County	Carroll County
Cass County	Cass County
Chicago City	Chicago City in Cook County
Christian County	Christian County
Cicero City	Cicero City in Cook County
Clark County	Clark County
Clay County	Clay County
Clinton County	Clinton County
Crawford County	Crawford County
Cumberland County	Cumberland County
Danville City	Danville City in Vermilion County
De Witt County	De Witt County
Decatur City	Decatur City in Macon County
East St. Louis City	East St. Louis City in St. Clair County
Edgar County	Edgar County
Edwards County	Edwards County
Effingham County	Effingham County
Fayette County	Fayette County
Franklin County	Franklin County
Freeport City	Freeport City in Stephenson County
Fulton County	Fulton County
Galesburg City	Galesburg City in Knox County
Gallatin County	Gallatin County
Granite City	Granite City in Madison County
Greene County	Greene County
Grundy County	Grundy County
Hamilton County	Hamilton County
Hancock County	Hancock County
Hardin County	Hardin County
Harvey City	Harvey City in Cook County
Henderson County	Henderson County
Henry County	Henry County
Balance of Jackson County.	Jackson County Less Carbondale City
Jasper County	Jasper County
Jefferson County	Jefferson County
Jersey County	Jersey County
Jo Daviess County	Jo Daviess County
Johnson County	Johnson County
Joliet City	Joliet City in Will County
Kankakee City	Kankakee City in Kankakee County
Balance of Kankakee County.	Kankakee County Less Kankakee City
Balance of Knox County	Knox County Less Galesburg City
La Salle County	La Salle County
Lawrence County	Lawrence County
Lee County	Lee County
Logan County	Logan County
Macoupin County	Macoupin County
Balance of Madison County.	Madison County Less Alton City
Marion County	Marion County
Marshall County	Marshall County
Mason County	Mason County
Massac County	Massac County
Maywood Village County	Maywood Village in Cook County
McDonough County	McDonough County
Mercer County	Mercer County
Moline City	Moline City in Rock Island County
Monroe County	Monroe County
Montgomery County	Montgomery County
Ogle County	Ogle County
Pekin City	Pekin City in Tazewell County
Peoria City	Peoria City in Peoria County
Balance of Peoria County.	Peoria County Less Peoria City
Perry County	Perry County
Pike County	Pike County
Pope County	Pope County
Pulaski County	Pulaski County
Putnam County	Putnam County
Quincy City	Quincy City in Adams County
Randolph County	Randolph County
Richland County	Richland County
Rock Island City	Rock Island City in Rock Island County
Balance of Rock Island County.	Rock Island County Less Moline City, Rock Island City
Rockford City	Rockford City in Winnebago County
Saline County	Saline County
Schuyler County	Schuyler County
Scott County	Scott County
Shelby County	Shelby County
Stark County	Stark County
Balance of Tazewell County.	Tazewell County Less Pekin City
Union County	Union County
Balance of Vermilion County.	Vermilion County Less Danville City
Wabash County	Wabash County
Warren County	Warren County
Washington County	Washington County
Wayne County	Wayne County
White County	White County
Whiteside County	Whiteside County
Williamson County	Williamson County
Indiana:	
Anderson City	Anderson City in Madison County
Blackford County	Blackford County
Clark County	Clark County
Clinton County	Clinton County
Crawford County	Crawford County
Daviess County	Daviess County
Dearborn County	Dearborn County
East Chicago City	East Chicago City in Lake County
Fayette County	Fayette County
Fountain County	Fountain County
Franklin County	Franklin County
Gary City	Gary City in Lake County
Greene County	Greene County
Hammond City	Hammond City in Lake County
Henry County	Henry County
Jackson County	Jackson County
Jasper County	Jasper County
Jay County	Jay County
Jefferson County	Jefferson County
Jennings County	Jennings County
Knox County	Knox County
Kokomo City	Kokomo City in Howard County
Balance of La Porte County.	La Porte County Less Michigan City
Balance of Lake County	Lake County Less East Chicago City
Lawrence County	Lawrence County
Marion City	Marion City in Grant County
Martin County	Martin County
Michigan City	Michigan City in La Porte County
Muncie City	Muncie City in Delaware County
Ohio County	Ohio County
Orange County	Orange County
Owen County	Owen County
Perry County	Perry County
Pike County	Pike County
Portage City	Portage City in Porter County
Balance of Porter County.	Porter County Less Portage City
Randolph County	Randolph County
Richmond County	Richmond City in Wayne County
Scott County	Scott County
Spencer County	Spencer County
Starke County	Starke County
Sullivan County	Sullivan County
Switzerland County	Switzerland County
Terre Haute City	Terre Haute City in Virgo County
Union County	Union County
Vermillion County	Vermillion County
Balance of Wayne County.	Wayne County Less Richmond City
White County	White County
Iowa:	
Allamakee County	Allamakee County
Appanoose County	Appanoose County
Balance of Black Hawk County.	Black Hawk County Less Cedar Falls City, Waterloo City
Buchanan County	Buchanan County
Burlington County	Burlington City in Des Moines County
Cedar Falls City	Cedar Falls City in Black Hawk County
Chickasaw County	Chickasaw County
Clayton County	Clayton County
Clinton County	Clinton City in Clinton County
Davenport County	Davenport City in Scott County
Davis County	Davis County
Delaware County	Delaware County
Balance of Des Moines County.	Des Moines County Less Burlington City
Dubuque City	Dubuque City in Debuque County
Emmet County	Emmet County
Fayette County	Fayette County
Floyd County	Floyd County
Jackson County	Jackson County
Lee County	Lee County
Louisa County	Louisa County
Monroe County	Monroe County
Ottumwa City	Ottumwa City in Wapello County
Sac County	Sac County
Van Buren County	Van Buren County
Balance of Wapello County.	Wappello County Less Ottumwa Less Ottumwa City
Waterloo City	Waterloo City in Black Hawk County
Balance of Webster County.	Webster County Less Fort Dodge City
Kentucky:	
Adair County	Adair County
Ashland County	Ashland City in Boyd County
Ballard County	Ballard County
Barren County	Barren County
Bath County	Bath County
Bell County	Bell County
Balance of Boyd County	Boyd County Less Ashland City
Boyle County	Boyle County
Bracken County	Bracken County
Breathitt County	Breathitt County
Breckinridge County	Breckinridge County
Butler County	Butler County
Caldwell County	Caldwell County
Carlisle County	Carlisle County
Carter County	Carter County
Casey County	Casey County
Clay County	Clay County
Clinton County	Clinton County
Crittenden County	Crittenden County
Edmonson County	Edmonson County
Elliott County	Elliott County
Estill County	Estill County
Fleming County	Fleming County
Floyd County	Floyd County
Fulton County	Fulton County
Gallatin County	Gallatin County
Garrard County	Garrard County
Grant County	Grant County
Graves County	Graves County
Grayson County	Grayson County
Green County	Green County
Greenup County	Greenup County
Hancock County	Hancock County
Harlan County	Harlan County

Eligible labor surplus areas	Civil jurisdictions included
Hart County	Hart County
Henderson City	Henderson City in Henderson County
Balance of Henderson County.	Henderson County Less Henderson City
Henry County	Henry County
Hickman County	Hickman County
Hopkins County	Hopkins County
Hopkinsville City	Hopkinsville City in Christian County
Jackson County	Jackson County
Balance of Jefferson County.	Jefferson County Less Louisville City
Johnson County	Johnson County
Knott County	Knott County
Knox County	Knox County
Laurel County	Laurel County
Lawrence County	Lawrence County
Lee County	Lee County
Leslie County	Leslie County
Letcher County	Letcher County
Lewis County	Lewis County
Lincoln County	Lincoln County
Livingston County	Livingston County
Logan County	Logan County
Lyon County	Lyon County
Magoffin County	Magoffin County
Marion County	Marion County
Marshall County	Marshall County
Martin County	Martin County
Mason County	Mason County
Balance of McCracken County.	McCracken County Less Paducah City
McCreary County	McCreary County
McLean County	McLean County
Meade County	Meade County
Menifee County	Menifee County
Mercer County	Mercer County
Metcalfe County	Metcalfe County
Monroe County	Monroe County
Montgomery County	Montgomery County
Morgan County	Morgan County
Muhlenberg County	Muhlenberg County
Nelson County	Nelson County
Ohio County	Ohio County
Owensboro City	Owensboro City in Daviess County
Owsley County	Owsley County
Pendleton County	Pendleton County
Perry County	Perry County
Pike County	Pike County
Powell County	Powell County
Pulaski County	Pulaski County
Robertson County	Robertson County
Rockcastle County	Rockcastle County
Rowan County	Rowan County
Russell County	Russell County
Spencer County	Spencer County
Trigg County	Trigg County
Union County	Union County
Washington County	Washington County
Wayne County	Wayne County
Webster County	Webster County
Whitley County	Whitley County
Wolfe County	Wolfe County
Louisiana:	
Acadia Parish	Acadia Parish
Alexandria City	Alexandria City in Rapides Parish
Allen Parish	Allen Parish
Ascension Parish	Ascension Parish
Assumption Parish	Assumption Parish
Avoyelles Parish	Avoyelles Parish
Baton Rouge City	Baton Rouge City in East Baton Rouge Parish
Beauregard Parish	Beauregard Parish
Bienville Parish	Bienville Parish
Balance of Bossier Parish.	Bossier Parish Less Bossier City Shreveport City
Balance of Calcasieu Parish.	Calcasieu Parish Less Lake Charles City
Caldwell Parish	Caldwell Parish
Catahoula Parish	Catahoula Parish
Concordia Parish	Concordia Parish
De Soto Parish	De Soto Parish
East Carroll Parish	East Carroll Parish
East Feliciana Parish	East Feliciana Parish
Evangeline Parish	Evangeline Parish
Franklin Parish	Franklin Parish
Grant Parish	Grant Parish
Balance of Iberia Parish	Iberia Parish Less New Iberia City
Iberville Parish	Iberville Parish
Jefferson Davis Parish	Jefferson Davis Parish
Balance of Jefferson Parish.	Jefferson Parish Less Kenner City
Kenner City	Kenner City in Jefferson Parish
La Salle Parish	La Salle Parish
Lafayette City	Lafayette City in Lafayette Parish
Lafourche Parish	Lafourche Parish
Lake Charles City	Lake Charles City in Calcasieu Parish
Livingston Parish	Livingston Parish
Madison Parish	Madison Parish
Monroe City	Monroe City in Ouachita Parish
Morehouse Parish	Morehouse Parish
Natchitoches Parish	Natchitoches Parish
New Iberia City	New Iberia City in Iberia Parish
New Orleans City	New Orleans City in Orleans Parish
Plaquemines Parish	Plaquemines Parish
Pointe Coupee Parish	Pointe Coupee Parish
Balance of Rapides Parish.	Rapides Parish Less Alexandria City
Red River Parish	Red River Parish
Richland Parish	Richland Parish
Sabine Parish	Sabine Parish
St. Bernard Parish	St. Bernard Parish
St. Charles Parish	St. Charles Parish
St. Helena Parish	St. Helena Parish
St. James Parish	St. James Parish
St John Baptist Parish	St. John Baptist Parish
St. Landry Parish	St. Landry Parish
St. Martin Parish	St. Martin Parish
St. Mary Parish	St. Mary Parish
Balance of St. Tammany Parish.	St. Tammany Parish Less Slidell City
Tangipahoa Parish	Tangipahoa Parish
Tensas Parish	Tensas Parish
Terrebonne Parish	Terrebonne Parish
Union Parish	Union Parish
Vermilion Parish	Vermilion Parish
Vernon Parish	Vernon Parish
Washington Parish	Washington Parish
Webster Parish	Webster Parish
West Baton Rouge Parish.	West Baton Rouge Parish
West Carroll Parish	West Carrol Parish
Winn Parish	Winn Parish
Maine	
Waldo County	Waldo County
Washington County	Washington County
Maryland:	
Allegany County	Allegany County
Dorchester County	Dorchester County
Garrett County	Garrett County
Hagerstown City	Hagerstown City in Washington County
Somerset County	Somerset County
Massachusetts:	
Erving Town	Erving Town in Franklin County
Middlefield Town	Middlefield Town in Hampshire County
Provincetown Town	Provincetown Town in Barnstable County
Royalston Town	Royalston Town in Worcester County
Savoy Town	Savoy Town in Berkshire County
Truro Town	Truro Town in Barnstable County
Wendell Town	Wendell Town in Franklin County
Michigan:	
Alcona County	Alcona County
Alger County	Alger County
Balance of Allegan County.	Allegan County Less Holland City
Alpena County	Alpena County
Antrim County	Antrim County
Arenac County	Arenac County
Baraga County	Baraga County
Barry County	Barry County
Battle Creek City	Battle Creek City in Calhoun County
Bay City	Bay City in Bay County
Balance of Bay County	Bay County Less Bay City, Midland City
Benzie County	Benzie County
Berrien County	Berrien County
Branch County	Branch County
Burton City	Burton City in Genesee County
Balance of Calhoun County.	Calhoun County Less Battle Creek City
Cass County	Cass County
Charlevoix County	Charlevoix County
Cheboygan County	Cheboygan County
Chippewa County	Chippewa County
Clare County	Clare County
Clinton County	Clinton County
Clinton Township	Clinton Township in Macomb County
Crawford County	Crawford County
Delta County	Delta County
Detroit City	Detroit City in Wayne County
Dickinson County	Dickinson County
East Detroit City	East Detroit City in Macomb County
Emmet County	Emmet County
Ferndale City	Ferndale City in Oakland County
Flint City	Flint City in Genesee County
Flint Township	Flint Township in Genesee County
Balance of Genesee County.	Genesee County less Burton City, Flint Township, Flint City, Mount Morris Township
Gladwin County	Gladwin County
Gogebic County	Gogebic County
Grant Rapids City	Grand Rapids City in Kent County
Grand Traverse County	Grant Traverse County
Gratiot County	Gratiot County
Highland Park City	Highland Park City in Wayne County
Hillsdale County	Hillsdale County
Houghton County	Houghton County
Huron County	Huron County
Inkster City	Inkster City in Wayne County
Ionia County	Ionia County
Iosco County	Iosco County
Iron County	Iron County
Isabella County	Isabella County
Jackson City	Jackson City in Jackson County
Balance of Jackson County.	Jackson County Less Jackson City
Kalkaska County	Kalkaska County
Keweenaw County	Keweenaw County
Lake County	Lake County
Lansing City	Lansing City in Eaton County
Lapeer County	Lapeer County
Leelanau County	Leelanau County
Lenawee County	Lenawee County
Lincoln Park City	Lincoln Park City in Wayne County
Luce County	Luce County
Mackinac County	Mackinac County
Balance of Macomb County.	Macomb County Less Clinton Township East Detroit City, Roseville City, St Clair Shores City, Shelby Township Sterling Heights City, Warren City
Madison Heights City	Madison Heights City in Oakland County
Manistee County	Manistee County
Marquette County	Marquette County
Mason County	Mason County
Mecosta County	Mecosta County
Menominee County	Menominee County
Midland City	Midland City in Bay County, Midland County
Balance Of Midland County.	Midland County Less Midland City
Missaukee County	Missaukee County
Monroe County	Monroe County
Montcalm County	Montcalm County
Montmorency County	Montmorency County
Mount Morris Township	Mount Morris Township in Genesee County
Muskegon City	Muskegon City in Muskegon County
Balance of Muskegon County.	Muskegon County less Muskegon City
Newaygo County	Newaygo County
Oak Park City	Oak Park City in Oakland County
Oceana County	Oceana County
Ogemaw County	Ogemaw County
Ontonagon County	Ontonagon County
Osceola County	Osceola County
Oscoda County	Oscoda County
Otsego County	Otsego County
Pontiac City	Pontiac City In Oakland County
Port Huron City	Port Huron City in St. Clair County
Presque Isle County	Presque Isle County
Roscommon County	Roscommon County
Roseville City	Roseville City in Macomb County

Eligible labor surplus areas	Civil jurisdictions included
Saginaw City	Saginaw City in Saginaw County
Balance of Saginaw County.	Saginaw County Less Saginaw Township, Saginaw City
Sanilac County	Sanilac County
Schoolcraft County	Schoolcraft County
Shelby Township	Shelby Township in Macomb County
Shiawassee County	Shiawassee County
St Clair Shores City	St Clair Shores City in Macomb County
Balance of St. Clair County.	St. Clair County Less Port Huron City
St. Joseph County	St. Joseph County
Sterling Heights City	Sterling Heights City in Macomb County
Taylor City	Taylor City in Wayne County
Tuscola County	Tuscola County
Van Buren County	Van Buren County
Warren City	Warren City in Macomb County
Waterford Township	Waterford Township in Oakland County
Wexford County	Wexford County
Ypsilanti Township	Ypsilanti Township in Washtenaw County
Minnesota:	
Aitkin County	Aitkin County
Becker County	Becker County
Carlton County	Carlton County
Cass County	Cass County
Clearwater County	Clearwater County
Cook County	Cook County
Hubbard County	Hubbard County
Itasca County	Itasca County
Kanabec County	Kanabec County
Kittson County	Kittson County
Koochiching County	Koochiching County
Lake County	Lake County
Mahnomen County	Mahnomen County
Marshall County	Marshall County
Meeker County	Meeker County
Mille Lacs County	Mille Lacs County
Morrison County	Morrison County
Otter Tail County	Otter Tail County
Pennington County	Pennington County
Pine County	Pine County
Polk County	Polk County
Red Lake County	Red Lake County
Renville County	Renville County
Balance of St. Louis County.	St. Louis County Less Duluth City
Swift County	Swift County
Wadena County	Wadena County
Mississippi:	
Adams County	Adams County
Alcorn County	Alcorn County
Amite County	Amite County
Attala County	Attala County
Benton County	Benton County
Biloxi County	Biloxi City in Harrison County
Bolivar County	Bolivar County
Calhoun County	Calhoun County
Carroll County	Carroll County
Chickasaw County	Chickasaw County
Choctaw County	Choctaw County
Claiborne County	Claiborne County
Clarke County	Clarke County
Clay County	Clay County
Coahoma County	Coahoma County
Columbus City	Columbus City in Lowndes County
Copiah County	Copiah County
Covington County	Covington County
Franklin County	Franklin County
George County	George County
Greene County	Greene County
Greenville City	Greenville City in Washington County
Grenada County	Grenada County
Gulfport City	Gulfport City in Harrison County
Hattiesburg City	Hattiesburg City in Forrest County
Holmes County	Holmes County
Humphreys County	Humphreys County
Issaquena County	Issaquena County
Itawamba County	Itawamba County
Balance of Jackson County.	Jackson County Less Pascagoula City
Jasper County	Jasper County
Jefferson County	Jefferson County
Jefferson Davis County	Jefferson Davis County
Jones County	Jones County
Kemper County	Kemper County
Lawrence County	Lawrence County
Leake County	Leake County
Leflore County	Leflore County
Lincoln County	Lincoln County
Marion County	Marion County
Marshall County	Marshall County
Meridian City	Meridian City in Lauderdale County
Monroe County	Monroe County
Montgomery County	Montgomery County
Neshoba County	Neshoba County
Newton County	Newton County
Noxubee County	Noxubee County
Panola County	Panola County
Pascagoula City	Pascagoula City in Jackson County
Pearl River County	Pearl River County
Perry County	Perry County
Pike County	Pike County
Prentiss County	Prentiss County
Quitman County	Quitman County
Scott County	Scott County
Sharkey County	Sharkey County
Stone County	Stone County
Sunflower County	Sunflower County
Tallahatchie County	Tallahatchie County
Tate County	Tate County
Tippah County	Tippah County
Tishomingo County	Tishomingo County
Tunica County	Tunica County
Vicksburg City	Vicksburg City in Warren County
Walthall County	Walthall County
Balance of Washington County.	Washington County Less Greenville City
Wayne County	Wayne County
Wilkinson County	Wilkinson County
Winston County	Winston County
Yalobusha County	Yalobusha County
Yazoo County	Yazoo County
Missouri:	
Bollinger County	Bollinger County
Butler County	Butler County
Carter County	Carter County
Crawford County	Crawford County
Dallas County	Dallas County
Dent County	Dent County
Douglas County	Douglas County
Dunklin County	Dunklin County
Howell County	Howell County
Iron County	Iron County
Knox County	Knox County
Laclede County	Laclede County
Lewis County	Lewis County
Linn County	Linn County
Madison County	Madison County
Miller County	Miller County
Mississippi County	Mississippi County
Moniteau County	Moniteau County
Morgan County	Morgan County
New Madrid County	New Madrid County
Oregon County	Oregon County
Ozark County	Ozark County
Perniscot County	Perniscot County
Pike County	Pike County
Reynolds County	Reynolds County
Ripley County	Ripley County
Scott County	Scott County
Shannon County	Shannon County
St. Louis County	St. Louis County
St. Francois County	St. Francois County
Stoddard County	Stoddard County
Stone County	Stone County
Taney County	Taney County
Texas County	Texas County
Washington County	Washington County
Wayne County	Wanye County
Wright County	Wright County
Big Horn County	Big Horn County
Butte-Silver Bow City	Butte-Silver Bow in Silver Bow County
Deer Lodge County	Deer Lodge County
Glacier County	Glacier County
Granite County	Granite County
Lincoln County	Lincoln County
Meagher County	Meagher County
Mineral County	Mineral County
Ravalli County	Ravalli County
Rosebud County	Rosebud County
Sanders County	Sanders County
Balance of Silver Bow County.	Silver Bow County Less Butte-Silver Bow City
Nebraska:	
Loup County	Loup County
Thurston County	Thurston County
Nevada:	
Carson City	Carson City
Churchill County	Churchill County
Henderson City	Henderson City in Clark County
Humboldt County	Humboldt County
North Las Vegas City	North Las Vegas City in Clark County
Storey County	Storey County
White Pine County	White Pine County
New Jersey:	
Atlantic City	Atlantic City in Atlantic County
Camden City	Camden City in Camden County
Cape May County	Cape May County
Balance of Cumberland County.	Cumberland County Less Millville City, Vineland City
Elizabeth City	Elizabeth City in Union County
Hoboken City	Hoboken City in Hudson County
Jersey City	Jersey City in Hudson County
Millville City	Millville City in Cumberland County
Newark City	Newark City in Essex County
Passaic City	Passaic City in Passaic County
Paterson City	Paterson City in Passaic County
Perth Amboy City	Perth Amboy City in Middlesex County
Union City	Union City in Hudson County
Vineland City	Vineland City in Cumberland County
West New York Town	West New York Town in Hudson County
New Mexico:	
Carlsbad City	Carlsbad City in Eddy County
Catron County	Catron County
Cibola County	Cibola County
Colfax County	Colfax County
De Baca County	De Baca County
Balance of Eddy County	Eddy County Less Carlsbad City
Grant County	Grant County
Gaudalupe County	Gaudalupe County
Hobbs City	Hobbs City in Lea County
Balance of Lea County	Lea County Less Hobbs City
Luna County	Luna County
McKinley County	McKinley County
Mora County	Mora County
Quay County	Quay County
Rio Arriba County	Rio Arriba County
Balance of San Juan County.	San Juan County Less Farmington City
San Miguel County	San Miguel County
Taos County	Taos County
Valencia County	Valencia County
New York:	
Auburn City	Auburn City in Cayuga County
Buffalo City	Buffalo City in Erie County
Cattaraugus County	Cattaraugus County
Elmira City	Elmira City in Chemung County
Essex County	Essex County
Franklin County	Franklin County
Fulton County	Fulton County
Hamilton County	Hamilton County
Herkimer County	Herkimer County
Balance of Jefferson County.	Jefferson County Less Watertown City
Kings County	Kings County
Lewis County	Lewis County
Montgomery County	Montgomery County
New York County	New York County
Balance of Niagara County.	Niagara County Less Niagara Falls City, North Tonawanda City
Niagara Falls City	Niagara Falls City in Niagara County
Orleans County	Orleans County
Watertown City	Watertown City in Jefferson County
North Carolina:	
Bertie County	Bertie County
Bladen County	Bladen County
Brunswick County	Brunswick County
Cherokee County	Cherokee County
Columbus County	Columbus County
Graham County	Graham County
Halifax County	Halifax County
Hyde County	Hyde County
Jackson County	Jackson County
Kinston City	Kinston City in Lenoir County
Martin County	Martin County
McDowell County	McDowell County
Northampton County	Northampton County
Pender County	Pender County

Eligible labor surplus areas	Civil jurisdictions included
Robeson County	Robeson County
Swain County	Swain County
Tyrrell County	Tyrrell County
Vance County	Vance County
Wilson City	Wilson City in Wilson County
North Dakota:	
Benson County	Benson County
Eddy County	Eddy County
McHenry County	McHenry County
McLean County	McLean County
Mercer County	Mercer County
Rolette County	Rolette County
Slope County	Slope County
Stark County	Stark County
Williams County	Williams County
Ohio:	
Adams County	Adams County
Akron City	Akron City in Summit County
Ashland County	Ashland County
Ashtabula County	Ashtabula County
Auglaize County	Auglaize County
Barberton City	Barberton City in Summit County
Belmont County	Belmont County
Brown County	Brown County
Canton City	Canton City in Stark County
Carroll County	Carroll County
Cincinnati City	Cincinnati City in Hamilton County
Clermont County	Clermont County
Cleveland City	Cleveland City in Cuyahoga County
Clinton County	Clinton County
Columbiana County	Columbiana County
Coshocton County	Coshocton County
Crawford County	Crawford County
Darke County	Darke County
Dayton City	Dayton City in Montgomery County
East Cleveland City	East Cleveland City in Cuyahoga County
Elyria City	Elyria City in Lorain County
Balance of Fairfield County.	Fairfield County Less Columbus City Lancaster City
Fayette County	Fayette County
Fulton County	Fulton County
Gallia County	Gallia County
Guernsey County	Guernsey County
Hamilton City	Hamilton City in Butler County
Hardin County	Hardin County
Harrison County	Harrison County
Henry County	Henry County
Highland County	Highland County
Hocking County	Hocking County
Huron County	Huron County
Jackson County	Jackson County
Jefferson County	Jefferson County
Knox County	Knox County
Balance of Lake County	Lake County Less Mentor City
Lancaster City	Lancaster City in Fairfield County
Lawrence County	Lawrence County
Lima City	Lima City in Allen County
Logan County	Logan County
Lorain City	Lorain City in Lorain County
Balance of Lorain County.	Lorain County Less Elyria City, Lorain City
Balance of Mahoning County.	Mahoning County Less Youngstown City
Mansfield City	Mansfield City in Richland County
Marion City	Marion City in Marion County
Balance of Marion County.	Marion County Less Marion city
Massillon City	Massillon City in Stark County
Meigs County	Meigs County
Mentor City	Mentor City in Lake County
Mercer County	Mercer County
Middletown City	Middletown City in Butler County
Monroe County	Monroe County
Morgan County	Morgan County
Morrow County	Morrow County
Balance of Muskingum County.	Muskingum County Less Zanesville City
Noble County	Noble County
Norwood City	Norwood City in Hamilton County
Ottawa County	Ottawa County
Perry County	Perry County
Pickaway County	Pickaway County
Pike County	Pike County
Balance of Portage County.	Portage County Less Kent City
Putnam County	Putnam County
Balance of Richland County.	Richland County Less Mansfield City
Ross County	Ross County
Sandusky County	Sandusky County
Scioto County	Scioto County
Seneca County	Seneca County
Shelby County	Shelby County
Springfield City	Springfield City in Clark County
Toledo City	Toledo City in Lucas County
Balance of Trumbull County.	Trumbull County Less Warren City
Tuscarawas County	Tuscarawas County
Vinton County	Vinton County
Warren City	Warren City in Trumbull County
Washington County	Washington County
Williams County	Williams County
Wyandot County	Wyandot County
Youngstown City	Youngstown City in Mahoning County
Zanesville City	Zanesville City in Muskingum County
Oklahoma:	
Adair County	Adair County
Beckham County	Beckham County
Caddo County	Caddo County
Cherokee County	Cherokee County
Choctaw County	Choctaw County
Coal County	Coal County
Grady County	Grady County
Haskell County	Haskell County
Hughes County	Hughes County
Latimer County	Latimer County
Le Flore County	Le Flore County
Lincoln County	Lincoln County
Mayes County	Mayes County
McCurtain County	McCurtain County
McIntosh County	McIntosh County
Murray County	Murray County
Muskogee City	Muskogee City in Muskogee County
Balance of Muskogee County.	Muskogee County Less Muskogee City
Nowata County	Nowata County
Okmulgee County	Okmulgee County
Ottawa County	Ottawa County
Pittsburg County	Pittsburg County
Pushmatah County	Pushmataha County
Roger Mills County	Roger Mills County
Seminole County	Seminole County
Stephens County	Stephens County
Oregon:	
Albany City	Albany City in Linn County
Baker County	Baker County
Clatsop County	Clatsop County
Columbia County	Columbia County
Coos County	Coos County
Crook County	Crook County
Curry County	Curry County
Deschutes County	Deschutes County
Douglas County	Douglas County
Grant County	Grant County
Harney County	Harney County
Hood River County	Hood River County
Balance of Jackson County.	Jackson County Less Medford City
Jefferson County	Jefferson County
Josephine County	Josephine County
Klamath County	Klamath County
Lake County	Lake County
Balance of Lane County	Lane County Less Eugene City, Springfield City
Lincoln County	Lincoln County
Balance of Linn County	Linn County Less Albany City
Malheur County	Malheur County
Medford City	Medford City in Jackson County
Morrow County	Morrow County
Springfield City	Springfield City in Lane County
Tillamook County	Tillamook County
Umatilla County	Umatilla County
Union County	Union County
Wallowa County	Wallowa County
Wasco County	Wasco County
Wheeler County	Wheeler County
Pennsylvania:	
Balance of Allegheny County.	Allegheny County Less Bethel Park Borough, McCandless Township, McKeesport City, Monroeville Borough, Mount Lebanon Township, Penn Hills Township, Pittsburgh City, Plum Borough, Ross Township, Shaler Township, West Mifflin Borough
Allentown City	Allentown City in Lehigh County
Altoona City	Altoona City in Blair County
Armstrong County	Armstrong County
Beaver County	Beaver County
Bedford County	Bedford County
Bethlehem City	Bethlehem City in Lehigh County, Northampton County
Balance of Blair County	Blair County Less Altoona City
Butler County	Butler County
Balance of Cambria County.	Cambria County Less Johnstown City
Cameron County	Cameron County
Carbon County	Carbon County
Clarion County	Clarion County
Clearfield County	Clearfield County
Clinton County	Clinton County
Columbia County	Columbia County
Crawford County	Crawford County
Elk County	Elk County
Erie City	Erie City in Erie County
Balance of Erie County	Erie County Less Erie City, Millcreek Township
Fayette County	Fayette County
Forest County	Forest County
Fulton County	Fulton County
Greene County	Greene County
Hazleton City	Hazleton City in Luzerne County
Hempfield Township	Hempfield Township in Westmoreland County
Huntingdon County	Huntingdon County
Indiana County	Indiana County
Jefferson County	Jefferson County
Johnstown City	Johnstown City in Cambria County
Juniata County	Juniata County
Balance of Lackawanna County.	Lackawanna County Less Scranton City
Balance of Lawrence County.	Lawrence County Less New Castle City
Lebanon City	Lebanon City in Lebanon County
Balance of Luzerne County.	Luzerne County Less Hazleton City, Wilkes-Barre City
Balance of Lycoming County.	Lycoming County Less Williamsport City
McKean County	McKean County
McKeesport City	McKeesport City in Allegheny County
Mercer County	Mercer County
Mifflin County	Mifflin County
New Castle City	New Castle City in Lawrence County
North Huntington Township.	North Huntington Township in Westmoreland County
Balance of Northampton County.	Northampton County Less Bethlehem City, Easton City
Northumberland County	Northumberland County
Pittsburgh City	Pittsburgh City in Allegheny County
Plum Borough	Plum Borough in Allegheny County
Potter County	Potter County
Reading City	Reading City in Berks County
Schuylkill County	Schuylkill County
Somerset County	Somerset County
Sullivan County	Sullivan County
Susquehanna County	Susquehanna County
Tioga County	Tioga County
Venango County	Venango County
Washington County	Washington County
West Mifflin Borough	West Mifflin Borough in Allegheny County
Balance of Westmoreland County.	Westmoreland County Less Hempfield Township, North Huntington Township
Wilkes-Barre City	Wilkes-Barre City in Luzerne County
Williamsport City	Williamsport City in Lycoming County
Puerto Rico:	
Adjuntas Municipio	Adjuntas Municipio
Aguada Municipio	Aguada Municipio

Eligible labor surplus areas	Civil jurisdictions included
Aguadilla Municipio	Aguadilla Municipio
Aguas Buenas Municipio	Aguas Buenas Municipio
Aibonito Municipio	Aibonito Municipio
Anasco Municipio	Anasco Municipio
Arecibo Municipio	Arecibo Municipio
Arroyo Municipio	Arroyo Municipio
Barceloneta Municipio	Barceloneta Municipio
Barranquitas Municipio	Barranquitas Municipio
Bayamon Municipio	Bayamon Municipio
Cabo Rojo Municipio	Cabo Rojo Municipio
Caguas Municipio	Caguas Municipio
Camuy Municipio	Camuy Municipio
Canovanas Municipio	Canovanas Municipio
Carolina Municipio	Carolina Municipio
Catano Municipio	Catano Municipio
Cayey Municipio	Cayey Municipio
Ceiba Municipio	Ceiba Municipio
Ciales Municipio	Ciales Municipio
Cidra Municipio	Cidra Municipio
Coamo Municipio	Coamo Municipio
Comerio Municipio	Comerio Municipio
Corozal Municipio	Corozal Municipio
Culebra Municipio	Culebra Municipio
Dorado Municipio	Dorado Municipio
Fajardo Municipio	Fajardo Municipio
Florida Municipio	Florida Municipio
Guanica Municipio	Guanica Municipio
Guayama Municipio	Guayama Municipio
Guayanilla Municipio	Guayanilla Municipio
Guaynabo Municipio	Guaynabo Municipio
Gurabo Municipio	Gurabo Municipio
Hatillo Municipio	Hatillo Municipio
Hormigueros Municipio	Hormigueros Municipio
Humacao Municipio	Humacao Municipio
Isabela Municipio	Isabela Municipio
Jayuya Municipio	Jayuya Municipio
Juana Diaz Municipio	Juana Diaz Municipio
Juncos Municipio	Juncos Municipio
Lajas Municipio	Lajas Municipio
Lares Municipio	Lares Municipio
Las Marias Municipio	Las Marias Municipio
Las Piedras Municipio	Las Piedras Municipio
Loiza Municipio	Loiza Municipio
Luquillo Municipio	Luquillo Municipio
Manati Municipio	Manati Municipio
Maricao Municipio	Maricao Municipio
Maunabo Municipio	Maunabo Municipio
Mayaguez Municipio	Mayaguez Municipio
Moca Municipio	Moca Municipio
Morovis Municipio	Morovis Municipio
Naguabo Municipio	Naguabo Municipio
Naranjito Municipio	Naranjito Municipio
Orocovis Municipio	Orocovis Municipio
Patillas Municipio	Patillas Municipio
Penuelas Municipio	Penuelas Municipio
Ponce Municipio	Ponce Municipio
Quebradillas Municipio	Quebradillas Municipio
Rincon Municipio	Rincon Municipio
Rio Grande Municipio	Rio Grande Municipio
Sabana Grande Municipio.	Sabana Grande Municipio
Salinas Municipio	Salinas Municipio
San German Municipio	San German Municipio
San Juan Municipio	San Juan Municipio
San Lorenzo Municipio	San Lorenzo Municipio
San Sebastian Municipio	San Sebastian Municipio
Santa Isabel Municipio	Santa Isabel Municipio
Toa Alta Municipio	Toa Alta Municipio
Toa Baja Municipio	Toa Baja Municipio
Trujillo Alto Municipio	Trujillo Alto Municipio
Utuado Municipio	Utuado Municipio
Vega Alta Municipio	Vega Alta Municipio
Vega Baja Municipio	Vega Baja Municipio
Vieques Municipio	Vieques Municipio
Villalba Municipio	Villalba Municipio
Yabucoa Municipio	Yabucoa Municipio
Yauco Municipio	Yauco Municipio
Rhode Island:	
New Shoreham Town	New Shoreham Town
South Carolina:	
Abbeville County	Abbeville County
Allendale County	Allendale County
Anderson City	Anderson City in Anderson County
Bamberg County	Bamberg County
Chester County	Chester County
Clarendon County	Clarendon County
Darlington County	Darlington County
Dillon County	Dillon County
Georgetown County	Georgetown County
Greenwood County	Greenwood County
Hampton County	Hampton County
Marion County	Marion County
Marlboro County	Marlboro County
McCormick County	McCormick County
Union County	Union County
Williamsburg County	Williamsburg County
South Dakota:	
Buffalo County	Buffalo County
Shannon County	Shannon County
Tennessee:	
Bedford County	Bedford County
Benton County	Benton County
Campbell County	Campbell County
Cannon County	Cannon County
Carroll County	Carroll County
Balance of Carter County.	Carter County less Johnson City
Chester County	Chester County
Claiborne County	Claiborne County
Clarksville City	Clarksville City in Montgomery County
Cocke County	Cocke County
Coffee County	Coffee County
Crockett County	Crockett County
Cumberland County	Cumberland County
De Kalb County	De Kalb County
Decatur County	Decatur County
Dickson County	Dickson County
Dyer County	Dyer County
Fayette County	Fayette County
Fentress County	Fentress County
Franklin County	Franklin County
Gibson County	Gibson County
Grainger County	Grainger County
Greene County	Greene County
Grundy County	Grundy County
Hamblen County	Hamblen County
Hancock County	Hancock County
Hardeman County	Hardeman County
Hardin County	Hardin County
Haywood County	Haywood County
Henderson County	Henderson County
Henry County	Henry County
Hickman County	Hickman County
Houston County	Houston County
Humphreys County	Humphreys County
Jackson City	Jackson City in Madison County
Jackson County	Jackson County
Jefferson County	Jefferson County
Johnson County	Johnson County
Lake County	Lake County
Lauderdale County	Lauderdale County
Lawrence County	Lawrence County
Lewis County	Lewis County
Loudon County	Loudon County
Macon County	Macon County
Marion County	Marion County
McMinn County	McMinn County
McNairy County	McNairy County
Meigs County	Meigs County
Monroe County	Monroe County
Morgan County	Morgan County
Overton County	Overton County
Perry County	Perry County
Pickett County	Pickett County
Polk County	Polk County
Putnam County	Putnam County
Rhea County	Rhea County
Scott County	Scott County
Sequatchie County	Sequatchie County
Sevier County	Sevier County
Smith County	Smith County
Stewart County	Stewart County
Union County	Union County
Van Buren County	Van Buren County
Warren County	Warren County
Wayne County	Wayne County
White County	White County
Texas:	
Baytown City	Baytown City in Harris County
Beaumont City	Beaumont City in Jefferson County
Brownsville City	Brownsville City in Cameron County
Balance of Cameron County.	Cameron County less Brownsville City, Harlingen City
Cass County	Cass County
Childress County	Childress County
Dawson County	Dawson County
Del Rio City	Del Rio City in Val Verde County
Dimmit County	Dimmit County
Balance of Ector County	Ector County Less Odessa City
Edinburg City	Edinburg City in Hidalgo County
El Paso City	El Paso City in El Paso County
Balance of El Paso County.	El Paso County Less El Paso City
Galveston City	Galveston City in Galveston County
Garza County	Garza County
Hardin County	Hardin County
Harlingen City	Harlingen City in Cameron County
Balance of Hidalgo County.	Hidalgo County Less Edinburg City McAllen City, Mission City
Jasper County	Jasper County
Jim Hogg County	Jim Hogg County
Killeen City	Killeen City in Bell County
La Salle County	La Salle County
Laredo City	Laredo City in Webb County
Longview City	Longview City in Gregg County, Harrison County
Loving County	Loving County
Marion County	Marion County
Maverick County	Maverick County
McAllen City	McAllen City in Hidalgo County
Midland City	Midland City in Midland County
Balance of Midland County.	Midland County Less Midland City
Mission City	Mission City in Hidalgo County
Morris County	Morris County
Newton County	Newton County
Balance of Nueces County.	Nueces County Less Corpus Christi City
Odessa City	Odessa City in Ector County
Orange City	Orange City in Orange County
Balance of Orange County.	Orange County Less Orange City
Port Arthur City	Port Arthur City in Jefferson County
Presidio County	Presidio County
Sabine County	Sabine County
Starr County	Starr County
Texas City	Texas City in Galveston County
Tyler County	Tyler County
Uvalde County	Uvalde County
Willacy County	Willacy County
Zapata County	Zapata County
Zavala County	Zavala County
Utah:	
Carbon County	Carbon County
Duchesne County	Duchesne County
Emery County	Emery County
Garfield County	Garfield County
Grand County	Grand County
Juab County	Juab County
Kane County	Kane County
Piute County	Piute County
San Juan County	San Juan County
Sanpete County	Sanpete County
Wasatch County	Wasatch County
Wayne County	Wayne County
Virginia:	
Alleghany County	Alleghany County
Bath County	Bath County
Buchanan County	Buchanan County
Buckingham County	Buckingham County
Buena Vista City	Buena Vista City
Covington City	Covington City
Danville City	Danville City
Dickenson County	Dickenson County
Giles County	Giles County
Grayson County	Grayson County
Greensville County	Greensville County
Halifax County	Halifax County
Highland County	Highland County
Lancaster County	Lancaster County
Lee County	Lee County
Lunenburg County	Lunenburg County
Northumberland County	Northumberland County
Norton City	Norton City
Nottoway County	Nottoway County
Page County	Page County
Pittsylvania County	Pittsylvania County
Prince Edward County	Prince Edward County
Russell County	Russell County
Smyth County	Smyth County
Tazewell County	Tazewell County
Waynesboro City	Waynesboro City
Westmoreland County	Westmoreland County
Wise County	Wise County
Wythe County	Wythe County
Washington:	
Adams County	Adams County
Asotin County	Asotin County
Bellingham County	Bellingham City in Whatcom County

Eligible labor surplus areas	Civil jurisdictions included
Balance of Benton County.	Benton County Less Kennewick City, Richland City
Chelan County	Chelan County
Clallam County	Clallam County
Columbia County	Columbia County
Balance of Cowlitz County.	Cowlitz County Less Longview City
Douglas County	Douglas County
Everett City	Everett City in Snohomish County
Ferry County	Ferry County
Franklin County	Franklin County
Grant County	Grant County
Grays Harbor County	Grays Harbor County
Jefferson County	Jefferson County
Kennewick City	Kennewick City in Benton County
Kittitas County	Kittitas County
Klickitat County	Klickitat County
Lewis County	Lewis County
Longview City	Longview City in Cowlitz County
Mason County	Mason County
Okanogan County	Okanogan County
Pacific County	Pacific County
Pend Oreille County	Pend Oreille County
Richland City	Richland City in Benton County
Skagit County	Skagit County
Skamania County	Skamania County
Stevens County	Stevens County
Tacoma City	Tacoma City in Pierce County
Vancouver City	Vancouver City in Clark County
Wahkiakum County	Wahkiakum County
Walla Walla City	Walla Walla City in Walla Walla County
Balance of Whatcom County.	Whatcom County Less Bellingham City
Yakima City	Yakima City in Yakima County
Balance of Yakima County.	Yakima County Less Yakima City
West Virginia:	
Barbour County	Barbour County
Boone County	Boone County
Braxton County	Braxton County
Brooke County	Brooke County
Balance of Cabell County.	Cabell County Less Huntington City
Calhoun County	Calhoun County
Charleston City	Charleston City in Kanawha County
Clay County	Clay County
Doddridge County	Doddridge County
Fayette County	Fayette County
Gilmer County	Gilmer County
Grant County	Grant County
Greenbrier County	Greenbrier County
Hampshire County	Hampshire County
Hancock County	Hancock County
Hardy County	Hardy County
Harrison County	Harrison County
Huntington City	Huntington City in Cabell County, Wayne County
Jackson County	Jackson County
Balance of Kanawha County.	Kanawha County Less Charleston City
Lewis County	Lewis County
Lincoln County	Lincoln County
Logan County	Logan County
Marion County	Marion County
Balance of Marshall County.	Marshall County Less Wheeling City
Mason County	Mason County
McDowell County	McDowell County
Mercer County	Mercer County
Mineral County	Mineral County
Mingo County	Mingo County
Monroe County	Monroe County
Morgan County	Morgan County
Nicholas County	Nicholas County
Balance of Ohio County	Ohio County Less Wheeling City
Parkersburg City	Parkersburg City in Wood County
Pendleton County	Pendleton County
Pleasants County	Pleasants County
Pocahontas County	Pocahontas County
Preston County	Preston County
Putnam County	Putnam County
Raleigh County	Raleigh County
Randolph County	Randolph County
Ritchie County	Ritchie County
Roane County	Roane County
Summers County	Summers County
Taylor County	Taylor County
Tucker County	Tucker County
Tyler County	Tyler County
Upshur County	Upshur County
Balance of Wayne County.	Wayne County Less Huntington City
Webster County	Webster County
Wetzel County	Wetzel County
Wheeling City	Wheeling City in Marshall County, Ohio County
Wirt County	Wirt County
Balance of Wood County	Wood County Less Parkersburg City
Wyoming County	Wyoming County
Wisconsin:	
Ashland County	Ashland County
Bayfield County	Bayfield County
Buffalo County	Buffalo County
Clark County	Clark County
Columbia County	Columbia County
Door County	Door County
Balance of Douglas County.	Douglas County Less Superior City
Fond Du Lac City	Fond Du Lac City in Fond Du Lac County
Forest County	Forest County
Green Bay City	Green Bay City in Brown County
Green Lake County	Green Lake County
Iron County	Iron County
Jackson County	Jackson County
Juneau County	Juneau County
Kenosha City	Kenosha City in Kenosha County
Lincoln County	Lincoln County
Manitowoc City	Manitowoc City in Manitowoc County
Marinette County	Marinette County
Marquette County	Marquette County
Menominee County	Menominee County
Oconto County	Oconto County
Oshkosh City	Oshkosh City in Winnebago County
Polk County	Polk County
Racine City	Racine City in Racine County
Rusk County	Rusk County
Sauk County	Sauk County
Sawyer County	Sawyer County
Taylor County	Taylor County
Trempealeau County	Trempealeau County
Vilas County	Vilas County
Washburn County	Washburn County
Wausau City	Wausau City in Marathon County
Wyoming:	
Fremont County	Fremont County

[FR Doc. 87-6527 Filed 3-25-87; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Migrant and Seasonal Farmworker Programs; Proposed Planning Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed State planning estimates and allocation formula; request for comments.

SUMMARY: The Employment and Training Administration is publishing the proposed State planning estimates for Program Year 1987 (July 1, 1987–June 30, 1988) for Job Training Partnership Act Section 402 migrant and seasonal farmworker programs, the allocation formula, and rationale used in arriving at the planning estimates.

DATE: Written comments on this notice are invited and must be received on or before April 27, 1987.

ADDRESS: Written comments should be submitted to: Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room N4641, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 535-0500.

SUPPLEMENTARY INFORMATION: As required by section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration publishes for comment the proposed State planning estimates for migrant and seasonal farmworker programs in Program Year 1987 (July 1, 1987–June 30, 1988). The planning estimates reflect (1) the application of a 75-percent hold-harmless provision to minimize the effects of the distribution of funds by formula for Program Year 1987; and (2) that States and territories which would receive less than $60,000 by application of the formula (Alaska, Rhode Island, and the District of Columbia) will receive no allotment, since the amount they would receive is deemed insufficient to effectively operate a program. Although the Department of Labor (Department) reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000 in accordance with 20 CFR 633.105(b)(2), jurisdictions which would receive more than $60,000 but less than $120,000 (Delaware and New Hampshire) will be given an allocation of $120,000.

Allocation Formula

The distribution is based on data obtained in the Decennial Census of the Population, 1980. This complies with section 162(a) of the JTPA which provides that:

> All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to economically disadvantaged and lower income persons shall be based on 1980 Census or later data.

More specifically, the allotments derive from the Census Occupational Codes which the Department considers to represent most accurately the Nation's disadvantaged agricultural labor force. The persons included in the data base are individual workers who reported on the Census questionnaire that they earned an income at or below 70 percent of the Lower Living Standard Income Level set by the Bureau of Labor Statistics and who earned more than half of their income from wages (see 50

FR 24506, June 11, 1985; 51 FR 12752, April 15, 1986; and 51 FR 24951, July 9, 1986). The allocation formula was described in detail at 51 FR 9545 (March 19, 1986). See also 51 FR 24951 (July 1, 1986).

Allotments

The allotments set forth in the appendix to this notice reflect the revised formula described above. The formula is applied to a total amount to be distributed of $57,322,000. This figure represents the appropriated Fiscal Year 1987 (Pub. L. 99–591 sec. 101 (i)) level of $59,621,000 reduced by $2,299,000 which is being held in the JTPA section 402 national account. The migrant housing program and the Migrant Farm Labor Rest Center in Hope, Arkansas, will be funded from that account.

This is the last year in which the Department will employ a hold-harmless provision. Hereafter, each jurisdiction will receive the amount it would receive by a direct application of Census data.

Signed at Washington, DC, this 27th day of February 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL AND ADMINISTRATIVE MANAGEMENT
PY 1987 MSFW ALLOTMENT TO STATES
02-06-1987

	ALLOTMENT
Alabama	820,758
Alaska	0
Arizona	1,061,808
Arkansas	1,209,584
California	8,282,151
Colorado	748,295
Connecticut	191,997
Delaware	120,000
District of Columbia	0
Florida	3,625,160
Georgia	1,606,833
Hawaii	255,666
Idaho	844,170
Illinois	1,116,434
Indiana	807,009
Iowa	1,372,472
Kansas	700,357
Kentucky	1,423,135
Louisiana	828,190
Maine	342,375
Maryland	291,465
Massachusetts	298,030
Michigan	885,913
Minnesota	1,336,550
Mississippi	1,524,212
Missouri	1,145,791
Montana	701,720
Nebraska	808,286
Nevada	140,717
New Hampshire	120,000
New Jersey	271,026
New Mexico	491,885
New York	1,456,580
North Carolina	2,995,656
North Dakota	493,124
Ohio	942,150
Oklahoma	595,812
Oregon	881,702
Pennsylvania	1,230,022
Rhode Island	0
South Carolina	1,112,718
South Dakota	730,086
Tennessee	998,635
Texas	4,793,743
Utah	228,043
Vermont	224,203
Virginia	1,004,704
Washington	1,500,305
West Virginia	228,539
Wisconsin	1,282,419
Wyoming	208,844
Puerto Rico	3,042,726
FORMULA TOTAL	57,322,000
TA/HOUS.	2,299,000
GRAND TOTAL	59,621,000

[FR Doc. 87-6525 Filed 3-25-87; 8:45 am]
BILLING CODE 4510-30-C

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Industry Executive Subcommittee Meeting

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held Friday, May 8, 1987. The meeting will be held at the MITRE Corporation, 7525 Colshire Drive, McLean, Virginia. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.

B. Administrative remarks.

C. Briefings on industry and government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692–9274 or write the Manager, National Communcations System, Washington, DC 20305–2010.

Charles F. Noll,

Captain, U.S. Navy, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 87–6515 Filed 3–25–87; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on April 9, 1987, from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

March 19, 1987.

[FR Doc. 87–6540 Filed 3–25–87; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (New Genres Section) to the National Council on the Arts will be held on April 14–17, 1987, from 9:00 a.m.–8:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

March 19, 1987.

[FR Doc. 87–6541 Filed 3–25–87; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 9–11, 1987, in Room 1046, 1717 H Street NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on March 17, 1987, Vol. 52, FR–8390.

Thursday, April 9, 1987

8:30 a.m.–8:45 a.m.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 a.m.–10:30 a.m.: Quantitative Safety Goals (Open)—Review proposed NRC Staff plan for implementation of the NRC Quantitative Safety Goals.

10:45 a.m.–12:15 p.m.: Regional and I&E Activities (Open)—Briefing and discussion regarding the development of performance indicators to evaluate the performance of nuclear facility operations.

1:15 p.m.–1:45 p.m.: Future ACRS Activities (Open)—Discuss anticipated ACRS subcommittee activity and items proposed for full Committee consideration.

1:45 p.m.–2:45 p.m.: Reactor Safety Research (Open)—Discuss the bases for preparation of the ACRS annual report to the NRC regarding the proposed NRC safety research program and budget.

2:45 p.m.–4:00 p.m.: Fitness for Duty (Open)—Briefing and discussion regarding the application of NRC fitness-for-duty requirements.

4:15 p.m.–6:00 p.m.: ACRS Subcommittee Activities (Open)—Reports and discussion of assigned ACRS subcommittee activities including consideration of proposed publication of an NRC Regulatory Guide on Qualification of Connector Assemblies for Nuclear Power Plants, application of the GDC–4 Broad Scope Rule at the Beaver Valley Nuclear Station, Unit 2, and allocation of ACRS resources.

Friday, April 10, 1987

8:30 a.m.–9:30 a.m.: Quantitative Safety Goals (Open)—Discuss proposed ACRS comments and recommendations regarding the NRC Staff-proposed plan for implementation of the NRC Quantitative Safety Goals.

9:30 a.m.–9:50 a.m.: Preparation for Meeting with NRC Commissioners (Open)—Discuss summary of ACRS report dated January 15, 1987 regarding Safety Improvements for Future Light Water Reactor Plant Designs.

10:00 a.m.–11:30 a.m.: Meeting with NRC Commissioners (Open)—(Room 1130–H)—Discuss ACRS report regarding Safety Improvements for Future Light Water Reactor Plant Designs.

11:45 a.m.–12:30 p.m.: Quantitative Safety Goals (Open)—Discuss proposed ACRS comments and recommendations regarding the NRC Staff-proposed

implementation plan for the NRC Quantitative Safety Goals.

1:30 p.m.–4:00 p.m.: Operating Experience (Open/Closed)—Briefing and discussion of recent incidents and events at nuclear facilities.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the matter being considered.

4:15 p.m.–5:20 p.m.: Safety Features in Foreign Nuclear Power Plants (Open/Closed)—Discuss proposed ACRS comments/recommendations regarding application of safety features in foreign nuclear power plants and other safety improvements to nuclear facilities in the United States.

Portions of this session will be closed as required to discuss information provided in confidence by a foreign source.

5:20 p.m.–6:00 p.m.: Appointment of New Member (Closed)—Discuss qualifications of candidates for appointment to the ACRS.

This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Saturday, April 11, 1987

8:30 a.m.–12:30 p.m. and 1:30 p.m.–2:30 p.m.: Preparation of ACRS Reports (Open/Closed)—Discussion of proposed ACRS reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as required to discuss information provided in confidence by a foreign source.

2:30 p.m.–3:00 p.m.: Miscellaneous (Open)—Complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 20, 1986 (51 FR 37241). In accordance with these procedures, oral and written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information that involves Proprietary Information [5 U.S.C 552b(c)(4)], information provided in confidence by a foreign source [5 U.S.C. 552b(c)(1)] applicable to the facility being discussed, and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m.

Dated: March 23, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–6580 Filed 3–25–87; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan; Final Model Conservation Standard Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council or Council).

ACTION: Notice of final amendments regarding model conservation standards.

SUMMARY: On January 14, 1987, the Northwest Power Planning Council amended portions of the Northwest Conservation and Electric Power Plan (power plan) by adopting amendments to the Model Conservation Standards (MCS) for New Electrically Heated Residential Buildings, New Commercial Buildings, Residential and Commercial Buildings Converting to Electric Space Conditioning, Utility Residential and Commercial Conservation Programs, and Surcharge Methodology. On March 11, 1987, the Council adopted two further amendments to the MCS, one related to new construction at federal facilities and the other related to the space heat conversion standard.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and involvement, at Northwest Power Planning Council, Suite 1100, 850 S.W. Broadway, Portland, Oregon, 97205, or (503) 222–5161, or (toll-free) 1–800–222–3355 (in Montana, Idaho or Washington) or 1–800–425–2324 in Oregon. Copies of this notice and the text of the 1987 Model Conservation Standards will be mailed to all those who commented on the proposed amendments. Others may obtain copies upon request. The Council's Response to Comments is available upon request at the same address and telephone numbers.

SUPPLEMENTARY INFORMATION: As required by the Northwest Power Act (16 U.S.C. 839 *et seq.*) (the Act), the Council adopted MCS as one component of its 1983 Power Plan for the region (48 FR 24493, June 1, 1983). In an amendment process conducted during the last half of 1985, the Council revised the model standards and incorporated them into the 1986 revision of its power plan (51 FR 16239, May 1, 1986). The MCS savings levels for both new residential and new commercial buildings adopted by the Council in the 1986 Model Conservation Standards were equivalent to the MCSs set forth and as amended by the Council in its 1983 plan.

The Council invited comments on all aspects of the proposed amendments. Hearings were held in each of the four Northwest states. Both oral and written comments were accepted. Other written comments were accepted at the Council's central offices through December 22, 1986 and the Council allowed oral public comment and consultation sessions until January 9, 1987. The Council adopted most of the MCS amendments at its January 14, 1987 meeting in Portland, Oregon. At its December 11, 1986 meeting the Council extended the public comment period until February 13, 1987 on two discrete issues, one related to new construction at federal facilities and the other related to the space heat conversion standard. Final action on these two issues was taken at the Council's March 11–12, 1987 meeting in Boise, Idaho, and the Council's decisions are reflected in the text of the final amendments.

Since the Council's first regional power plan was adopted on April 27, 1983, the Council and Bonneville have

made substantial progress in their efforts to improve the energy efficiency of new buildings. Several local jurisdictions in the states of Washington and Idaho have adopted the MCSs as codes. In addition, statewide code improvements have been achieved in Oregon and Washington, although not to the full levels of the MCS. Over 400 houses have been built to the MCS through the Residential Standards Demonstration Program (RSDP), a training program for builders, code officials, and other interested parties in the shelter industry. Even though the data from the RSDP have statistical limitations, the Council is encouraged by the fact that costs reported by the majority of RSDP builders were in accord with the Council's 1983 cost estimates.

Bonneville has an ongoing marketing and incentive program, Super Good Cents, aimed at achieving MCS levels of construction in new residences. Houses built and marketed through the Super Good Cents program are certified as being energy efficient by electrical utilities. The goal of certification is to get lenders, sellers, and buyers to recognize the added value of an MSC home because it is less expensive to own and heat. Bonneville also has a continuing program to help train and educate the shelter industry, including lenders, about the advantages of building more efficient buildings. In addition, several investor-owned utilities in the region have established programs to market efficient building practices in their service territories.

The Council's 1983 approach to the MCS emphasized the use of building codes as the least expensive way for the regional power system to acquire cost-effective conservation. State and local jurisdictions are still strongly encouraged to adopt the MCS for new residential and commercial buildings and conversions as building codes. The 1986 Model Conservation Standards, however, also focused on utility residential and commercial conservation programs. The MCS for utility programs were designed to encourage through marketing and financial assistance improved building practice and ultimate adoption of building codes at MCS levels by reducing the cost of the MCS.

Section 4(f)(2) of the Northwest Power Act (16 U.S.C. 839 *et seq.*) provides for Council recommendation of a 10 percent to 50 percent surcharge on Bonneville customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to those which would be obtained under the MCS. In the current amendments, the Council recommends that Bonneville impose a surcharge on utilities that fail to take steps that are designed to achieve energy savings comparable to those obtainable through the MCS for utility programs. Bonneville's draft surcharge policy, circulated for public comment in July, 1986, specified the steps utilities could take to avoid a surcharge. A final surcharge policy is awaiting the conclusion of the Council's MCS amendment process.

The Council has consistently stated that it would monitor the cost and performance of all the model standards and would revise the MCS as appropriate. However, to provide a greater measure of stability for MCS programs, the Council has committed to revise the MCS on a three-year cycle, limiting interim changes to those necessary to correct obvious errors or inequities.

Final Amendments

For the reasons set out in this notice and under authority given the Council under the Act (16 U.S.C. 839b(d)(1)), the Northwest Conservation and Electric Power Plan (48s FR 24493, June 1, 1983) as amended (50 FR 5021, Feb. 5, 1985) (51 FR 7364, March 3, 1986), is amended further by replacing Volume 1, Chapter 9, section 1. 1.0 and Appendix 1–B of the 1986 Power Plan with the 1987 Model Conservation Standards amendments. The text of the amendments is incorporated into this notice by reference. The 1987 Model Conservation Standards amendments will be mailed to all those who commented on the proposed amendments, and is also available to others upon request to the Council's Public Information and Involvement Division at the address and telephone numbers listed in this notice.

Response to Comments

This notice also incorporated by reference the Council's summaries of and responses to all significant public comments received on the proposed model conservation standards amendments during the public comment period. This document is available upon request to the Council's Public Information and Involvement Division at the address and telephone numbers listed in this notice.

Legal Effect of this Notice

The Act provides that suits seeking judicial review of these final amendments must be filed within sixty days after publication of this notice in the **Federal Register.** (16 U.S.C. 839f(e)(5)).

Edward Sheets,

Executive Director.

[FR Doc. 87–6549 Filed 3–25–87; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15631; 812–6554]

Bear Stearns Secured Investors, Inc.; Issuance of Collateralized Mortgage Obligations

Dated: March 19, 1987.

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Bear Stearns Secured Investors Inc., on behalf of itself and all owner trusts ("Trusts") it may establish in the future (Applicant and the Trusts are referred to collectively as the "Issuers").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order conditionally exempting itself and the Trusts from all provisions of the 1940 Act to permit each Issuer to issue and sell mortgage-backed securities.

FILING DATE: The application was filed on December 8, 1986 and amended on February 6, March 2, and 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on April 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Bear Stearns Secured Investors Inc., 1601 Elm Street, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272–2363 or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION:
Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a direct, wholly-owned, finance subsidiary of The Bear Stearns Companies Inc., which in turn is the parent of Bear, Stearns & Co. Inc. Applicant, a newly-formed Delaware corporation, was formed for the purpose of engaging in asset-backed financing, including issuing and selling, or establishing separate Trusts to issue and sell, series of fixed rate bonds ("Bonds"), and purchasing owning and selling to such Trusts Mortgage Certificates and other collateral (collectively, "Mortgage Collateral") and pledging such Mortgage Collateral to a Trustee (as defined below) as security for each series of Bonds.[1] Applicant will not engage in any business or investment activities unrelated to such purpose.

2. Issuers that are Trusts will be created pursuant to a Trust Agreement between Applicant, acting as depositor, and a bank, trust company or other fiduciary, acting as owner trustee (the "Owner Trustee"). Applicant contemplates that the Owner Trustee will enter into a Management Agreement with respect to each Trust whereby Bear, Stearns & Co. Inc., another affiliate of Applicant or an independent company will provide certain management services in connection with the issuance of the Bonds.

3. Each series of Bonds will be issued by the Issuer pursuant to an indenture between an independent trustee (the "Trustee") and the Issuer (that is, the Applicant in the case of a corporate Issuer and the Owner Trustee acting on behalf of a Trust Issuer), as supplemented by one or more supplemental indentures for such series (the "Indenture"). The Indenture will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

4. For each series of Bonds: (a) Each Issuer will hold no substantial assets other than the Mortgage Certificates; (b) the Bonds will be secured by Mortgage Certificates having a collateral value at the time of issuance of the Bonds and following each payment date for the Bonds equal to or greater than the outstanding principal balance of the Bonds; (c) the cash flow generated by the Mortgage Certificates, together with the other collateral pledged to secure the Bonds, will be sufficient to provide for the full and timely payment of principal and interest payments on the Bonds; and (d) the Mortgage Certificates will be assigned in their entirety by each Issuer to the Trustee and will be subject to the lien of the related Indenture.

5. In addition to the issuance and sale of the Bonds, each Issuer may sell some or all of the cash flow remaining after all required payments on the Bonds have been made and expenses have been paid (the "Residual Interests") to not more than 100 sophisticated institutional investors ("Eligible Institutions"), knowledgeable and experienced in financial and business matters, including without limitation mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts and other institutions which customarily engage in the purchase or origination of mortgages or other mortgage collateral, in private offerings exempt from the registration requirements of the Securities Act ("1933 Act") by section 4(2) thereof. Each purchaser of Residual Interests (a "Residual Interest Holder") will be required to represent that it is purchasing the Residual Interests for investment purposes, and that the transfer of any Residual Interest will be prohibited if there would be more than 100 Residual Interest Holders in respect of any one series of Bonds at any time. Subsequent transfers of Residual Interests by Residual Interest Holders, in private transactions, may be made only to Eligible Institutions. The Residual Interest Holders in Applicant will be required to agree, and the Trust Agreement relating to each Trust will provide, that the number of Residual Interest Holders will be so limited and the transferability of Residual Interests will be so restricted. When the Issuer is a Trust, the Owner Trustee will not purchase any Residual Interests but will function as a legal stakeholder for the assets of the Trust.

6. The sale of Residual Interests could take a number of forms; for example, a corporate Issuer (which only would be the Applicant) could sell an interest in such residual amounts in the form of non-voting participation interests, or a Trust Issuer could sell Trust Certificates. As a condition to relief, Applicant will not transfer a controlling interest in Applicant, as the term "control" is defined in Rule 405 under the 1933 Act, to any person other than an affiliate of The Bear Stearns Companies Inc. The fact that Residual Interests are sold, as described above, will not alter in any respect the rights of the related Bondholders, regardless of whether the Issuer is a corporation or a trust.

7. Neither any of the Issuers, the Residual Interest Holders, the Trustee, nor the Owner Trustee in the case of a Trust, will be able to impair the security to the Bondholders afforded by the Mortgage Certificates. Without the consent of each affected Bondholder neither any of the Issuers (that is, the Applicant in the case of a corporate Issuer and the Owner Trustee acting on behalf of a Trust Issuer), the Residual Interest Holders, nor the Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal amount or the rate of interest on any Bond; (c) change the priority of repayment on any class of any series of Bonds; (d) impair or adversely affect the Mortgage Certificates securing a series of Bonds; (e) permit the creation of a lien ranking prior to or on parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

8. The sale of Residual Interests will not alter the payment of cash flows under any Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to an Indenture to support payments of principal and interest on the Bonds. Further, no holder of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in an Issuer (which term includes Residual Interest Holders) will be affiliated with either the custodian of the Mortgage Certificates or any nationally recognized statistical rating agency rating the Bonds. No Residual

[1] Each series of Bonds will be separately secured by collateral consisting primarily of mortgage pass-through certificates which are fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA Certificates"), Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and/or Guaranteed Mortgage Pass-Through Certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"); (GNMA Certificates, FHLMC Certificates and FNMA Certificates collectively are referred to as "Mortgage Certificates"). Mortgage Certificates pledged to secure a series of Bonds may or may not be "partial pool" Mortgage Certificates. Applicant anticipates the Mortgage Certificates securing each series of Bonds will be acquired by the Issuer thereof using the net proceeds of the sale of such Bonds. In addition to the Mortgage Certificates directly securing the Bonds, a series will have additional collateral which will include a collection account, debt service fund, or other reserve funds as specified in the prospectus supplement for a particular series.

Interest Holder will be affiliated with the Trustee.

9. The interests of the Bondholders will not be compromised or impaired by the ability of an Issuer to sell Residual Interests, and there will not be a conflict of interest between the Bondholders and the Residual Interest Holders as: (a) The Mortgage Collateral that will be deposited to secure each series of Bonds will not be speculative in nature because it will consist principally of GNMA Certificates, FNMA Certificates and/or FHLMC Certificates, which Mortgage Certificates are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds will be issued only if an independent nationally recognized statistical rating agency has rated such Bonds in one of its two highest rating categories, which by definition means that the capacity of the Issuer to repay principal and interest on the Bonds is extremely strong; (c) the relevant Indenture subjects the Mortgage Collateral, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first priority perfected security interest in the name of the Trustee on behalf of the Bondholders; [2] and (d) the Residual Interest Holders are entitled to receive only current distributions representing the residual payments on the collateral from the relevant Issuer. Furthermore, unless the Issuer elects to be treated as a "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, the Residual Interest Holders of a particular series of Bonds will be liable for the administrative expenses in respect of such series of Bonds (other than the principal and interest on such Bonds) to the extent not previously paid from the trust estate. The choice of the form of Issuer and the identity of the Residual Interest Holders in such Issuer will not alter the payments to be made to Bondholders, which payments are governed by the Indenture.

10. The election by an Issuer to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by such Issuer. Any Issuer that elects to be treated as a REMIC will provide for the payment of all administrative fees and expenses by one or more of the four methods which are set forth in the application. Each Issuer will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods are selected by such Issuer.

11. The aggregate value of the entire Residual Interest will be much less than the value of the Bonds to the Bondholders. Applicant does not intend to deposit, in respect of any series of Bonds, Mortgage Certificates with a collateral value that exceeds 110% of the aggregate principal amount of the related Bonds.

12. Except for the limited right to substitute Mortgage Certificates, it will not be possible for the Residual Interest Holders to alter the Mortgage Certificates initially deposited, and in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of the Mortgage Certificates. Therefore, although substituted Mortgage Certificates may have a different prepayment experience than the replaced Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any collateral will be determined by market conditions beyond the control of the Residual Interest Holders, which market conditions are likely to affect all Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the Residual Interest Holders will not be different from those of the Bondholders with respect to such prepayment experience; and (c) to the extent that it may be possible for the Residual Interest Holders to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structures where bonds are issued by an entity that is a single purpose finance subsidiary.

13. The requested order is necessary and appropriate in the public interest because: (a) The Issuers should not be deemed to be entities to which the provisions of the Act were intended to be applied; (b) the Issuers may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the Act are not removed; (c) the Issuers' activities are intended to serve a recognized and critical public need; (d) granting the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act and thereafter by the Trustee representing their interests under the Indenture; and (e) the Residual Interests will be held entirely by the Applicant or offered only to a limited number of sophisticated institutional investors through private placements.

Applicant's Conditions

Applicant agrees that if an order is granted it may be expressly conditioned on the following:

(1) Each series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the collateral directly securing the Bonds will be GNMA Certificates, FNMA Certificates and/or FHLMC Certificates.

(3) If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged as security for a series of Bonds, the substitute Mortgage Certificate must: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in Conditions (2) and (4). In addition, new Mortgage Certificates will not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as Mortgage Collateral. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) All Mortgage Collateral securing a series of Bonds will be held by the Trustee or on behalf of the Trustee by an independent custodian. Neither the Trustee nor the custodian will be an "affiliate" (as the term "affiliate" is defined in 1933 Act Rule 405, 17 CFR 230.405) of any Issuer. The Trustee will be provided with a first priority

[2] The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the Issuer (and any Residual Interest Holder) until (i) the Trustee has made the scheduled payments of principal and interest on the Bonds, (ii) the Trustee has received all fees currently owed to it, and (iii) to the extent required by any supplemental indentures executed in connection with the issuance of the Bonds, deposits have been made to certain reserve funds which will ultimately be used to make payments of principal and interest on the Bonds. Each Issuer is obligated to collect or cause to be collected all amounts released from the lien of the Indenture by the Trustee, to pay or cause to be paid all expenses of the trust, including its own fees, and to remit the balance to the Residual Interest Holders on a pro rata basis. For Trusts, once amounts have been released from the lien of the Indenture, each Trust Agreement provides that the Owner Trustee has a lien superior to that of the Residual Interest Holders in and to the remaining cash flow.

perfected security or lien interest in and to all Mortgage Collateral.

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with any Issuer. The Bonds will not be considered redeemable securities within the meaning of section (2)(a)(32) of the Act.

(6) At least annually, an independent public accountant will audit the books and records of each Issuer and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Trustee.

(7) In addition, the above representations regarding the Residual Interests, and the payment of expenses upon an election of REMIC status may be made express coditions to the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6588 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15632, 812-6481]

Delaware Tax-Free Money Fund, Inc., et al.; Issuance of Separate Classes of Shares Within the Same Portfolio

Dated: March 19, 1987.

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Delaware Tax-Free Money Fund, Inc.; Delta Trend Fund, Inc.; DMC Tax-Free Income-USA, Inc.; Decatur Fund, Inc.; Delaware Group Government Fund, Inc.; Delaware Fund, Inc.; Delchester Bond Fund, Inc.; Delcap Fund, Inc.; Delaware Group State Tax-Free Fund, Inc.; Delaware Group California Tax-Free Fund, Inc.; Delaware Group Pennsylvania Tax-Free Trust; Delaware Treasury Reserves; Delaware Cash Reserve and DMC Tax-Free Income Trust-Pennsylvania (the "Funds"); Delaware Management Company, Inc. ("DMC"); and Delaware Distributors, Inc. ("DDI"), and on behalf of any other investment companies for which DMC or DDI, or their subsidiaries or affiliates, serve as investment manager or national distributor.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 18(f), 18(g) and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order to permit their proposed issuance and sale of separate classes of shares representing interests in the same investment portfolio, (and the allocation of voting rights thereto and the payment of dividends thereon).

FILING DATE: The application was filed on September 26, 1986, and amended on February 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. The Applicants, Attn: George M. Chamberlain, Jr., Secretary, Ten Penn Center Plaza, Philadelphia, Pennsylvania 19103. Copies to Steven M. Felsenstein, Esq., 1100 One Franklin Plaza, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272-2363 or Brion R. Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4500).

Applicants' Representations

1. Each of the Funds is registered under the 1940 Act as an open-end management investment company or currently has a registration statement pending before the SEC. DMC serves as investment manager for each of the Funds and DDI acts as national distributor for each of the Funds.

2. Each of the Funds (except DMC Tax-Free Income Trust Pennsylvania and Delaware Tax-Free Money Fund, Inc.) is authorized to issue, and has issued and may issue in the future, classes of common stock representing interests in different investment portfolios (the "Series"). The two excepted Funds have joined in the present application to obtain SEC approval to create sub-classes without filing a second application in the future.

3. Shares of each Series in a Fund are sold and redeemed daily. The net asset value per share for each Series is determined once each day the New York Stock Exchange is open for trading. Delaware Service Company ("DSC"), an affiliate of DMC, serves as shareholder servicing, dividend disbursing and transfer agent for each of the Funds. The same persons generally serve on the governing Boards of Directors ("boards") of each of the Funds. The above-mentioned classes and Series of shares, together with each initial class or Series of shares that is created by the Funds in connection with any investment portfolio that is organized by the Funds in the future, are sometimes collectively referred to herein as "Existing Shares".

4. The shares of each Series in a Fund have non-cumulative voting rights and are equal in all respects except to the extent that, in accordance with section 18(f) of the 1940 Act, only shares of a particular Series are entitled to vote on matters which affect only that Series. All expenses of a Fund are currently borne pro rata by that Fund's shareholders in accordance with the number of Fund shares owned by each of them. Each Series of a Fund is charged with the direct liabilities of the Series and with a share of the general liabilities of the Fund involved. Each of the Funds pays advisory fees to DMC, administration and transfer agency fees to DSC, and certain of the Funds pay distribution fees to DDI pursuant to distribution plans adopted in accordance with Rule 12b-1 under the 1940 Act ("12b-1 Plan"). The Funds currently pay no other management fees, but pay other types of operating expenses.

5. The Funds intend to create new sub-classes of shares ("New Shares") representing a proportionate interest in the same investment portfolio as Existing Shares within the same Series. New Shares in a Series would be identical to the Existing Shares in such Series, except for sub-class designation and the allocation of certain expenses and voting rights. In addition, New Shares created by any of the Funds would be structured and operated in the same manner as that described for the respective Series' Existing Shares, i.e., the New Shares would be identical, except to the extent noted above, to the Existing Shares in the respective Series, and would be subject to the same

investment objective, policies and limitations that apply to such Existing Shares.

6. Thus, when a Fund elects to create a sub-class of a Series, the New Shares and Existing Shares of the Series would represent identical interests in the respective portfolio, except in the following respect. Applicants propose that a class of New Shares "matching" Existing Shares of a Series would operate: (1) Under a 12b–1 Plan adopted pursuant to Rule 12b–1 for the class issuing the New Shares while the class issuing the Existing Shares operates without a 12b–1 Plan or with a different 12b–1 Plan; or (2) a 12b–1 Plan when the Existing Shares has an approved 12b–1 Plan. The "matching" Existing and New Shares relating to future Series of the Funds would likewise differ in that one or more classes would operate under one or more 12b–1 Plans while other classes could operate without a 12b–1 Plan.

7. No new sub-class of a Series would operate more than one 12b–1 Plan, but a single form of 12b–1 Plan might relate to more than one class of a Series. Each sub-class of a Series would bear the expense of the 12b–1 payments that are required under the 12b–1 Plan that has been adopted with respect to such class. Only the holders of the shares of the sub-class affected by a 12b–1 Plan would be entitled to vote on matters pertaining to the Plan of that class in accordance with the procedures set forth in Rule 12b–1.

8. The adoption and implementation of 12b–1 Plan by one Series or class would be made independently of, and would not be conditioned upon, the adoption or implementation of a 12b–1 Plan by any other Series or class. Each class using Fund assets to enhance distribution will adopt a separate Rule 12b–1 Plan. Each 12b–1 Plan will be subject to the separate approval of the specific class using that 12b–1 Plan. Each such Plan would have its own budget, and that budget would be funded solely from the assets of the specific class. In particular, this latter separation of the funding would be structured so that the Rule 12b–1 Plan expenses of a class could draw only upon the income available to shares of that class, thus assuring that no assets of any other class, Series or Fund would be used to enhance distribution of shares of the class. This will assure that no 12b–1 Plan will be operated in such a manner as to cause payments under the 12b–1 Plan to subsidize the distribution of the shares of any other class of the same portfolio. (This limitation also assures that the net asset value per share of each share in a Series will remain the same as that of every other share, regardless of class.)

9. The Funds will take appropriate steps to ensure that the respective yields to shareholders on each class of a Series' shares is fairly disclosed in their prospectuses and shareholder reports. In this regard, the yield on each class of shares would be identified separately, and would reflect the impact of any Rule 12b–1 payments or other sales charges borne by the class. Further, there will be adequate prominent disclosure of the costs and structure of these arrangements in the prospectus or statement of additional information of a Series which issues shares in classes.

10. The net asset value of all outstanding Existing and New Shares representing interests in the same Series would be computed the same. The gross income of a Series would be allocated on a pro rata basis to each outstanding Share in the Series regardless of class, and all expenses incurred by the Series regardless of class, and all expenses incurred by the Series would be borne on a pro rata basis by such outstanding Shares, except for the payments that are made under a 12b–1 Plan that has been adopted in connection with a class of shares.

11. Application of the charges called for under the 12–1 Plan would cause the net income of and dividends payable to, such class to be somewhat lower than the net income of a "matched" class of shares that is offered without a 12b–1 Plan and might be somewhat higher or lower than the net income of other classes of shares of the same Series that are offered in connection with a different 12b–1 Plan.

12. The Funds will operate a Series issuing new sub-classes of shares only when and for so long as such Series declares a daily dividend, accrues its 12b–1 Plan payments daily, and has received an undertaking from any person entitled to receive any payment pursuant to the Series' 12b–1 Plan waiving such portion of any such payment to the extent necessary to assure that the 12b–1 payment required to be accrued on any day does not exceed the income to be accrued to any sub-class on that day. In this manner the net asset value per share for all shares will remain the same. To assure that the respective net asset value of Existing and New Shares remain the same regardless of variations in accrued income from day to day, DDI will undertake to waive, in whole or in part, its 12b–1 fee payable under a 12b–1 Plan whenever the daily accrual for the fee exceeds the amount available for declaration of the daily dividend of any class of Series. This will assure that the net asset value per share of each class is the same.

13. The governing Boards concluded that it would be inefficient, and in some instances economically or operationally unfeasible, to organize a separate investment Series which must maintain a separate but identical portfolio for each class of New Shares to be created. Not only would the Funds incur unnecessary accounting and bookkeeping costs in organizing and operating such multiple Series, but the Fund's management of the new Series, as well as their existing Series, might be hampered. In addition, the issuance and sale of classes of New Shares in the Funds' Series will better enable the Funds to meet the competitive demands of today's financial services industry by permitting the Funds both to facilitate the distribution of their securities and expand the scope and depth of their services without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

14. The proposed arrangement does not involve borrowings and does not affect the Funds's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares in a Series since all shares will participate pro rata in all of the Series' income and expenses (with the exception of the 12b–1 Plan expenses).

15. The Funds believe that the proposed allocation of expenses and voting rights relating to the 12b–1 Plans in the manner described is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a 12b–1 Plan and receiving the services provided under the Plan would bear the costs associated with such services, but would also enjoy exclusive shareholder voting rights with respect to matters affecting such Plan. Conversely, investors purchasing Shares that are not covered by such 12b–1 Plan would not be saddled with such expenses or enjoy such voting rights.

Applicants' Conditions

If the requested order is granted, the Applicants agree to the following conditions:

1. The only differences among classes of shares representing interests in the same Series will relate solely to priorities with respect to: (a) The payment of dividends and such priority will reflect only the impact of the 12b–1 payments made by the Funds under the 12b–1 Plans relating to particular classes

of shares, and (b) voting rights on matters which pertain to 12b–1 Plans.

2. The 12b–1 Plans relating to any class of shares will be approved and reviewed by the Funds' governing Board in accordance with the procedures set forth in Rule 12b–1 and, in addition, will be approved by the shareholders of the class which is affected in accordance with said Rule.

3. Dividends paid by a Fund with respect to each class of shares in a Series will be calculated in the same manner and will be in the same amount as dividends paid by the Fund with respect to each other class of shares in the same Series except that the expenses of any 12b–1 payments made by the Fund under a 12b–1 Plan relating to a class of shares will be borne exclusively by that class.

4. The Funds acknowledge that the grant of the exemptive order requested by this application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to 12b–1 Plans in reliance on the exemptive order.

For the Commission, by the Division of Investment Management under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6589 Filed 3–25–87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–15628; File No. 812–6538]

IDS Life Insurance Company of New York et al.

March 18, 1987.

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("the Act").

Applicants: IDS Life Insurance Company of New York ("IDS Life of New York"), IDS Life of New York Account 7 ("Variable Account") and Shearson Lehman Brothers Inc. ("Shearson Lehman") (collectively, "Applicants").

Relevant 1940 Act Sections and Rules: Exemption requested pursuant to section 6(c) and 17(b) of the Investment Company Act of 1940 from sections 2(a)(32), 2(a)(35), 12(d)(1), 17(a), 22(c), 27(c)(1), 27(c)(2), 27(d) and 27(f) of the Act and Rules 6e–2(b)(1), 6e–2(b)(12), 6e–2(b)(13), 6e–2(c)(1), 6e–2(c)(4), 22c–1 and 27f–1 thereunder.

Summary of Application: Applicants seek an order of exemption to the extent necessary to permit the offering of single premium variable life insurance contracts. Specifically, Applicants seek the relief necessary to permit (1) the respective investment divisions of the Variable Account to hold shares of the Fund under an open account arrangement without the use of stock certificates and without IDS Life of New York acting as trustee or custodian pursuant to a trust indenture; (2) the imposition of a surrender charge rather than a "front-end" sale load; (3) the deduction of a distribution expense charge; (4) the deduction of a mortality charge and a state premium tax charge; (5) the deduction of a minimum death benefit guarantee risk charge; (6) personal delivery of the right of withdrawal notice together with the contract in certain circumstances, and the furnishing of a notice of such withdrawal right and a Statement of Contract Charges in a written document containing information comparable to that required by Form N–27I–2; and (7) the Separate Account to invest in the securities of Shearson Lehman Brothers Stripped ("Zero Coupon") U.S. Treasury Securities Fund, Series A.

Filing Date: The application was filed on November 21, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on April 13, 1987. Request a hearing in writing giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, IDS Life Insurance Company of New York and IDS Life of New York Account 7, 14 Computer Drive West, Albany, NY 12205. Shearson Lehman Brothers Inc., 2 World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Joseph R. Fleming, Staff Attorney (202) 272–3017, or Lewis B. Reich, Special Counsel (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations and Arguments

1. Applicants state that IDS Life of New York, an indirect wholly-owned subsidiary of American Express Company, is a stock life insurance company organized under the laws of the State of New York, and the Variable Account is a segregated asset account of IDS Life of New York that is registered under the Act as a unit investment trust. Applicants further state that IDS Life of New York and the Variable Account intend to issue and Shearson Lehman intends to distribute single premium variable life insurance contracts ("Contracts"), as defined in paragraph (c)(1) of Rule 6e–2 under the Act, funded through the Variable Account. According to the application, the Variable Account will invest at net asset value in shares issued by the Shearson Lehman Series Fund, Inc. ("Fund"), a diversified open-end management investment company, or in units of The Shearson Lehman Brothers Stripped ("Zero Coupon") U.S. Treasury Securities Fund ("Zero Fund"), a unit investment trust established by Shearson Lehman, an indirect wholly-owned subsidiary of American Express Company.

The Contracts

Custodianship

2. Applicants request an exemption from sections 26(a) and 27(c)(2) of the Act and Rule 6e–2 to the extent necessary to permit the Variable Account to hold shares of the Fund under an open account arrangement without the use of stock certificates and without IDS Life of New York acting as trustee or custodian pursuant to a trust indenture. Applicants represent that they will meet the conditions of the proposed amendments to Rule 6e–2(b)(13)(iii),[1] *i.e.*, that the life insurer complies with all other applicable provisions of section 26 as if it were a trustee, depositor or custodian for the separate account; files with the insurance regulatory authority of a state or territory of the United States or of the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, which most recent statement indicates that it has a combined capital and surplus, if a stock

[1] See Investment Company Act Rel. No. 14421, March 15, 1985.

company, or an unassigned surplus, if a mutual company, of not less than $1,000,000; and is examined from time to time by the insurance regulatory authority of such state, territory or District of Columbia as to its financial condition and other affairs and is subject to supervision and inspection with respect to its separate account operation.

Surrender Charge

3. No sales charge is deducted from the single premium payment; however, Applicants state that IDS Life of New York will use a deferred sales charge ("Surrender Charge") and assess a Distribution Expense Charge, as described below, to recover certain expenses relating to the sale of the Contract, including commissions paid to sale personnel, and other promotional selling expenses. Applicants state that the surrender values under the Contract will be adjusted to reflect a charge equal to 8 percent of the Contract's single premium in the first Contract year, declining by 1 percent each year thereafter until the charge is 1 percent in the eighth Contract year and 0 percent in all succeeding Contract years. Applicants represent that the Surrender Charge, together with the total cumulative Distribution Expense Charge, will not exceed 9 percent of the single premium. It will apply only upon the full surrender of a Contract, since the Contract does not provide for partial surrenders. Applicants further state that this charge will affect the cash surrender value of the Contract, as well as the amount available for Contract loans and that it will not affect the amounts that can be transferred among the Variable Account's investment divisions, the investment divisions' investment performance, an owner's voting interest, an owner's conversion rights or the Contract's death benefits.

4. Applicants assert that their deferred sales load benefits the public, is more advantageous to the investor than a front-end load, and is consistent with the essential purpose of variable life insurance. Applicants submit that the Surrender Charge will generally provide higher cash surrender values and generally greater death benefits than a front-end sales charge since more money is at work for the owner from the start of the Contract. Applicants assert that Rule 6e–2 can be read as only contemplating sales loads imposed upon a premium payment, and Applicants seek exemptive relief in order to avoid any question regarding complete compliance with the Act and rules thereunder.

5. Applicants assert that section 2(a)(35) contemplates that a charge to cover sales and promotional expenses incurred in connection with the sale of investment company securities will be deducted at the time payment for those securities is made, and that a deferred sales charge may not be encompassed by the definition of sales load in Rule 6e–2, paragraphs (b)(1) and (c)(4). Applicants seek exemption relief from those provisions to permit the imposition of a deferred sales charge on the grounds, inter alia, that the timing of the Surrender Charge does not change its essential nature. Applicants also seek exemptive relief from sections 2(a)(32), 27(c)(1), and 27(d), and Rule 6e–2, paragraphs (b)(12) and (b)(13)(iv), to the extent that such provisions do not contemplate the imposition of a sales charge at the time of redemption. Applicants submit that the Contracts are redeemable securities, whether the sales charge is imposed at the time of purchase or whether such charge is deferred and made contingent upon an occurrence at a later time.

6. With respect to section 22(c) and Rule 22c–1, Applicants assert that Rule 6e–2(b)(12) affords exemptive relief from those provisions with respect to redemption procedures, which include surrender and exchange provisions in the context of variable life insurance, and that Rule 6e–2(b)(12) could be read as being premised on the absence of a deferred sales charge. Applicants state that their Surrender Charge would in no way have the dilutive effect which rule 22c–1 was designed to prohibit, that variable life insurance contracts do not lend themselves to the kind of speculative short-term trading against which Rule 22c–1 was aimed, and that the Surrender Charge would discourage rather than encourage any such trading. Accordingly, Applicants seek exemptive relief from section 22(c) and Rules 22c–1 and 6e–2(b)(12) to the extent necessary to permit them to effect their proposed pricing.

7. Applicants request exemption from Rule 6e–2(c)(1)(i), which defines "variable life insurance contract" in terms of a cash surrender value that varies to reflect the investment experience of a separate account, to the extent necessary for this provision to be deemed to apply to the structure of cash surrender values under the Applicants' Contract.

Distribution Expense Charge

8. Applicants state that IDS Life of New York deducts from the Variable Account a Distribution Expense Charge equal, on an annual basis, to .30 percent of the daily net asset value of the Variable Account for the first ten Contract years, and 0 percent thereafter.

9. As discussed more fully above, Applicants note that section 2(a)(35) and paragraphs (b)(1) and (c)(4) of Rule 6e–2 contemplate a front-end sales load format. Accordingly, Applicants request exemptive relief from section 2(a)(35) and Rules 6e–2(b)(1) and 6e–2(c)(4), to the extent necessary for the term "sales load", as used in the Act and rules thereunder, to be deemed to contemplate the Distribution Expense Charge under Applicants' Contract. Applicants submit that a deferred sales load is in the owner's interest and therefore the requested relief is appropriate and in the public interest because, as noted above, a Distribution Expense Charge, such as under the Contract, results in greater amounts of money being available for investment on the owner's behalf, and generally higher cash values under the Contract. Moreover, since greater amounts of money are allocated to the Variable Account, the amount of death benefits provided under the Contract will generally be larger than it would be if the sales load were deducted prior to the allocation of monies to the Variable Account.

10. In addition, Applicants request exemptions from sections 26(a)(2) and 27(c)(2) and from paragraphs (b)(13)(i), (ii) and (iii) of Rule 6e–2 to permit the Distribution Expense Charge to be deducted in the manner proposed. Applicants assert that their procedures obtain sales loads using two different methods (*i.e.*, through a Surrender Charge and a Distribution Expense Charge). Applicants note that the proposed amendments to paragraph (b)(13)(ii) of rule 6e–2 provide that sales loads deducted pursuant to any method permitted by the rule cannot exceed the proportionate amount of sales load deducted prior to thereto pursuant to the same method. Applicants request the relief necessary to permit those deductions.

11. Also, Applicants note that the proposed amendments to paragraph (b)(13)(i) and (iii) of Rule 6e–2 recognize that sales loads may not be deducted directly from the premium, but may be subsequently deducted from the contract's value. Moreover, Applicants represent that IDS Life of New York will monitor the amount of the Distribution Expense Charge on an ongoing basis and that such charge (either alone or when added to any applicable Surrender Charge) will never exceed 9 percent of the single premium.

Mortality Charge and State Premium Tax Charge

12. Applicants assert that the exemptive relief provided by Rule 6e–2(b)(13)(iii) is broad enough to permit a deduction from the Variable Account for the Mortality Charge and the State Premium Tax Charge. Nevertheless, Applicants request exemption from sections 26(a)(2) and 27(c)(2) of the Act.

13. Applicants state that IDS Life of New York deducts from the Variable Account a Mortality Charge for the anticipated cost of paying death benefits equal, on an annual basis, to .50 percent of the daily net asset value of the Variable Account. Although the Mortality Charge may be increased under the terms of the Contract, Applicants represent that IDS Life of New York guarantees that this daily asset charge will never exceed a daily cost of insurance charge based upon (1) the 1958 Commissioner's Standard Ordinary Mortality Table; (2) the insured's age and sex; (3) the interest rate assumed in the Contract; and (4) the death benefit determined by multiplying the Contract value times the applicable death benefit factor (even though the death benefit under the Contract is the greater of the guaranteed minimum benefit or the Contract value times the death benefit factor on the date of death). Thus, Applicants believe that the Contract assesses Mortality Charges which are commensurate with the risks assumed.

14. Applicants state that IDS Life of New York deducts a charge equivalent, on an annual basis, to .10 percent of the daily net asset value of the Variable Account during the first ten years, and 0 percent thereafter. Applicants further state that this daily asset charge is deducted to cover the premium taxes assessed by the State of New York and to compensate IDS Life of New York for the premium tax expense it incurs when issuing the Contract.

15. Applicants argue that this method of deduction to recover mortality costs and state premium taxes increases the amount invested on behalf of owners. Applicants believe that it is more equitable, and beneficial to owners to deduct these charges on an ongoing basis directly from each contract rather than to deduct it from the single premium. Applicants state that a deduction from the single premium for mortality costs would be a large one, accompanied by a significant risk charge, based on necessary assumptions about the length of time the contract would be in force, the investment performance of the various investment divisions and the other factors necessary to determine the net amount at risk over the life of the Contract.

Minimum Death Benefit Guarantee Risk Charge

16. Applicants state that IDS Life of New York deducts from the Variable Account a Minimum Death Benefit Guarantee Risk Charge equal, on an annual basis, to .40 percent of the daily net asset value of the Variable Account. Applicants request an exemption from sections 26(a)(2) and 27(c)(2) of the Act to the extent necessary to permit this deduction.

17. In accordance with the provisions of proposed paragraph (b)(13)(iii) of Rule 6e–2, Applicants represent that they have reviewed the level of the Minimum Death Benefit Guarantee Risk Charge and assert that it is reasonable in relation to the risks assumed by IDS Life of New York under the Contract. Applicants note that unlike the typical variable life contract where the minimum death benefits guarantee ("MDBG") comes into effect only when the cash value is exhausted, the MDBG under the Contract can come into effect immediately. In this regard, Applicants further note that an MDBG cost is incurred when IDS Life of New York is providing a higher death benefit than it is charging for under the Mortality Charge. This cost is incurred, Applicants maintain, when the difference between the minimum death benefit (*i.e.*, the initial face amount) and the actual death benefit being charged for (*i.e.*, the cash value multiplied by the death benefit factor) is positive.

18. Applicants further represent that IDS Life of New York will maintain at its home office, available to the Commission, a memorandum explaining the basis for the representation and the documents used to support it. Applicants state that they do not believe that the Surrender Charge being imposed under the Contracts will cover the expected costs of distributing the Contracts. IDS Life of New York has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Variable Account and the owners and represents that a memorandum setting forth the basis for this representation will be maintained at IDS Life of New York's home office and will be available to the Commission. Applicants further represent that the Variable Account will only invest in underlying fund(s) which have undertaken to have a board of directors, a majority of whom are not interested persons of the fund, formulate and approve any plan under Rule 12b–1 under the Act to finance distribution expenses.

Withdrawal Notice

19. Applicants propose to personally deliver the right of withdrawal notice together with the Contract in certain circumstances, and to furnish notice of such withdrawal right and a statement of Contract charges on a written document containing information comparable to that required by Form N–27I–2. Applicants request exemptions from section 27(f), Rule 27f–1, and Rule 6e–2(b) (13)(viii)(A) and (viii)(C) to permit such a delivery. Applicants state their belief that their notice will be a more effective disclosure document since it will be tailored to the Contracts and that personal delivery conforms to industry practice and is a less costly way of delivering the required notice. Applicants also state that comparable relief has been afforded to flexible premium contracts and has been proposed for scheduled contracts in pending amendments to Rule 63–2(b)(13)(viii)(A) and (viii)(C).

The Zero Fund

Operation

20. The Zero Fund is registered under th Act and comprises multiple unit investment trusts ("Trusts"), each Trust containing U.S. Treasury securities which have been stripped of their unmatured interest coupons, interest coupons which have been stripped from U.S. Treasury securities, and receipts and certificates for such stripped obligations and stripped coupons. The Variable Account will purchase units of each Trust based upon the net transactions by owners. Applicants state that the total offering price of Zero Fund units placed in the Variable Account, whether they are sold to the Variable Account in the primary or secondary market, will include a "transaction charge" paid directly by IDS Life of New York to Shearson Lehman. The Variable Account will not directly pay that charge; instead IDS Life of New York will pay an amount to Shearson Lehman out of its general account assets to compensate Shearson Lehman as the sponsor and principal underwriter of the Zero Fund. Applicants state that the transaction charge ranges from .5—2.0 percent of the offering price, depending upon the maturity of the Trusts for which securities are purchased. Thereafter, IDS Life of New York will seek to be reimbursed for the amounts advanced by assessing a charge on the assets of the Variable Account held in the

investment divisions investing in the Zero Fund. Applicants state that the amount of the asset charge is currently set at an unrecovered at the end of the prior quarter. Applicants further effective annual rate of .25 percent, and in no event will it exceed an annual rate of .50 percent of the average daily net assets of each of the investment divisions investing in the Trusts. Applicants represent that this charge will be cost-based with no anticipated element of profit for IDS Life of New York, although it will include an element of interest compensating IDS Life of New York for the delay in recouping amounts advanced. Applicants state that the rate of interest will be based on the current yield for U.S. Treasury bonds having a maturity closely approximately the weighted average maturity of the bonds held in Zero Fund (rounded to the nearest full year) as to which the Variable Account holds an interest.

Asset Charge

21. IDS Life of New York and the Variable Account seek relief from the provisions of section 12(d)(1) to allow the Variable Account to acquire the units of the Zero Fund and from sections 26(a)(2) and 27(c)(2) to the extent necessary to permit IDS Life of New York to recover through an asset charge the amounts paid by it to Shearson Lehman in connection with the Variable Account's acquisition of Zero Fund units. In support of their application, Applicants assert that this proposed structure does not raise legal or policy issues materially different from the common separate account structure in which a unit investment trust invests solely in shares of an underlyng open-end management investment company, which Applicants assert is permitted by section 12(d)(1)(E) of the Act. Moreover, Applicants note that by permitting the assets of the investment divisions of the Variable Account to be allocated to the Zero Fund, which invests in zero coupon bonds, owners will have available an investment vehicle that will have a fixed yield for a specified period of time. Applicants contend that the proposed transactions do not run counter to the statutory purposes underlying section 12. In this regard, Applicants state that the transaction is not a method for leveraging control or assessing overlapping charges.

22. Applicants claim that the compensation received by Shearson Lehman is necessary to induce Shearson Lehman to create the Zero Fund, to implement the operational procedures for the Zero Fund, and to commit to maintaining the secondary market. Applicants note that the secondary market here, unlike the case of most publicly offered unit investment trusts, is not merely a desirable feature designed to avoid disruption of the Trust's portfolio; it is necessary to maintain the stabilized rate of return on the funds in an investment division of the Variable Account. Applicants state that the asset charge is not designed as reimbursement of distribution expenses or to compensate IDS Life of New York for sales efforts, and that the amount of the transaction fee is the same as a charge negotiated at arm's length and imposed by Shearson Lehman as sponsor and market-maker for a unit investment trust in a non-affiliated venture identical in all material respects to the venture described in the application. Applicants believe that having IDS Life of New York pay the transaction charge, with reimbursement by the Variable Account through the asset charge, is desirable in that allocating a proportionate share of the acquisition expenses to all owners who allocate premiums to the investment divisions of the Variable Account investing in the Zero Fund, rather than permitting the expenses borne by individual owners to vary based upon the timing of their particular allocation (as would be the case if the Variable Account paid the transaction charge directly), benefits owners by stabilizing yield and by creating more equitable results among owners.

23. Applicants assert that it is appropriate to recover interest costs through deduction of the proposed asset charge. IDS Life of New York expects to advance large amounts in the early years in connection with the purchase of units of interests in the Zero Fund, but considerably less in later years because purchases of units (and transaction charges) will diminish since later purchases by owners will be offset by redemptions. Because the asset charge will be designed to recover these charges over the life of each of the Trusts (thus spreading the costs among owners purchasing early in the life of each Trust and those purchasing later), Applicants represent that a significant portion of the costs to IDS Life of New York is the loss of interest on monies advanced caused by the delay in recovery. Given that IDS Life of New York anticipates recovery of the transaction costs over the life of each Trust, Applicants believe that a rate of interest associated with the weighted average maturity of the bonds held by the Trust is the fair and reasonable measure of the time value of the monies advanced by IDS Life of New York. Applicants represent that as to each investment division of the Variable Account, the rate of interest will be applied to the amounts by which the transaction charges for the investment division for each quarter exceed the asset charges collected as reimbursement for such charges, plus any amounts (including interest) that were unrecovered at the end of the prior quarter. Applicants further represent that IDS Life of New York will monitor the cumulative amounts collected for each investment division through this asset charge in comparison with the amounts paid by IDS Life of New York and will not charge any investment division of the Variable Account more than actual costs.

Affiliated Transactions

24. Applicants request exemption from section 17(a) of the Act to permit the proposed transactions between Shearson Lehman and the Variable Account. Applicants state that all the outstanding stock of Shearson Lehman and IDS Life of New York is beneficially owned by American Express Company, and thus Shearson Lehman and the Variable Account are affiliated persons with section 2(a)(3) of the Act. Applicants assert, however, that the conditions set forth in sections 6(c) and 17(b) for the granting of an exemptive order are met under the proposed transactions between Shearson Lehman and the Variable Account.

25. Applicants assert that the consideration the Variable Account will pay Shearson Lehman upon the purchase of Trust units, including, indirectly, the transaction charge, will be fair and reasonable and will not involve overreaching on the part of any person concerned. According to the application, the price at which the Variable Account will purchase and resell units from and to Shearson Lehman will be based upon the offering side evaluation of the underlying securities. Applicants state that a qualified independent evaluator [2] will determine the offering side valuation of the underlying securities for any purchase or sale of units by the Variable Account and that market prices for the underlying securities are usually readily available. Applicants assert that as a result of this independent evaluation of the worth of the underlying securities, the Variable Account will be buying and

[2] Applicants state that the evaluator is not affiliated with Shearson Lehman or IDS Life of New York, nor is the evaluator an affiliate of an affiliate of Shearson Lehman or IDS Life of New York, nor will any successor evaluator for the Zero Fund be so affiliated.

selling units from Shearson Lehman at a price determined to be "market," and this evaluation should eliminate any possibility that Shearson Lehman would sell units to the Variable Account at an inflated price or purchase units from the Variable Account at a price below their market value. Applicants state that the presence of Shearson Lehman as market maker enables the Variable Account to receive a better price for units it sells than it might otherwise receive if Shearson Lehman were not standiang ready and able to purchase the units at a price based on the offering side of the market. Applicants further state that Shearson Lehman will not be able to influence the Variable Account to purchase or sell units the Variable Account would not otherwise have purchased or sold. The Variable Account will only purchase units from Shearson Lehman as owners choose to direct their purchase payments for Contracts or cash value of existing Contracts to investment divisions of the Variable Account that correspond to a Trust. Similarly, the Variable Account will only sell units when owners surrender their Contract, reallocate cash value from those investment divisions, or make a Contract loan.

26. Finally, Applicants note that while IDS Life of New York and Shearson Lehman are affiliated persons, they have separate management and each is operated as a separate "profit center." Applicants represent that the compensation of sales persons selling the Contracts is not dependent upon nor affected by the particular investment vehicle or vehicles to which owners allocate the premiums for or the cash value of Contracts. Applicants therefore assert that such sales persons are not expected to have a preference as to which investment vehicle or vehicles owners select under the Contract.

Section 6(c) Generally

27. Applicants represent pursuant to section 6(c) that all exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further represent that if and to the extent that Rule 6e–2 is amended to provide relief on terms or conditions different from any relief granted to them pursuant to this application, Applicants shall take all necessary steps to comply with amended Rule 6e–2.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan Katz,

Secretary.

[FR Doc. 87–6590 Filed 3–25–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

March 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Ecolab, Inc.
Common Stock, $1.00 Par Value (File No. 7–9805)
Entex, Inc.
Common Stock, $1.00 Par Value (File No. 7–9806)
Gabelli Equity Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–9807)
Gundle Environmental Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–9808)
Federal Co.
Common Stock, $12.00 Par Value (File No. 7–9809)
Himont, Inc.
Common Stock, $1.00 Par Value (File No. 7–9810)
Illinois Tool Works, Inc.
Common Stock, No Par Value (File No. 7–9811)
JWT Group, Inc.
Common Stock, $.10 Par Value (File No. 7–9812)
National Service Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7–9813)
Witco Chemical Corporation
Common Stock, $5.00 Par Value (File No. 7–9814)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 10, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6583 Filed 3–25–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

March 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for the unlisted trading privileges in the following stocks:

ADT, Inc.
Common Stock, $1.00 Par Value (File No. 7–9815)
Applied Magnetics Corp.
Common Stock, $.10 Par Value (File No. 7–9816)
Anthem electronics, Inc.
Common Stock, No Par Value (File No. 7–9817)
Countrywide Credit Industries, Inc.
Common Stock, $.05 Par Value (File No. 7–9818)
Elcor Corp
Common Stock, $1.00 Par Value (File No. 7–9819)
Essex Chemical Corp
Common Stock, $1.00 Par Value (File No. 7–9820)
Mediq, Inc.
Common Stock, $1.00 Par Value (File No. 7–9821)
Nord Resources Corp.
Common Stock, $.01 Par Value (File No. 7–9822)
Pope & Talbot, Inc.
Common Stock, $2.00 Par Value (File No. 7–9823)
Transcapital Financial Corp.
Common Stock, $1.00 Par Value (File No. 7–9824)
United Cabe Television Corp.
Common Stock, $.10 Par Value (File No. 7–9825)

These securities are listed and registered on one or more other national securities exchange and are reported in

the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 10, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenace of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6584 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

March 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

American Barrick Resources
Common Stock, No Par Value (File No. 7-9831)
John Harland & Co.
Common Stock, $1.00 Par Value (File No. 7-9832)
Korean Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-9833)
Keystone International, Inc.
Common Stock, $1.00 Par Value (File No. 7-9834)
Stone Container Corp.
Common Stock, No Par Value (File No. 7-9835)
Servicemaster, Ltd Ptn.
Shares of Limited Partnership Interest (File No. 7-9836)
Taiwan Fund, Inc.
Common Stock, No Par Value (File No. 7-9837)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 10, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6585 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

March 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

British Airways, PLC
Interim Depository Receipts (File No. 7-9826)
Ensearch Exploration Partners, Ltd.
Depository Units (File No. 7-9827)
Fruit of the Loom
Common Stock, No Par Value (File No. 7-9828)
Intelligent Systems Corporation
Common Stock, $.05 Par Value (File No. 7-9829)
Patten Corp.
Common Stock, $.01 Par Value (File No. 7-9830)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 10, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6586 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

March 20, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Petrolane Partners L.P.
Depositary Receipts Representing Units of Limited Partners Interests (File No. 7-9800)
Paco Pharmaceutical Services, Inc.
Common Stock, $1.01 Par Value (File No. 7-9801)
Banner Industries, Inc.
Class A Common Stock, $.10 Par Value (File No. 7-9802)
Countrywide Mortgage Investments, Inc.
Common Stock, $.01 Par Value (File No. 7-9803)
Lorimar Telepictures Corp. (Delaware)
Common Stock, $.01 Par Value (File No. 7-9804)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 10, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6587 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-24235; File No. Sr-Phlx-86-43]

Self-Regulatory Organization; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

On December 11, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to define and adopt a new type of order, called a "multi-part" order, which would enable Exchange members and participants to enter a foreign currency options-futures multi-part order on the Exchange floor.

The proposed rule change was noticed in Securities Exchange Act Release No. 23973 (January 9, 1987), 52 FR 1997 (January 16, 1987). No comments were received on the proposed rule change.

The proposed rule change defines the multi-part order as an order "to buy and/or sell a stated number of foreign currency option contracts and a stated number of foreign currency future contracts". The rule change establishes procedures for the execution of a multi-part order which require the member or participant entering the order to (1) request bids and offers for the relevant options series and make all persons in the trading crowd aware of the request; (2) ascertain the best bid and offer for the relevant futures contract reflected on the board broker's book, and announce a price between such bid and offer that the member is willing to execute the futures leg of the order; (3) request bids and offers for the options series and allow such bids and offers to be made both by participants willing to participate in the multi-part order and participants bidding and offering for the options series along; and (4) accept the best bid or offer of the participants willing to participate in the foreign-currency options-futures multi-part order so long as that bid or offer is better than any bid or offer for the options series alone.

In the event that the best bid or offer of the participant(s) willing to participate in the multi-part order equals the bid or offer for the options series alone, the order may be executed only if all bids or offers for the options series alone at that price are satisfied.[3]

The Phlx stated in its rule filing that foreign currency options and futures participants have been hampered in their ability to utilize Phlx foreign currency options and Philadelphia Board of Trade ("PBOT") foreign currency futures by the absence of an effective means for executing unitary spread transactions in these instruments. The proposed rule change is intended to provide foreign currency options and futures market participants with an efficient and effective means to execute foreign currency options-futures multi-part orders.[4] The proposed rule change also is intended to assure that the foreign currency options component of the multi-part order yields priority to any bids or offers in the market for the options alone.

The proposed rule change may add to the liquidity of the market in foreign currency options and aid foreign currency options investors in hedging risk.[5] For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6,[6] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: March 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6582 Filed 3-25-87; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The proposed rule change also establishes procedures, similar to those cited above, whereby a member holding a foreign currency options-futures multi-part order and an opposing order may execute the orders against each other.

[4] The Commission notes that the multi-part order is similar to stock-option combination orders, which have been utilized by options markets for several years.

[5] In the event that a surveillance or disciplinary question is raised regarding the execution of an options-futures multi-part order, the Phlx has indicated that the trade will be reviewed either by itself or the PBOT, depending on whether the options or futures component of the trade is at issue.

[6] 15 U.S.C. 78f (1982).

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1985).

[Rel. No. IC-15629; 811-4751]

MCR Associates, Inc.; Deregistration

March 19, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicant: MCR Associates, Inc.

Relevant 1940 Act section: Section 8(f).

Summary of application: Applicant seeks an order that it has ceased to be an investment company.

Filing dates: The application on Form N-8F was filed on November 13, 1986, and amended on January 21, 1987.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 13, 1987. Request a hearing in writing, giving the nature of your interst, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Alan H. Aronson, Esq., Snow Becker & Krauss P.C., 605 Third Avenue, New York, NY 10158.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-3037 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application on Form N-8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's representations:

1. Applicant was incorporated on June 23, 1982, to engage primarily in the business of providing financial consulting and merger and acquisition services to persons, firms and companies who require assistance in their own existing or contemplated business activities. Applicant also contemplated making loans to and/or investments in the business of its clients or firms which may be potential clients of Applicant.

2. Applicant is a public company registered under the Securities Act of 1933. On July 14, 1986, Applicant registered as an investment company under the 1940 Act by filing a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N–8A. Applicant registered under the 1940 Act because the value of its investment securities exceeded 40% of its total assets and, thus, it fit within the definition of an investment company under section 3(a)(3) of the 1940 Act.

3. Thereafter, Applicant effectuated an acquisition of substantially all of the assets of E.D. Green Corp., an operating company engaged in the wholesale distribution and servicing of industrial air and hydraulic equipment in the southeastern United States. Applicant's acquisition of E.D. Green Corp. substantially changed the business of Applicant and as a result, Applicant has ceased to fit within the definition of an "investment company" set forth under section 3(a)(3) of the 1940 Act. Applicant is now engaged in the business of selling, leasing, renting and servicing air compressors, centrifugal pumps, boilers, dryers and complete line of fluid power products and filtration equipment. In addition, Applicant serves as a distributor for Ingersoll-Rand compressors and related products in the States of Georgia, Tennessee, Alabama and Mississippi. Furthermore, Applicant's officers and directors are primarily engaged in directing the business activities of the operating company. None of Applicant's officers are engaged in providing financial consulting and merger and acquisition services to third party entities.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6591 Filed 3–25–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 24–D–3698]

Newsearch, Inc.; Order Temporarily Suspending Exemption, Statement of Reasons Therefor and Notice of Opportunity for Hearing

March 20, 1987.

I.

The Securities and Exchange Commission's ("Commission") Public Official Files disclose that:

On July 25, 1985, Newsearch, Inc. now known as Newsearch Restaurants, Inc. ("Newsearch"), 10844 Old Mill Road, Suite 5, Omaha, Nebraska 68154, a Colorado corporation, filed with the Denver Regional Office an offering statement, including an offering circular and related exhibits, for a proposed offering of up to $300,000 of units consisting of common stock and common stock warrants in order to obtain an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and Regulation A promulgated thereunder. The offering was cleared to commence December 12, 1984.

II.

The Commission has reasonable cause to believe, on the basis of information reported to it by its staff, that:

A. The offering circular omitted statements of material facts that were necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in that it failed to disclose the endorsement and delivery to Grady Sanders, an individual not identified in the offering circular, of certificates representing a majority of the controlling shares of Newsearch by certain of Newsearch's original shareholders, this being a ground for suspension pursuant to Rule 261(a)(2).

B. The offering circular omitted statements of material facts that were necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in that if failed to disclose that during and prior to the close of the public offering there were negotiations and an arrangement made for Newsearch to acquire Stemo, Inc. through the purchase of all of its outstanding common stock, this being an additional ground for suspension pursuant to Rule 261(a)(2).

C. The offering circular omitted statements of material facts that were necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in that it represented that offering expenses would not exceed $7,500 when in fact offering expenses exceeded $31,000 due to payment of $14,700 in additional legal fees to a Nevada attorney and approximately $9,364.45 to Grady Sanders for unknown reasons.

III.

It appearing to the Commission that it is in the public interest that the exemption of the Issuer under Regulation A be temporarily suspended:

It is ordered, pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be temporarily suspended.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that the issuer file an answer to the allegations contained in this Order within thirty (30) days of the entry thereof.

Notice is hereby given that any person having any interest in this matter may file with the Secretary of the Commission a written request for a hearing within thirty (30) days after the entry of this Order; that within twenty (20) days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether the order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the Order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6592 Filed 3–25–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15634; 811–1917]

SAFECO Special Bond Fund, Inc.; Deregistration

March 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: SAFECO Special Bond Fund, Inc. ("Applicant").

Relevant 1940 Act section: Section 8(f) and Rule 8f–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on May 23, 1985.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o SAFECO Asset Management Company, SAFECO Plaza, Seattle, WA. 98185.

FOR FURTHER INFORMATION CONTACT: Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application on Form N–8F is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's representations:

1. Applicant, a Delaware corporation, registered under the 1940 Act on August 7, 1969. Applicant's Board of Directors recommended that a proposal to liquidate Applicant be presented to Applicant's shareholders at their next annual meeting. At the annual meeting, a majority of Applicant's shareholders voted to liquidate Applicant. On February 8, 1985, a liquidation distribution of $7.424 per share and a final dividend of $.24 per share was made to each of Applicant's shareholdrs of record.

2. Applicant has no assets, no debt or other liabilities and no security holders. Applicant is not now engaged and does not propose to engage in any business activities other than those necessary for the winding up of its affairs. Applicant filed Articles of Dissolution which were accepted by the Delaware Secretary of State and Applicant is now dissolved under Delaware State law.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6593 Filed 3–25–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15630; 812–6558]

The Sumitomo Bank, Ltd; Application for Exemption

March 19, 1987.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Sumitomo Bank, Limited.

Relevant 1940 Act section: Exemption requested under section 6(c).

Summary of application: Applicant seeks an order exempting it from all provisions of the 1940 Act in connection with the issuance and sale of debt Obligations (as herein defined) in the United States by one or more of its overseas branches.

Filing date: The application was filed on December 12, 1986 and amended on March 17, 1987.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on April 13, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Steet, NW., Washington, DC 20549. The Sumitomo Bank, Limited, c/o Roger M. Zaitzeff, Esq., Seward & Kissel, Wall Street Plaza, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Meryl Dewey (202) 272–3038 or Special Counsel H.R. Hallock, Jr. (202) 272–3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's statements and representations

1. Applicant was established as a bank under the laws of Japan in 1989. As of March 31, 1986, it was Japan's third largest bank in terms of total deposits and had worldwide assets of approximately $173 billion (based on an exchange rate of $1.00 to Y179.60).

2. Applicant conducts a commercial banking business througout Japan. It also engages in banking activities through branches, [1] agencies and representative offices in 20 other countries, including branches in New York, Chicago and Seattle, agencies in San Francisco and Houston and a representative office in Atlanta, and through banking subsidiaries in several countries, including the Sumitomo Bank of California (a California banking organization) and Central Pacific Bank (a Hawaiian bank).

3. Applicant is extensively regulated under Japanese banking laws which include examinations every two or three years and require the submission of reports concerning Applicant's business or financial condition. Further, Applicant is subject to the Bank Holding Company Act of 1956 and the International Banking Act of 1978. Applicant's New York branch ("Guarantor" as discussed below) is subject to extensive regulation under the Federal Reserve System and the New York State Banking Department. Such regulation includes reserve and reporting requirements and pledges of assets to cover a fixed percentage of liabilities.

4. Applicant proposes to offer in the United States dollar-denominated certificates of deposit and debt securities ("Debt Obligations") issued directly or through one or more of its overseas branches located outside the United States. Proceeds of the offerings will be used for regular banking purposes by Applicant and its branches.[2]

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[1] Applicant's branches are located in Austria, Belgium, the Cayman Islands, France, Germany, Italy, Hong Kong, Panama, the Republic of Korea, Singapore, Spain, Sweden, the United Kingdom and the United States.

[2] The selection of a branch as the issuer will be based on a number of factors including the funding

Continued

5. The Debt Obligations will be sold in minimum denominations of $25,000. Certain Debt Obligations will be guaranteed by Guarantor, either unconditionally or by letters of credit ("Guarantees"). The Debt Obligations and any Guarantees will rank *pari passu* among themselves; the Debt Obligations will rank equally with all other unsecured indebtedness of Applicant (except to the extent such indebtedness is preferred by operation of law in Japan).

6. At the time of issuance, the Debt Obligations or, to the extent permitted by rule, regulation or interpretation subsequently adopted by the Commission, other Debt Obligations or securities issued by Applicant or securities backed by a letter of credit or guarantee issued by Applicant or Guarantor outstanding at the time of offering of the Debt Obligations, will receive one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization; provided, however, that no such rating will be obtained if in the opinion of such counsel, having considered the doctrine of integration under Rule 502 of the Securities Act of 1933 ("1933 Act"), exemption from registration is available under section 4(2) of the 1933 Act or Regulation D thereunder.

7. The requested exemption is consistent with the protection of investors and purposes of the 1940 Act and is appropriate in the public interest. The types of abusive practices which led to adoption of the 1940 Act are not applicable to Applicant because they are either precluded by the banking regulations to which it is subject or not possible in the context of its business. Further, Applicant, as a bank, is not the type of entity intended to be regulated by the 1940 Act.

Conditions

Applicants consents to any order granting the requested relief to being expressly conditioned upon compliance with the following undertakings:

1. Applicant undertakes that any offering in the United States of Debt Obligations will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Further, any such offering will be done on the basis of disclosure documents that are appropriate and customary for such registration or exemption, and at least as comprehensive as those customarily used in similar offerings in the United States, and which include a memorandum describing Applicant's business and containing its most recent publicly available annual financial statements (including a balance sheet and income statements), audited in accordance with Japanese accounting principles. The memorandum will describe any material differences between accounting principles applied in the preparation of such statements and generally accepted accounting principles applicable to United States banks. Further, the memorandum will be updated promptly to reflect material changes in Applicant's business and financial condition.

2. Applicant undertakes to ensure that such disclosure documents will be provided to each offeree prior to any sale of the Debt Obigations to such offeree; except that when an offering is made pursuant to registration under the 1933 Act, the disclosure documents will be provided to such persons as required by the 1933 Act.

3. Applicant undertakes not to (i) offer any Debt Obligations unless they shall be registered pursuant to the 1933 Act; or (ii) offer such Debt Obligations without registration pursuant to an applicable 1933 Act exemption unless (x) Applicant shall have received an opinion of its United States legal counsel that the Debt Obligations will be entitled to an exemption under the 1933 Act, or (y) the staff of the Commission shall have stated in writing that it will not recommend enforcement action to the Commission under the circumstances of the proposed offering. Applicant does not request Commission review or approval of this opinion.

4. Applicant undertakes that it will not offer any Debt Obligations through any of its overseas branches unless it shall have received an opinion of Japanese legal counsel to the effect that the obligations of the relevant overseas branch also constitute the legal, valid and binding obligation of Applicant under the laws of Japan. Applicant does not request Commission review or approval of this opinion.

5. Applicant also undertakes that in connection with any offering of Debt Obligations in the United States, it will appoint an agent for service of process in New York City for any action arising out of the sale of the Debt Obligations. Applicant consents to the jurisdiction of any state or federal court located in New York City in respect of any such action. Such appointment of an agent and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Debt Obligations have been paid. Further, Applicant and Guarantor will be subject to suit in any court in the United States which would have jurisdiction because of the offering of the Debt Obligations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6594 Filed 3-5-87; 8:45 am]

BILLING CODE 8010-01-M

needs of the branch, the reduced overall cost of issuing through the branch, and the applicability of reserve requirements to such an offering under the laws of the jurisdiction of the branch's domicile. The proceeds of an offering by Applicant through an overseas branch will not necessarily be used by that branch but may be used by Applicant or any of its other oveseas branches for general banking purposes.

[CM-8/1059]

DEPARTMENT OF STATE

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Radio Communications; Meeting Change

The April 16, 1987 meeting of the Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea (originally published in the **Federal Register** of January 2, 1987, 51 FR 191) has been changed to April 23, 1987 at 0930 in room 9230 of the Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. The Working Group will discuss the following topics:

—Global Maritime Distress Safety System (GMDSS)

—Preparations for the World Administrative Radio Conference (WARC) for Mobile Communications

Members of the Public may attend the meeting up to the seating capacity of the room.

For further information contact LT McDannold, U.S. Coast Guard Headquarters (G-TTS-1/63), 2100 Second Street SW., Washington, DC 20593-0001. Telephone: (202) 267-1354.

Dated: March 18, 1987.

Michael E. McNaull,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 87-6542 Filed 3-25-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Calhoun County, Alabama

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed highway projects in the Calhoun County.

FOR FURTHER INFORMATION CONTACT: Mr. R. W. Evers, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104–4684, Telephone: (205) 832–7379. Mr. Royce G. King, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone: (205) 261–6311.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Highway Department, will prepare an Environmental Impact Statement (EIS) for Alabama Projects M–7441 and RS–0803. The proposal is to construct a modern multi-lane connector road, with local access, from Interstate Highway 20 at Coldwater to the Anniston urban area. Approximate length of the projects is four miles. The existing roadway is narrow, congested and inadequate to handle present and future traffic volumes. The proposed multi-lane facility will provide a safer and freer flowing highway for both area residents and the traveling public.

Alternatives under consideration include: (1) Alternate route locations, (2) a no action alternative, and (3) postponing the action alternative.

A Public Involvement Meeting has been held to acquire local input on the proposed projects. Written comments have been solicited from Federal, State and local agencies, officials and individuals who may have an interest in the proposals. A Scoping Meeting is to be held in the Anniston City Auditorium, 1128 Gurnee Avenue, Anniston, Alabama, at 11:00 a.m. Central Standard Time on March 24, 1987.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on March 16, 1987.

Ronald W. Evers,

District Engineer, Montgomery, Alabama.

[FR Doc. 87–6543 Filed 3–25–87; 8:45 am]

BILLING CODE 4910–22–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration 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). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Allison Herron, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 20, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits.
2. Rider for Application for Home Improvement Loan.
3. VA Form 26–1816.
4. Lender's statement on cost of alterations, improvements or repairs, which accompanies veteran's application for guaranty of supplemental loan for home improvement purposes. Necessary to determine amount and to ensure that the loan amount will not exceed the reasonable value of the improvements.
5. On occasion.
6. Individuals or households; Businesses or other for-profit.
7. 25 responses.
8. 4 hours.
9. Not applicable.

[FR Doc. 87–6518 Filed 3–25–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 58
Thursday, March 26, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 31, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, April 2, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Revisions to 11 CFR 110.1 and 110.2: Promulgation of Final Rule.
Proposed Financial Control and Compliance Manual for Presidential Primary Candidates Receiving Public Financing.
Routing Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 87-6701 Filed 3-24-87; 10:40 am]

BILLING CODE 6715-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 23, 1987, 52 FR 9237.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: March 25, 1987, 10:00 a.m.

CHANGE IN THE MEETING: The following docket numbers have been added:

Item No., Docket No., and Company

CAG-5—Docket No. CP86-267-000, Midwestern Gas Transmission Company
CAG-6—Docket Nos. TA86-4-33-000 and 001, El Paso Natural Gas Company
CAG-10—Docket No. TA86-4-37-000, Northwest Pipeline Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6735 Filed 3-24-87; 2:33 pm]

BILLING CODE 6717-02-M

POSTAL SERVICE

(Board of Governors)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, April 6, 1987, in Dallas, Texas, and at 8:00 a.m. on Tuesday, April 7, 1987, in Pullman Room A and B, Union Station, 400 South Houston Street, Dallas, Texas. As indicated in the following paragraph, the April 6 meeting is closed to public observation. The April 7 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

At its meeting on March 2, 1987, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for April 6, 1987, to consider 1) possible future rate adjustments; and 2) consideration of the February 6, 1987, recommended decision of the Postal Rate Commission on change in collect-on-delivery service. (See 52 FR 7367, March 10, 1987.)

Agenda

Monday Session

April 6, 1987-1:00 p.m. (Closed)

1. Consideration of possible future rate adjustments.
2. Consideration of Postal Rate Commission recommended decision on change in collect-on-delivery service. (Docket Nos. N86-1 and MC86-3)

Tuesday Session

April 7, 1987-8:00 a.m. (Open)

1. Minutes of the Previous Meeting, March 2-3, 1987.
2. Remarks of the Postmaster General.
3. Quarterly Report on Service Performance.
4. Postal Forum and Its Marketing Impact.
5. Briefing on Capital Investment Process.
6. Capital Investments:
   a. North Dallas, TX.
   b. North Georgia.
7. Tentative agenda for May 4-5, 1987, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 87-6758 Filed 3-24-87; 3:28 pm]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 52, No. 57
Thursday, March 26, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51662; FRL-3156-6]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-3110 beginning on page 4654 in the issue of Friday, February 13, 1987, make the following corrections:

1. On page 4654, in the second column, under **DATES**, in the seventh line, "P 87-523" should read "P 87-532".

2. On page 4656, in the second column, under **P 87-561**, the third line should read "carboxylic acid, 4-[(substituted".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-30072C; FRL-3164-2]

Increase in Tolerance Processing Fees

Correction

In rule document 87-4373 beginning on page 6325 in the issue of Tuesday, March 3, 1987, make the following corrections:

1. On page 6325, in the second column, the FRL Number should read as set forth above.

§ 180.33 [Corrected]

. On page 6326, in the third column, in § 180.33(n), in the 22nd line, "has" should read "have" and in the 24th line "have" should read "has".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[Docket No. 87-5]

Implementation of Freedom of Information Reform Act

Correction

In proposed rule document 87-5883 beginning on page 8628 in the issue of Thursday, March 19, 1987, make the following correction:

On page 8628, in the third column, under **DATE**, in the second line, the comments due date should read "April 8, 1987".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, and 529

Animal Drugs, Feeds, and Related Products; Change of Sponsor; Labeler Code; Correction

Correction

In rule document 87-5378 beginning on page 7831 in the issue of Friday, March 13, 1987, make the following correction:

On page 7832, in the first column, in amendatory instruction 13, in the third line, "000085" should read "000845".

BILLING CODE 1505-01-D

POSTAL SERVICE

39 CFR Part 10

Proposed International Surface Air Lift Service to 57 Additional Countries and Revised Rate Schedules

Correction

In proposed rule document 87-5859 beginning on page 8627 in the issue of Thursday, March 19, 1987, make the following corrections:

PART 10—[CORRECTED]

1. On page 8627, in the first table, the heading over the 4th and 5th columns "Downship [1]" should read "Dropship [1]".

2. On page 8628, in the table, in the fifth column, in the seventh line, "Gabo" should read "Gabon".

BILLING CODE 1505-01-D

federal register

Thursday
March 26, 1987

Part II

Department of the Interior

Minerals Management Service

30 CFR Part 280

Prelease Prospecting for Marine Mining Minerals Other Than Oil and Gas; Proposed Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 280

Prelease Prospecting for Marine Mining Minerals Other Than Oil and Gas

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rules would apply to prelease prospecting activities for marine mining. Marine mining is the recovery of minerals other than oil, gas, or sulphur within the Outer Continental Shelf (OCS) of the United States. The rules are intended to regulate such activities, protect the environment, and provide for Minerals Management Service (MMS) inspection of the activities and access to the resulting data and information. The rules would be the first in a series of rules implementing a comprehensive leasing and regulatory program for minerals other than oil, gas, or sulphur within the OCS.

DATE: Comments must be hand-delivered or postmarked no later than June 24, 1987.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 11 Golden Shore, Suite 260; Long Beach, California 90802; Attention: Reid T. Stone; Telephone: (213) 514–6140.

FOR FURTHER INFORMATION CONTACT: Andrew V. Bailey; Office of Strategic and International Minerals; Minerals Management Service; 1951 Kidwell Drive; Vienna, Virginia 22180; Telephone: (703) 285–2220; or Merlin Carter; 11 Golden Shore, Suite 260; Long Beach, California 90802; Telephone: (213) 514–6140.

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations are being developed under the authority of the OCS Lands Act (OCSLA) as amended (43 U.S.C. 1331 *et seq.*), to regulate prelease prospecting for minerals other than oil, gas, and sulphur; to ensure protection of the environment during such prospecting; and to provide for MMS inspection of field prospecting activities and access to acquired data. These regulations, if adopted, would be the first of a series of regulations for a leasing and regulatory program for such minerals within the OCS. Additional regulations will be proposed both for leasing and for postlease exploration, development, and production activities. The three-tier regulatory program—prelease prospecting, leasing, and postlease operations—is designed under the authority of the OCSLA. For that reason, it differs from the framework set up by the National Oceanic and Atmospheric Administration (NOAA) for deep seabed mining of nodules under the Deep Seabed Hard Minerals Resources Act. The NOAA regulatory framework provides for an exploration license with priority rights to subsequent permits. Because section 8(k) of the OCSLA requires that leases be issued on the basis of competitive cash bonus bidding, the NOAA framework is not available.

The lack of regulatory certainty and the previous lack of a Federal commitment to a marine mining program may have inhibited industry interest. These regulations are intended to be the beginning of a solution. Regulations at Parts 251, 256, and 260 of Title 30 are presently applicable to prospecting and leasing of minerals. However, they were designed primarily for oil, gas, and sulphur and are considered inappropriate for use with other minerals. For such minerals, operating requirements with respect to lease size, terms, and operating conditions should be substantially different. Given these differences, considerable uncertainty has accompanied the perception of Government commitment to the encouragement of an offshore mining industry. These proposed regulations are evidence of the Government's commitment to encouraging offshore mining for the purpose of development of critical and strategic minerals domestically and thereby reducing foreign dependency. In addition, they clarify the respective rights and obligations of both Government and industry, provide a clear and efficient basis for prospecting, and ensure sound resource management and environmental protection.

The MSS recognizes the potential for environmental problems in specific cases and, as the program develops, intends to address these through these proposed regulations and through the environmental review processes specified by law and subsequent lease and permit requirements. Since the program is being developed on a case-by-case basis, some potential problems that can be postulated now may never come to pass as early experience modifies expectations and practices. Consequently, MMS believes that the existence of potential issues concerning specific commodities, technologies, and locations should not inhibit development of regulations now. In fact, these proposed regulations are intended to generate needed data and information.

The MMS believes that marine mining and protection of the environment are compatible and that both objectives can best be met by the planned case-by-case approach which allows increasing specificity of requirements as resource targets and recovery methods become better defined. In this case-by-case approach, items common to all forms of mining and all commodities will be covered by regulations; commodity-specific items will be covered by lease stipulations; and site-specific issues will be addressed in stipulations included in approved postlease exploration and mining plans.

The MMS is preparing a general environmental effects document to provide the public with an early overview of the likely mining disturbances of the environment and their impacts, which will be covered in detail in the environmental impact statements (EIS's) for the first sale of each commodity. Detailed coverage of environmental issues is not possible now since many uncertainties remain with respect to the location, nature, magnitude, and rate of future developments at this early stage in the development of the mineral resources of the OCS. Many types of ore bodies may be mined in a variety of environmental settings by means of any one of several technologies such as drag line dredge, continuous line bucket, trailing suction hopper dredge, and some not yet conceived. Detailed coverage of this diverse set of commodities and technologies and the equally diverse set of associated environments is not feasible within a single document. Consequently, the environmental effects document now being prepared will be an overview, while the EIS's contemplated for sales will focus on single commodities and associated environmental settings, making them comparable in scope to the programmatic EIS which was prepared for deep seabed mining of nodules by NOAA. These prelease EIS's for individual commodities will provide a second set of opportunities for public involvement and will be followed by additional environmental analyses prior to postlease operations. These analyses, which will be commodity-, area-, and mining-technology specific, will provide still further opportunity for public involvement. Opportunities for public involvement will thus be available on a continuing basis after regulations are in place.

The need to develop a regulatory and leasing framework now arises in part from the continuing dependency of the United States upon foreign suppliers for minerals critical to national defense and economic well being. For strategic minerals, this dependency on imports remains virtually total even though vulnerability to short-term disruption of supply of some minerals is mitigated by strategic minerals stockpiles, which are available only for national defense needs. Development of recently discovered onshore domestic deposits of some of the minerals is possible but, in some cases, at high economic and environmental cost.

For these and certain other minerals such as phosphate, the development of offshore sources poses a potentially acceptable alternative to development of onshore deposits that are subject to strong environmental constraints. However, offshore mining may require lead times of up to 20 years to allow development of economically and environmentally sound operations. Hence, regulatory action is required now to attain management flexibility and allow use of the offshore option.

Program History

Federal study of marine mining began as an outgrowth of the concern with mineral shortages during and after World War II and the Korean conflict. In the early 1950's, President Truman created the Paley Commission to investigate means to avoid shortages. This was followed by major studies by the National Academy of Sciences (NAS), the National Academy of Engineering (NAE), and others which further focused attention on the critical nature of steadily declining mineral resources in terms of U.S. and foreign supplies, U.S. vulnerability, and national goals.

In 1963, the Bureau of Mines initiated the development of a Marine Mineral Technology Center at Tiburon, California, for research into the feasibility of marine mining. The center was initially funded under the Heavy Metals Program, a congressional initiative to develop domestic sources of certain critical or strategic minerals.

In 1968, the Public Land Law Review Commission concluded that the existing regulations associated with the OCSLA, which were designed primarily for oil, gas, and sulphur, were not conducive to the development of other minerals. This was reiterated in 1975 by the NAS/NAE Panel on Operational Safety in Marine Mining in its comprehensive report, "Mining in the Outer Continental Shelf and the Deep Ocean." This study, funded by the Department of the Interior (DOI), examined basic issues including the importance and potential of OCS mining, mining technology, environmental protection and safety, and regulations and leasing. The Panel recommended that mining in the OCS be initiated and that "prototype operation be undertaken in representative areas."

Draft OCS minerals leasing and operating regulations and a draft EIS were published in 1974 but were never promulgated. Many commenters recommended the commencement of prototype mining operations in the OCS.

A proposed long-range program for resource evaluation and lease management was drawn up by the U.S. Geological Survey (USGS) in 1974 but not funded. Several attempts were then made to develop a prototype leasing program which would permit limited seabed mining operations with close environmental monitoring and control, but these were not carried to completion due to lack of funds.

In November 1977, the Directors of the USGS and the Bureau of Land Management (BLM) recommended establishment of an interagency task force to develop policy recommendations for OCS minerals leasing. The resulting Program Feasibility Document published in 1979 with 18 technical appendices concluded that sufficient national interest and economic incentives existed to support commercial scale minerals mining in the OCS. However, no regulations were prepared at that time.

On January 19, 1982, DOI announced approval of the development of an offshore minerals leasing program on a case-by-case basis. On December 8, 1982, the Secretary of the Interior (Secretary) published a notice of jurisdiction in the **Federal Register** (47 FR 55313) relating to DOI's jurisdiction over marine mining in certain areas. Further clarification was published in the **Federal Register** on January 19, 1983 (48 FR 2450).

On March 28, 1983, MMS published a notice of intent to prepare an EIS for a proposed polymetallic sulfide minerals lease offering in the Gorda Ridge area offshore Oregon and northern California (48 FR 12840).

In August 1983, the office now known as the Office of Strategic and International Minerals was established within MMS to oversee the development of a minerals leasing program on a case-by-case basis. This case-by-case approach was selected to provide practical experience within the context of a free market with promulgation of general regulations. The experience and knowledge gained is expected to equal or exceed that which prototype mining operations may have provided. The case-by-case approach meets the management flexibility and environmental protection goals by using general regulations; site-, commodity-, and technology-specific requirements in the form of permit and lease stipulations; and appropriate public and environmental review of leasing proposals and exploration and mining plans through the review processes required under the National Environmental Policy Act (NEPA).

Currently, NOAA, in cooperation with USGS, is engaged in systematic mapping of the seabed within the OCS using highly accurate methods. The mapping is used by MMS in planning for the regulation and management of the mineral resources.

As a first step in the preparation of regulations under this case-by-case approach, an advance notice of proposed rulemaking for exploration for minerals in the OCS was published in the **Federal Register** on December 7, 1984 (49 FR 47871). The MMS also published a Call for Information to delineate areas of interest for further evaluation for potential leasing of minerals in the OCS in the **Federal Register** on January 15, 1985 (50 FR 2264). Responses to the advance notice and comments concerning the rulemaking which were included in responses to the Call for Information are summarized below in the section on Public Comments and Agency Responses. On April 9, 1986, an advance notice of proposed rulemaking concerning postlease operations was published in the **Federal Register** (51 FR 12163) with comments due by August 7, 1986.

Operations Covered by These Proposed Regulations

These proposed regulations cover prospecting activities carried out under a prospecting permit for minerals other than oil, gas, or sulphur. These activities will include operations such as those normally carried out by mineral explorationists and university researchers. They will include in varying combinations bathymetric mapping, photographic, and video imagery surveys; rock and sediment sampling with basket samplers, grab samplers, drills, and shallow coring devices; seismic surveys; and other geological and geophysical (G&G) measuring. They may include, but not necessarily be limited to, measurement of residual magnetism, density, gravity, electrical conductance, temperature, heat conductance, radioactivity, and analysis of biological data to gain insight into the

occurrence of minerals such as the biogeochemical surveys used onshore. Removal, destruction, or other disturbance of organisms due to the use of these standard G&G survey methods is expected to be minimal.

Issues and Alternatives

Most of the provisions of the proposed regulations are self-explanatory. However, several of the provisions raise issues or merit further explanation as follows:

(1) Although not now proposed, provisions for incentives to encourage prospecting and postlease activities may be appropriate for marine mining. While permittees would prospectively realize these incentives, that is at the postlease stage, the opportunity for permittees who are subsequently successful bidders to enhance profits through incentives might be an inducement to undertake prospecting. Notwithstanding the fact that this rule is concerned with prelease activities, we are soliciting comments concerning such possible incentives.

Interested parties are invited to provide responses to the following:

1. What forms of incentives are warranted for minerals other than oil, gas, and sulphur?

2. To which specific minerals should the incentives apply?

3. What system should be used to implement any recommended incentives?

4. What geologic or economic data are available to justify the incentives?

(2) Persons eligible to obtain permits for prospecting activities under the proposed regulations would not be limited to U.S. nationals or U.S. corporations. Permits would be available to foreign nationals, corporations, and associations as allowed under the Act and in recognition of the multinational makeup of several consortia which have expressed interest in the development of minerals in the OCS. It should be noted that leasing would most likely be limited to U.S. nationals, and the United States will have the right in an emergency to buy all production from the lease no matter what the nationality of the lessee. Should these regulations, nevertheless, limit prospecting permit eligibility to U.S. nationals? Are other limitations such as financial or technological capability appropriate?

(3) In § 280.11, MMS is proposing that notice of every application for a prospecting permit be provided to the Governor(s) of adjacent State(s), and that in every case of an application for a permit involving an environmental assessment (EA), the opportunity for review and comment by the Governor(s) of adjacent State(s) is provided. The MMS believes that the interest of adjacent State(s) warrants these further efforts at review and comment.

(4) The G&G data and information provided to MMS pursuant to these proposed prospecting regulations would be held from release to the public for 20 years or for 6 months following the leasing of any area for the development and production of minerals other than oil, gas, or sulphur, whichever occurs first. The MMS believes that a 20-year period of protection for G&G data and information is appropriate in view of the long lead times expected to be involved in the prospecting/leasing cycle. Because permittees/prospectors obtain no preferential rights to leases, protection of their commercially valuable G&G data and information is important. Comments are requested as to whether these are appropriate timeframes.

(5) Section 280.7 provides for multiple use of OCS areas by permittees provided that permit activities do not unreasonably interfere with other operations or uses. Should other multiple-use safeguards be provided; and if so, what should they be?

(6) Public participation is provided in the rulemaking process and in the NEPA process for mine plan approvals. Should other public participation be provided?

Public Comments and Agency Responses

The following discussion summarizes the comments from the public and from Federal, State, and local agencies in response to the advance notice of proposed rulemaking for prospecting for minerals. This summary notes where and how these issues are addressed in the proposed regulations, or why they are not addressed.

A. Jurisdiction

Comment: Several commenters questioned DOI's authority and jurisdiction over offshore mining within the OCS, claiming present law fails to provide such authority.

Agency Response: The Office of the Solicitor, DOI, in an opinion dated May 30, 1985, concluded that the statutory definition of "outer Continental Shelf" includes all submerged lands seaward of those granted to the States in the Submerged Lands Act (43 U.S.C. 1301 *et seq.*) which the United States claims under international law; and because the United States claims jurisdiction to a minimum of 200 nautical miles from its coasts, the Secretary has the authority to issue mineral leases covering any area within 200 miles of the coasts of the 50 States.

Comment: The DOI should avoid overlap with the regulations of NOAA.

Agency Response: The NOAA's authority in ocean mining is restricted to the mining of ". . . any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper." The deep seabed is defined by that act as lying seaward and outside of the continental shelf. In effect, it applies to areas beyond U.S. sovereignty, while the OCSLA pertains to only areas of U.S. sovereignty.

Under the OCSLA, DOI has jurisdiction over all minerals in the continental shelf exclusive of those lands granted to the States in the Submerged Lands Act.

B. Need for New Regulations

Comment: Several commenters deemed the regulations at 30 CFR Part 251 to be adequate, in whole or in part, but the majority called for new regulations for mining. None gave the reasons for their recommendations.

Agency Response: New regulations are being proposed to accommodate the marked differences, among other things, in the duration and methods of exploration between the minerals industry and the oil and gas industry and the significantly longer time periods required for developing offshore mining.

C. Submittal of Plans

Comment: A number of commenters called for the submittal of thorough or detailed plans. One emphasized the need for flexibility. One commenter recommended following the BLM planning model for exploration and appeals.

Agency Response: The MMS is proposing to require prospecting plans. Proposed § 280.6 would require a prospecting plan and identifies the proposed contents of the plan. Since key elements of a plan will be indicative of a potential lessee's level of interest and the areas of its principal interest, the plan may contain a considerable amount of data and information to be held proprietary at the applicant's request. The need for public information, however, must also be met, and the information listed under proposed § 280.5 concerning application for prospecting permits is intended to meet that public need. Public information is also discussed in §§ 280.11, 280.12, and 280.13. Provisions for changes in the plan is made in § 280.7(c). The appeals

procedures proposed in § 280.16 are the procedures used in existing offshore oil and gas programs. They resemble the BLM's onshore procedures but differ due to variations in the circumstances, including legislation, under which MMS and BLM operate.

D. Coordination With States

Comment: All States which responded expressed a desire that MMS coordinate permit activities with the States and give them an opportunity to review prospecting plans or permit applications. The commenters from local governments requested similar coordination for themselves. One State commenter requested a 60-day review period.

Agency Response: The MMS recognizes that States and local communities would benefit from an early notice of activities adjacent to their coasts. Therefore, MMS proposes to notify adjacent States of each application for a prospecting permit (§ 280.11(a)). In addition, MMS proposes to provide opportunity for review and comment from the affected State(s) regarding an application requiring the preparation of an EA (§ 280.11(b)). We expect States to coordinate with their local communities.

Comment: Some commenters recommended that a consistency review be required under the Coastal Zone Management Act (CZMA).

Agency Response: The CZMA itself provides for a determination as to whether a consistency review is required.

Comment: Prospecting permits should not commit the Government to issuance of any future permits.

Agency Response: They will not.

Comment: One commenter expressed an interest in State participation in inspections.

Agency Response: Joint inspections are not contemplated since MMS has jurisdiction and responsibility on Federal lands, and the State does not. Nothing is proposed to preclude the presence of State observers aboard a permittee's vessel with consent of the permittee.

Comment: States and the public should be given full access to relevant data and information.

Agency Response: The MMS proposes to provide full access to information for those States which enter an agreement providing for maintenance of confidentiality, waiver of sovereign immunity as a defense against claims of violation of confidentiality, and the other terms specified in § 280.13(b). Provision is also made in § 280.12 for access in accordance with the Freedom of Information Act, meaning that some of the data will be available to all. Section 280.12(b) provides for all of the data to be available without restriction after 20 years or 6 months following the leasing of any area for minerals other than oil, gas, or sulphur, whichever occurs first.

Comment: The MMS should notify applicants of all required permits.

Agency Response: Such an approach risks making the Agency rather than the permittee responsible for compliance with all laws and regulations. Consequently, MMS proposes to notify applicants only of permits required by MMS.

Comment: One commenter recommended that the scientific community be immediately notified of the discovery of any active hydrothermal vents.

Agency Response: Early announcement of any such find is expected if the discovery is made by a governmental entity or its contractor. If the discovery is made by a potential lessee, proprietary interests could be involved since areas near active venting probably would contain extinct vents which could be potentially promising lease areas. If proprietary interests are involved, decisions regarding when and how to proceed would be made on a case-by-case basis, taking into account the scientific data then available as to the sensitivity and uniqueness of such phenomena. However, MMS reserves the right to receive advice and comment from members of the scientific community under strict limitations of confidentiality as noted in § 280.12(c).

E. Confidentiality of Data

Comment: Several commenters expressed concern regarding the confidentiality of data, and recommendations for confidentiality ranged from as little as 10 years with provision for extensions to as much as 25 years.

Agency Response: Section 280.12 proposes release of proprietary information after 20 years except that data with respect to any area which is leased will be released 6 months after a lease is issued. The 6-month delay is intended to allow time for resolution of any appeals of the leasing action. Section 280.13 discusses conditions for disclosure to the States.

Comment: If any inspector's records or data are confidential and are involved in any judicial proceedings, MMS should request the record be sealed.

Agency Response: The MMS would seek protection of proprietary data involved in judicial proceedings as appropriate.

F. Report

Comment: One commenter recommended monthly and final reports with copies of all data going to MMS.

Agency Response: Quarterly reports plus a final report are proposed as being adequate but not burdensome. Section 280.8 discusses the reporting requirement and provides for more frequent reporting should the Regional Director determine it is necessary. It is not anticipated that this will be used except in unusual circumstances such as during whale migration in the Beaufort Sea. Section 280.9 describes the availability of data to MMS.

G. Fees, Bonds, and Incentives

Comment: One commenter recommended no fees, one recommended minimal fees, and one recommended fees sufficient to support research.

Agency Response: No fees are proposed. It is recognized that studies of the existing environment and potential impacts may appropriately be required from lessees and in some cases from permittees.

Comment: Several commenters recommended requirement of bonds, one recommended exempting scientific organizations, and one recommended a $100-million bond and a "superfund".

Agency Response: No bond is proposed at this time. However, we invite further comment as to the desirability and amount of any bond.

Comment: The Government should not provide financial incentives for offshore exploration.

Agency Response: The proposed rules do not include financial incentives. (See discussion of alternatives above.)

H. Cancellation and Relinquishment

Comment: Commenters recommended that MMS provide for suspension or cancellation of permits, that new permits not be issued to violators, that time be allowed for correction of minor violations, and that notice of probable violation not affect continuation of prospecting activity. One commenter requested provision for voluntary relinquishment of a permit.

Agency Response: Section 280.14(a) provides for suspension of permits and § 280.14(b) provides for cancellation and relinquishment of permits in whole or in part. The issuance of a suspension is to be based on a determination of a serious threat to life, property, mineral deposits, national security, or the environment. Suspensions are not proposed for violations in the absence of a serious threat. Cancellation or relinquishment would be available at any time,

provided that a minimum of 30 days notice is given together with the reason for such action.

I. Environmental Reviews

Comment: The MMS should conduct thorough environmental analyses, address conflicting issues, and require that plans include specific actions to prevent damage to the environment and historic properties.

Agency Response: The MMS will comply fully with NEPA and the Council of Environmental Quality regulations. The MMS believes that most of the activities to be permitted under these prospecting regulations will have little, if any, environmental impact. Most actions will require little documentation under NEPA, but § 280.10(b) lists specific conditions calling for the preparation of EA's. Section 280.10(b) also notes that any plan with activities, including those in § 280.10(a), which have potential for significant environmental impact will be subjected to appropriate NEPA review. This would include but not be limited to proposals with anticipated conflicts with fisheries or potential damage to historic properties.

Comment: The MMS should have procedures for screening actions with potentially significant environmental effects.

Agency Response: As noted in the preceding response, MMS proposes specific criteria for preparation of an EA in § 280.10(b) and makes note of its intent to perform such analyses when the MMS interpretation of, or public and Agency comment on, the specifics of time, place, and activity indicate a potential for environmental impact.

J. Monitoring and Mitigation

Comment: The MMS should require biological surveys before prospecting as well as requiring sampling of water quality and other components of environmental quality.

Agency Response: Submittal of these data will be necessary before the start of activities with potential for significant environmental impact. It would be premature, however, to require such data before a mineral resource is found. Requirements of this sort will be deferred until later stages of the exploration, development, and production sequence, unless prospecting has potential environmental impacts. The prospecting plan required by § 280.6 must include provision for monitoring of effects of activities upon the environment if the activity is one of which an EA is required by § 280.10(b). The MMS plans to acquire the environmental baseline data needed to support draft EIS's for proposed sales. However, a lessee might be required to collect additional data to support a draft EIS on a proposed mining plan.

Comments: Air quality regulations should be as stringent as existing OCS and onshore regulations.

Agency Response: Under OCSLA, regulations governing air quality are required when the activities involved would significantly affect the air quality of any State. The MMS does not see a need for addressing them at this time given the brevity of the time ships will be at sea, the small number of vessels involved, their distance from shore, and the nature of these activities. The vessels will not be releasing any more hydrocarbons into the atmosphere than other ships of comparable size.

Comment: The permittee should propose essential parameters of a monitoring plan and develop and evaluate possible mitigating measures for any adverse impacts.

Agency Response: The MMS agrees that a monitoring plan is appropriate for activities with the potential for significant environmental impacts. Provision is made for such requirements in § 280.6.

K. Extent and Duration of the Permit

Comment: Commenters' opinions concerning permit areas inlcuded "as small as possible," "1° x 1° or smaller," "several tens of thousands of acres," "place few limits," and "negotiate on site and commodity basis."

Agency Response: Given the nature of the activities to be permitted, the variety of commodities and environments, and the fact that prospecting permit areas which might be surveyed will not be exclusive, MMS sees no need to place an upper limit on permit areas at this time (see § 280.5).

Comment: Commenters proposed permit terms ranging from 1 to 2 years to 20 or more years. One commenter recommended "few limits."

Agency Response: Section 280.4 proposes to limit the term of permits to 2 years for all commodities in the interest of administrative ease and certainty for all parties. Extensions would be made for good cause. Much longer terms will be essential for leases but are not essential for this stage of prospecting.

Comment: Commenters recommended that a schedule of activities should be required.

Agency Response: Such a schedule will be part of the prospecting plan required under § 280.6.

L. Activities Covered

Comment: Several specific activities were recommended for exclusion. These included trenching, suction dredging, blasting, drilling more than a dozen holes, and presumably any other activity that might have a significant environmental impact.

Agency Response: Exclusion of all such specific techniques seems inappropriate at this time, but activities such as these are likely to be the basis for preparation of an EA under § 280.10(b)(3) and a monitoring program under § 280.6(h). They may or may not be permitted depending on the specifics of individual cases, but it is quite possible that hundreds of tons would be appropriately acquired for the testing of metallurgical technology.

Comment: Requirements for drilling should be similar to those required by 30 CFR Part 251.

Agency Response: The anticipated drilling is substantially different from oil and gas exploratory drilling. However, if an exceptional proposal calls for such drilling, conditions on the permits would be consistent with MMS practice in oil and gas operations.

Comment: It is not clear what "prelease exploration" (i.e., prospecting) includes.

Agency Response: See the preceding section of the Preamble entitled "Operations Covered by these Proposed Regulations" for discussion of the types of activities most likely to be included.

M. Sampling Techniques

Comment: One commenter recommended specific sample acquisition methods and another recommended performance-based standards to allow technological innovations.

Agency Response: The MMS believes the permittee should be allowed to acquire data and information under the prevailing scientific standards that best suit the permittee's business needs.

Rulemaking Determinations

The DOI has determined that the action does not constitute a major Federal action affecting the quality of the human environment; therefore, an EIS is not required.

The DOI has also determined that the document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million. The overall effect is expected to be $58,380 per year. The cost to the permittees is estimated at $19,200 based on nine permits per year. The cost to the Government is estimated at $39,180 per year.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources needed to conduct offshore activities.

The information collection requirements contained in 30 CFR Part 280 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 et seq. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Authors: Andrew Bailey, Buford Holt, Michael Hunt, Jane Roberts, and David Schuenke of the MMS, DOI; Michael Cruickshank, USGS, DOI; and John Padan of NOAA, Department of Commerce.

List of Subjects in 30 CFR Part 280

Administrative practice and procedure, Continental shelf, Environmental protection, Mines, Public lands/mineral resources, Reporting and recordkeeping requirements.

Dated: March 20, 1987.

David W. Crow,

Acting Director, Minerals Management Service.

For the reasons set forth above it is proposed that a new Part 280 be added to Title 30 of the CFR to read as follows:

PART 280—PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Sec.

280.0 Authority for information collection.
280.1 Purpose and applicability.
280.2 Definitions.
280.3 Activities requiring a permit.
280.4 Term of permit.
280.5 Application for prospecting permit.
280.6 Prospecting plan.
280.7 Obligation of permittee.
280.8 Reporting.
280.9 Recordkeeping.
280.10 Environmental effects.
280.11 Notification.
280.12 Disclosure of information to the public.
280.13 Disclosure of data and information to the States.
280.14 Suspension.
280.15 Penalties.
280.16 Appeals.

Authority: Sec. 8(k), Pub. L. 83-212, 67 Stat. 462 (43 U.S.C. 1337).

§ 280.0 Authority for information collection.

The information collection requirements contained in Part 280 have been submitted for approval to the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number [to be added upon approval]. The information is being collected for regulatory compliance. The information will be used to analyze and evaluate prospecting activities of permittees. The obligation to respond is mandatory.

§ 280.1. Purpose and applicability.

The Act authorizes the Secretary to prescribe rules and regulations necessary to carry out the provisions of the Act. The primary purpose of the regulations in this part is to prescribe policies, procedures, and requirements for conducting prelease prospecting activities for marine mining. Marine mining includes the recovery of minerals other than oil, gas, and sulphur in the Outer Continental Shelf (OCS). The regulations in this part apply to geological and geophysical data and information-gathering activities related to prospecting for minerals other than oil, gas, and sulphur in the OCS pursuant to the authority of section 8(k) of the Act. The regulations in this part do not apply to activities authorized under a lease in the OCS or activities related to the exploration for or development or production of oil, gas, or sulphur. Activities conducted under the regulations in this part do not give rise to any rights or interests in any minerals.

§ 280.2. Definitions.

When used in this part, the following terms shall have the meaning given below:

"Act" means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*).

"Adjacent State" means a State which borders a permit or leasing area as determined by the Director.

"Coastal Zone Management Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*).

"Director" means the Director of the Minerals Management Service (MMS) of the U.S. Department of the Interior or an official authorized to act on the Director's behalf.

"Geological and geophysical (G&G) data and information" means measurements or recordings of the physical, chemical, or biological properties of materials constituting or within the seabed, the subseabed, or the superjacent waters acquired during the course of prospecting for which the location and time of measurement or recording are documented.

"Geological sample" means collected portions of the seabed, the subseabed, or the superjacent waters for which the location and time of collection are documented.

"Governor" means the Governor or the person or entity lawfully designated to exercise the powers granted to a Governor pursuant to the Act.

"Historic property" means any prehistoric or historic district, site, building, structure, or object (including shipwrecks); such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

"Interpreted geological information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of data and analyzed geological information.

"Interpreted geophysical information" means knowledge, often in the form of schematic cross sections and maps, developed by determining the geological significance of geophysical data and processed geophysical information.

"Lease" means any form of authorization which is issued under section 8 of the Act and which authorizes exploration for, and development and production of, minerals, or the area covered by that authorization, whichever is required by the context.

"Mineral deposits" means naturally occurring concentrations of any minerals other than oil, gas, and sulphur and includes sands, gravels, or other construction materials, and seabed geothermal resources.

"National Environmental Policy Act" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

"Outer Continental Shelf (OCS)" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Permit" means the contract or agreement, other than a lease, approved pursuant to this part for a period not to exceed 2 years (unless extended) under which a person acquires the right to conduct prelease prospecting activities.

"Permittee" means the person authorized by a permit issued pursuant to this part to conduct prelease prospecting activities in the OCS.

"Person" means a natural person, a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof, or of any country or subdivision thereof, and an association of such natural persons, or private, public, or municipal corporations, States, or

political subdivisions of States or foreign countries. The term does not include Federal Agencies.

"Processed geological and geophysical (G&G) information" means data collected under a permit that has been changed to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

"Prospecting activities" means activities to acquire G&G data and information or geological samples for the purpose of discovering or characterizing commercial mineral deposits other than oil, gas, or sulphur.

"Secretary" means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

§ 280.3 Activities requiring a permit.

Prospecting activities may not be conducted without an approved permit under this part unless such activities are being conducted pursuant to a lease issued or maintained under Part 281 of this title [future leasing regulations]. If the Director disapproves an application for a permit, the statement of disapproval shall state the reasons for such disapproval and shall advise the applicant of changes needed to obtain approval.

§ 280.4 Term of permit.

Permits approved under this part shall be granted for a term not to exceed 2 years. The Director may extend the term of a permit for such period(s) as determined to be appropriate upon a showing of good cause by the permittee.

§ 280.5 Application for prospecting permit.

(a) An application for a prospecting permit shall be filed with the Director at least 60 days prior to planned initiation of prospecting activities.

(b) An application for a prospecting permit shall be submitted in a form and manner approved by the Secretary. Three copies of each application shall be submitted and shall include the following:

(1) The name and address of applicant,

(2) The nationality of person(s) submitting the application,

(3) The name, address, and telephone number of person(s) directly responsible for the prospecting activities,

(4) A description and a map of the area(s) covered by the application (latitude and longitude),

(5) The period of time for which the primary term is desired, not to exceed 2 years,

(6) A description in nonproprietary terms of the prospecting to be conducted, such as mapping, geophysical surveying, drilling, bottom sampling, dredging, and proposed schedules of activities, and

(7) An identification of any activities listed in § 280.10(b) that are expected to be conducted under the permit.

(c) Applicants shall indicate which data and information included in the application and prospecting plan the applicant considers proprietary.

§ 280.6 Prospecting plan.

The applicant shall submit with the application a prospecting plan which includes the following:

(a) The mineral(s) or material(s) of primary interest;

(b) A brief narrative description of the prospecting activities to be conducted;

(c) The type of equipment to be used and the name, registration, and mobile communication system of vessel(s);

(d) Maps showing location of proposed drill holes, grab or basket samples, anticipated depth of penetration of drill holes, water depth, and location of proposed geophysical survey grids for each surveying method being employed;

(e) A schedule indicating the start and completion dates for each type of prospecting activity;

(f) Anticipated environmental consequences of each type of prospecting activity;

(g) Mitigating measures to minimize environmental impacts;

(h) For any activities identified in § 280.10(b) as normally requiring an environmental assessment, a plan for monitoring the effects of the activities on the environment;

(i) Any known historic properties in the immediate area of the intended prospecting activities;

(j) Description of any potential conflicts with other users in the permit area; and

(k) If penetration of drill holes will exceed 300 feet, the Regional Director may require additional information to be provided in the prospecting plan before a permit is issued.

§ 280.7 Obligation of permittee.

(a) Activities authorized under a prospecting permit issued under this part shall be conducted so that these activities do not unreasonably—

(1) Interfere with or endanger operations under any lease or permit issued or maintained pursuant to the Act,

(2) Cause harm or damage to acquatic life,

(3) Cause pollution,

(4) Disturb historic properties,

(5) Create hazardous or unsafe conditions, or

(6) Interfere with or harm other uses of the area.

(b) The permittee shall allow the Director to serve as an observer on any prospecting cruise.

(c) The permittee shall notify and obtain the prior approval of the Director when there is to be a substantial change in the approved prospecting plan.

§ 280.8 Reporting.

(a) The permittee shall submit a status report to the Director within 30 days of the close of each calendar quarter, or more frequently if determined necessary by the Director. The report shall include a summary of operations. The last quarterly report may be combined with the final report if the final report is submitted within 30 days after the end of the last quarter in which activity occurs. Each permittee shall submit to the Director a final report of prospecting activities conducted under the permit within 6 months after expiration of the permit, or after the completion of operations, or 60 days prior to a sale if prospecting operations are within the sale area, whichever is sooner, provided that no report shall be required less than 30 days after completion of operations. The report shall include:

(1) A description of the work performed;

(2) Charts, maps, or plats depicting the area and blocks in which any prospecting activities were conducted; specifically, identifying the lines of geophysical traverses and/or the locations where geological prospecting was conducted;

(3) The dates on which the actual prospecting was performed;

(4) A narrative summary of any mineral occurrences, environmental hazards, and adverse effects of the prospecting activities on the environment, aquatic life, historic properties, or other uses of the area in which the activities were conducted;

(5) A report of the results of the environmental monitoring required in § 280.6(h); and

(6) Such other descriptions of the activities conducted as may be specified by the Director.

(b) The permittees shall immediately notify the Director of all serious accidents, any death or serious injury, and fire or explosion connected with any activities under a permit.

§ 280.9 Recordkeeping.

(a) Any permittee who acquires rock and mineral samples under a prospecting permit shall keep for 1 year after submittal of the final report a representative split of each geological sample, and a quarter longitudinal segment of each core which shall be available for inspection at the convenience of the Director who may cut such core and samples.

(b) Any permittee who acquires G&G data and information under a prospecting permit shall keep the records available for 3 years after submittal of the final report for inspection and copying at a location within the appropriate OCS Region or other location approved by the Director. The records shall include G&G data and information; drill logs; analyses of cores, cuttings, and samples; and maps and navigation tapes showing the location where samples were taken and drilling conducted.

§ 280.10 Environmental effects.

(a) *Activities with no significant impact.* The MMS believes that prospecting activities of the type listed below have no potential for significant environmental impact and will normally require no environmental assessment:

(1) Gravity and magnetometric observations and measurements;

(2) Bottom and subbottom acoustic profiling or imaging without the use of explosives;

(3) Mineral sampling of a limited nature such as that using either drills, cores, grabs, or baskets;

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if permitted by the National Marine Fisheries Service, or another Federal Agency;

(5) Meteorological observations and measurements, including the setting of instruments;

(6) Hydrographic and oceanographic observations and measurements, including the setting of instruments;

(7) Sampling by box core, small diameter core, or grab sampler, to determine seabed geological or geotechnical properties;

(8) Television and still photographic observation and measurements;

(9) Shipboard mineral assaying and analysis;

(10) Positioning systems, including bottom transponders and surface and subsurface buoys filed in Notices to Mariners; and

(11) Other activities determined by the Secretary to pose little or no environmental effect.

(b) *Activities with potential impact.* An environmental assessment in accordance with the National Environmental Policy Act and its implementing regulations normally shall be prepared when the activity proposed involves:

(1) Sampling which during the term of the prospecting permit exceeds 100 tons,

(2) The use of explosives,

(3) Trenching,

(4) Suction dredging,

(5) Drilling more than a dozen drill holes, or

(6) Other activity the Secretary determines has potential for environmental impact.

§ 280.11 Notification.

(a) The Governor(s) of adjacent State(s) shall be notified by MMS with a copy of an application for a prospecting permit at least 30 days prior to the planned initiation of prospecting activities.

(b) In cases requiring the preparation of an environmental assessment under § 280.10(b), the Secretary will provide an opportunity for review and comment from the Governor(s) regarding the proposed activities.

(c) The MMS shall notify Federal Agencies, as appropriate, with a copy of an application for a prospecting permit.

§ 280.12 Disclosure of information to the public.

(a) The Secretary shall make data and information available in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5 U.S.C. 552), and the implementing regulations.

(b) For G&G data and information submitted under a prospecting permit and retained by MMS, the Secretary shall make such data and information available to the public 20 years after the date of the permittee's final report submitted under § 280.8(a) or such earlier time as the permittee may agree to, provided that data and information with respect to any area leased under Part 281 of this title shall be available to the public 6 months after the issuance of such lease.

(c) The Secretary reserves the right to disclose any data or information submitted by a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting the data or information. Such contractor or agent shall be subject to the same limitations on disclosure of G&G data and information as those applicable to the Secretary under paragraph (b) of this section.

§ 280.13 Disclosure of data and information to the States.

(a) Proprietary data and information submitted to MMS by permittees shall be made available to adjacent State(s) upon request by the Governor in accordance with paragraph (b) of this section.

(b) Disclosure shall occur only after the Governor has entered into an agreement with the Secretary providing that:

(1) The confidentiality of the information shall be maintained;

(2) In any action commenced against the Federal Government or the State for the failure to protect the confidentiality of proprietary information, the Federal Government or the State, as the case may be, may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the proprietary information, which is the basis of the suit, was acting outside the scope of the person's employment in revealing the information;

(3) The State agrees to hold the United States harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data and information; and

(4) The materials containing the proprietary data and information shall remain the property of the United States.

(c) The G&G data and information available to the State(s) pursuant to an agreement may be related to leased or unleased lands.

(d) The materials containing the proprietary data and information shall remain the property of the United States and shall be returned to MMS when they are no longer needed by the State or when requested by the Secretary.

§ 280.14 Suspension.

(a) The Director may suspend or temporarily prohibit the permittee's authority to conduct prospecting activities under a permit by notifying the permittee either orally or in writing when the Director determines that there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment; or the permittee fails to comply with a provision of the Act or of any applicable law, the provisions of the permit, or provisions of these and other applicable regulations. Such suspensions shall be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice

confirming the action, and all written notices will be sent by certified mail. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Secretary.

(b) The Secretary may cancel or a permittee may relinquish, in whole or in part, a permit to conduct prospecting activities at any time by sending a notice of cancellation or a notice of relinquishment. Such notices shall state the reason for the cancellation or relinquishment and shall be sent by certified mail to the other party at least 30 days in advance of the date the cancellation or relinquishment will be effective.

§ 280.15 Penalties.

Persons conducting prospecting activities shall be subject to the penalty provisions of section 24 of the Act and the procedures contained in § 250.80 of this title for noncompliance with any provision of the Act, permit, regulation, or order issued under the Act. The penalties prescribed in this section shall be in addition to any other penalty afforded by any other law or regulation.

§ 280.16 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in Part 290 of this title.

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Thursday
March 26, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park; Final Rule and Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149; SFAR No. 50]

Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This Special Federal Aviation Regulation (SFAR) establishes temporary procedures for the operation of all aircraft in the airspace above the Grand Canyon up to an altitude of 9,000 feet above mean sea level (MSL). In recent years, the high volume of air traffic over the park has increased the risk of midair collision. The overflights also generated noise impacts on park surface areas to a degree which may be inconsistent with Federal policies for operation of the Park. The restrictions adopted will: (1) Establish a Special Flight Rules Area from the surface to 9,000 feet MSL in the area of the Grand Canyon; (2) prohibit flights in this area unless specifically authorized by the local FAA Flight Standards District Office; and (3) establish certain terrain avoidance and communications requirements for flights in the area. The temporary rules adopted will reduce the risk of midair collision, will reduce the risk of terrain contact accidents below the rim level, and will reduce the impact of aircraft noise on the Park environment.

DATES: *Effective date:* April 27, 1987.

Comment date: Comments must be received on or before April 15, 1987.

Expiration date: Special Federal Aviation Regulation No. 50 expires on June 15, 1987.

ADDRESSES: Comments on the proposed Permanent rule regulation may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25149, 800 Independence Avenue, SW., Washington, DC 20591; or delivered in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Even though this temporary rule is final, interested persons are invited to comment on this amendment and on the proposed permanent rule which would supersede this rule by submitting such written data, views, or arguments as they may desire on any portion of the amendment or proposed rule. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Availability of Document

Any person may obtain a copy of this document or Notice No. 86-21 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW.,, Washington, DC 20591; or by calling (202) 267-8521. , Communications must identify the special rule number of the document.

Background

On December 4, 1986, the FAA issued Notice No. 86-21 (51 FR 44422; December 9, 1986) proposing to establish temporary flight restrictions in the vicinity of the Grand Canyon National Park (GCNP) up to an altitude of 9,000 feet above mean sea level (MSL). The notice also proposed a follow-on final rule to take effect upon expiration of the Special Federal Aviation Regulation (SFAR) in June 1987. As proposed in Notice 86-21, the SFAR would: (1) Establish a Special Flight Rules Area from the surface to 9,000 feet MSL in the area of the Grand Canyon; (2) Prohibit flights in this area unless specifically authorized by the local FAA Flight Standards District Office; and (3) establish certain terrain avoidance and communications requirements for flights in the area. The proposed final rule would include, in addition to the general restrictions contained in the SFAR, (1) provisions to permit access to the special flight rules area by general aviation operators, and (2) if supported by evidence, provisions for avoidance of certain noise-critical sites in the park by low-flying aircraft.

The original comment period for the temporary SFAR closed on January 10, 1987, and this action is based only on those comments received by that date. The original comment period on the proposed permanent rule closed on March 1, 1987. However, Docket No. 25149 has been reopened for public comment until April 15, 1987, to permit further comment based on the actual provisions of this temporary rule.

The Need for Regulatory Action

In proposing the flight restrictions, the FAA cited both operational reasons of safety and efficiency and environmental reasons arising from concern for the impact of aircraft noise on the Park surface.

Safety and efficiency. The Grand Canyon constitutes an attraction to sightseers from the air as well as the ground, which results in an unusual level of air traffic in the airspace above the canyon. Because of the terrain of the canyon and the relatively low level of most sightseeing flights over the Grand Canyon, traffic over the canyon is not controlled by FAA air traffic control. The result is a situation in which a substantial number of aircraft operate in the same general airspace over the canyon under the flight rules that apply to sparsely populated areas and low traffic volume airspace. Separation of aircraft in this airspace is accomplished only by the see-and-avoid responsibility of each pilot and, above 3,000 feet AGL, the 1,000-foot separation of eastbound and westbound traffic under 14 CFR 91.109.

While the safety record in the vicinity of the canyon compares favorably with the general accident rates for general aviation and air taxi operators, there have been accidents in the canyon itself, most recently a collision between an air tour airplane and a tour helicopter in June 1986. The FAA attributes the relatively good safety record in the canyon area in large part to the voluntary use by the commercial tour operators, whose flights represent approximately 87 percent of the lower-altitude traffic in the area, of standard route, altitude, and communications procedures. Because each tour operator flies a standard route over the canyon and periodically announces its location and altitude on a common radio frequency at designated reporting

points, the pilot of each such aircraft is aware of the location of all other tour aircraft in the area.

Notwithstanding this past record, however, the FAA believes that there are two general reasons why some degree of additional regulation of canyon overflights is necessary. First, the existing procedures used by the air tour operators are voluntary and not regulatory. While some degree of control over Part 135 commercial operators can be exercised through the operations specifications of each operator, commercial air tours may be conducted under Part 91 by virtue of an exception to the applicability of Part 135. Section 135.1(b)(2) provides that a person conducting nonstop sightseeing flights within 25 miles of the airport at which the aircraft takes off and lands is not covered by Part 135.

Second, the voluntary procedures do not apply to general aviation and military flights. The voluntary procedures, therefore, have substantially contributed to the safe operation of commercial tour operators but have little safety benefit with respect to general aviation, military, and nonparticipating air tour operators. The FAA believes that there is a need to require that commercial operators use the standard procedures and to separate transient general aviation traffic from the regular tour operations for a brief period until permanent procedures for all operators can be developed.

Noise impact on the surface. The FAA believes that there is also a public interest in promoting a quiet environment in the canyon and minimizing the intrusion of aircraft noise on this environment, consistent with operational air safety and efficiency considerations. Congress, in the Grand Canyon National Park Enlargement Act of 1975, expressly provided for protection of the natural quiet of the park. Under § 8 of the Act (16 U.S.C. 228g), if the Secretary of the Interior finds that aircraft or helicopter activity within the park is likely to cause a significant adverse effect on the "natural quiet and experience of the Park," he is required to submit recommendations to the Administrator of the FAA for measures to mitigate that impact.

The NPS held a series of public hearings in 1985 and 1986 and solicited comments from the public, including environmental groups and air tour operators, on the subject of aircraft operations at the canyon. Following the above process, the Department of the Interior, in a letter from the Assistant Secretary for Fish and Wildlife and Parks, submitted recommendations to the FAA Administrator on November 17, 1986. The Department did not find a significant impact of aircraft noise on the Park, but rather found that the data available was insufficient for management decisions or recommendations at this time. The Department, therefore, recommended specific actions relating to the safety of aircraft operations, but with respect to aircraft noise recommended further study. The recommendations may be summarized as follows:

(1) Adopt airspace/flight regulations which:

—Provide for the separation of aircraft, including helicopters;
—Prohibit flights in the inner gorge of the canyon;
—Provide for some regulation of flights between the inner gorge and the upper rim of the canyon; and
—Establish flight paths over the canyon which avoid major visitor overlooks and peregrine nesting areas.

(2) Install radar at the Grand Canyon National Park Airport to assist in aircraft separation;

(3) Undertake a joint 2-year study, with the NPS, of the impacts of aircraft noise on the Park with the object of additional regulation to reduce those impacts.

Finally, the Department offered to consult and cooperate with the FAA in the implementation of these actions.

The FAA will fully and carefully consider the recommendations and continuing advice of the Department of the Interior in the development of aviation safety and environmental measures at GCNP. The Interior recommendations were not specifically reflected in the proposed interim SFAR, in view of the complexity of the recommendations. The SFAR does address the recommendations to an extent, such as the stringent restrictions on aircraft operations below the level of the south rim of the canyon. Those recommendations, and any subsequent information and comments offered by the Department of the Interior, will be fully considered in the promulgation of the permanent final rule proposed in Notice No. 86–21.

The FAA agrees that unnecessary flights by aircraft at low levels within the canyon can be extremely intrusive on the park environment and annoying to park visitors. The information available to the FAA at this time does not permit the agency to incorporate specific actions in the temporary special rule. However, the FAA specifically requests comments on recommended environmental measures in the development of the proposed permanent rule. Also, in the interim, authorizations by the Las Vegas Flight Standards District Office to operate in the Special Flight Rules Area will contain conditions which route aircraft away from certain areas, such as the south rim visitor overlooks and Thunder Falls. Such measures may be formally incorporated in the permanent rule, if adopted.

Comments on the Proposed SFAR

More than one hundred comments were received on the proposed SFAR by the closing date of January 10. A large number of these comments were in response not to the proposal itself but to editorials in San Francisco and Phoenix newspapers which described the proposal, with some inaccuracies. These comments were generally critical of commercial overflights of the Grand Canyon.

Many of the comments, while submitted by January 10, did not distinguish between the temporary rule and the permanent follow-on rule. To the extent the comments were directed toward long-term philosophy for regulation of operations over the canyon, they will be fully considered and addressed in any further rulemaking. The comments will be addressed in this preamble to the extent they related to the temporary rule proposed, and adopted, which will expire on June 15, 1987.

Aircraft noise. A number of commenters, including the Maricopa Audobon Society, the Sierra Club, and the Wilderness Society, stated that aircraft flights should not be permitted over the Grand Canyon or should be limited to altitudes above the rim of the canyon, or higher, to minimize aircraft noise in the Park. The Maricopa Audobon Society and the Sierra Club supported the "quiet canyon" option of prohibiting all aircraft flight above the Park to an altitude of 18,000 feet MSL. Many of these commenters suggested that FAA was simply preserving the existing aircraft overflight situation, which they considered unacceptable. The National Parks and Conservation Association supported the need for regulations but urged that a minimum altitude be established at 2,000 feet above the uppermost rim level, in accordance with FAA Advisory Circular 91–36C.

The National Park Service supported the issuance of regulations, but suggested that the regulations incorporate noise mitigation measures such as routing aircraft away from noise-sensitive areas. NPS also requested that the FAA use the definition of "rim level" developed by

the NPS in its 1986 environmental assessment of the proposed GCNP Aircraft Management Plan—generally the uppermost rim of the canyon.

The temporary rule adopted by the FAA provides that an aircraft may not be operated within the Special Flight Rules Area, below 9,000 feet MSL, unless authorized by the FAA Las Vegas Flight Standards District Office. The FSDO will not authorize transient flights in the area under the SFAR. Therefore, general aviation and military flights, which may now operate virtually down to the surface of the canyon floor under FAR section 91.79, will be required to operate above 9,000 feet MSL until June 15.

The Las Vegas (LAS) Flight Standards District Office (FSDO) will authorize qualifying commercial air tour operators to operate in the area, under specific conditions contained in their operations specifications. The minimum altitudes at which the tour operations will be authorized will be as follows. In the western sector (western boundary of the area to Diamond Creek), the minimum authorized altitudes will be 2,500 feet MSL for helicopters and 3,000 feet MSL for fixed wing aircraft. While these altitudes are below the south rim elevation in this area, the interest in minimizing aircraft noise in this sector is reduced by the fact that the river in this area already experiences heavy motorboating and recreational use. Also, NPS has not identified any noise sensitive areas in this sector. Finally, the minimum altitudes are substantially higher than some tour operators have flown in the past.

In the central sector (Diamond Creek to Supai Village), the minimum altitudes authorized will be 5,500 feet MSL for helicopters and 6,000 feet MSL for fixed wing generally, and 6,500 feet MSL helicopter and 7,500 feet MSL fixed-wing above Supai Village. The north rim elevation in this sector averages about 6,000 feet, while the south rim varies from about 5,500 feet to 6,600 feet. In general, the tour routes will climb to higher altitudes heading eastbound as the terrain rises.

In the eastern sector (Supai Village to the eastern boundary), the minimum authorized altitudes will be 6,500 feet MSL for helicopters and 7,500 feet MSL for fixed wing. The elevation of the north rim in this area varies from approximately 5,800 feet to 8,500 feet; the south rim elevation varies from approximately 5,500 feet to 7,500 feet. For comparison, the elevation of the Colorado River in this area averages about 2,400 feet.

In the noise-sensitive central and eastern sectors the minimum altitude imposed by the FAA in the tour operators' operations specifications will be higher than altitudes used by some of the operators in the past. These altitudes are not above the highest point of both rims at every point, but the altitudes do approximate the level of the lower rim of the canyon through that area and virtually preclude sustained operation "in" the canyon. As a result, the minimum altitudes required by the rule for tour operators, general aviation aircraft, and military aircraft are substantially higher than required by existing FAA regulations, 14 CFR 91.79, and higher than the previous flight altitudes used by some operators.

The FAA believes that the minimum altitudes imposed by the rule are a beneficial change in current procedures and will have a positive effect on aircraft noise impact at the Park. Setting those altitudes a few hundred feet higher in the central and eastern sectors to coincide with the precise rim level, even if it could be determined, would produce very little additional reduction of noise on the Park surface and would cause substantial operational problems for pilots, by compressing traffic into a smaller vertical airspace. The imposition of rim-level altitudes in the western sector of the Special Flight Rules Area was not considered warranted, in view of the lesser impact of aircraft noise on the surface in that sector and the absence of operational problems at the altitudes described above.

The FAA will not require minimum authorized altitudes higher than the rim level, as requested by some commenters, for two primary reasons. First, safety requires that there be a sufficient number of operating altitudes below controlled airspace to provide for the separation, at 500-foot intervals, of eastbound and westbound traffic and the separation of fixed wing and helicopter traffic. Pilots operating aircraft above 10,000 feet MSL under Part 135 and 12,500 feet MSL under Part 91 are subject to certain oxygen requirements. Also, IFR (ATC controlled) traffic may operate in the area from 9,000 feet MSL. The altitudes specified in FAA authorizations, therefore, begin at the minimum altitudes listed above in order to provide an adequate number of practical operating altitudes.

Second, on the information available, the FAA is not in a position to adopt a regulation which has tangible operational and economic impacts for the purpose of mitigating noise impacts, without further review. The FAA acknowledges the strong sentiments of many commenters that the Grand Canyon National Park should be relatively free from aircraft noise. In response, the FAA has adopted a temporary rule which restricts nonessential aircraft flights to altitudes which are generally several thousand feet above the surface of the canyon. Further noise mitigation measures will be considered in the review of public comment on the proposed permanent rule. However, the FAA does not at this time have sufficient technical information or recommendations from other concerned agencies which would support a regulation limiting aircraft overflights to altitudes above this level.

A number of commenters suggested that the avoidance of certain noise-sensitive sites in the canyon was preferable to, or necessary in addition to, the restriction of aircraft to high altitudes. Many of the tour operators commenting on the proposal either now operate, or have proposed to operate, on routes which avoid certain areas of the canyon identified as particularly noise-sensitive. On an interim basis the Las Vegas FSDO, in approving commercial tour routes, will ensure that these routes do avoid the Grand Canyon Village area, Deer Creek and Thunder Falls, the north rim lookout at Cape Royal, Desert View, Point Sublime, and Toroweap to the maximum extent practical. These areas and others which could benefit from protection from overflight will be considered for inclusion in the permanent final rule.

The National Park Service and several other commenters noted that air carrier aircraft do operate over the Park at relatively low altitudes (e.g. 10,000 to 12,000 feet MSL) on occasion, in contrast to representations in Notice 86–21. FAA has determined that such overflights do, in fact, occur, and the agency is taking measures to ensure that departure and arrival clearances at McCarran International Airport do not permit low-altitude deviations over the Grand Canyon.

A number of commenters suggested that the FAA limit the number of aircraft flights over the Park. The density of air traffic above the Grand Canyon, even on peak traffic days in the summer, does not present an operational situation which would require the metering of flights over the canyon. Even without regard to the questions of the agency's authority and the problems of allocating limited operating rights, the FAA does not believe that the current environmental situation at the Grand Canyon supports consideration of such a complex and intrusive regulatory action as limitation on the number of flights. The FAA notes that the Department of

the Interior has not requested such a limitation.

Several commenters, among them tour operators and general aviation pilots, expressed doubt that the majority of the public visiting the canyon actually objected to the level of noise caused by overflying aircraft, or that aircraft noise could be heard above the ambient surface sounds of the canyon such as the river.

General aviation operations. Comments on the proposed SFAR were received from the Aircraft Owners and Pilots Association (AOPA), the Arizona Pilots Association, the Experimental Aircraft Association (EAA) and several individual pilots. These commenters criticized the exclusion of general aviation operations from airspace in which commercial operations would be permitted, on grounds of fairness and on the basis that general aviation aircraft were not involved in the June 1986 accident and are not the primary source of aircraft noise in the Park. Several of the commerical tour operators commenting on the proposal supported the right of general aviation operators for access to the same general airspace as the tour operators.

As stated in Notice No. 86–21, the FAA is not proposing to restrict general aviation operations from the Special Flight Rules Area on a permanent basis. The restriction in the temporary rule is adopted only to provide separation of uncontrolled general aviation traffic from the regulated commercial operations until procedures can be developed for transient general aviation flight in the same airspace with the new air tour routes. The SFAR limits general aviation operations to the higher altitude not because of any inherent problem in general aviation operations, but because a regulatory mechanism existed with respect to the commercial operators (standard flight routes/procedures; operations specifications) but not for Part 91 operations. The 9,000 foot limitation continues to permit overflight of the canyon at an altitude which, in the eastern sector of the area, is within 1,500 feet of the minimum altitude authorized for fixed-wing commercial operators and 500 feet of terrain on the north rim.

Several of the commenters cited specific technical problems with a 9,000-foot minimum altitude for general aviation aircraft, including the limited performance capability of many single engine aircraft above that altitude, and the high density altitude common in that region during the summer months. The FAA agrees that operation can be marginal for some single engine aircraft at altitudes above 9,000 feet MSL in hot weather. However, the SFAR adopted expires on June 15, and the FAA does not expect the temperature and density altitude to be a problem before that date. The follow-on rule, if adopted, will contain procedures for transient aircraft operation below 9,000 feet MSL.

The Arizona Pilots Association also objected to the characterization of general aviation pilots as exclusively transient operations by pilots inexperienced with flying above the canyon. The FAA believes that this characterization does apply to many of the general aviation pilots operating above the canyon. To the extent pilots based in the region transit the airspace above the canyon on local flights, the FAA continues to believe that operation at or above 9,000 feet MSL will not be a significant hardship or inconvenience on a temporary basis only through June 15. However, if a local pilot has a continuing operational need for transit through the Grand Canyon Special Flight Rules Area prior to that date, he or she may contact the Las Vegas Flight Standards District Office for consideration of an authorization.

Various alternatives to the 9,000 foot limitation were suggested by the Arizona Pilots Association, EAA, AOPA, and several other commenters, including development of standard procedures and indication of these procedures on flight charts. These comments will be considered in the evaluation of a permanent rule, but are not a practical approach within the time frame of the SFAR adopted. The FAA will also consider certain recommendations for nonregulatory action with respect to flights above the Grand Canyon, such as the installation of radar to monitor air traffic in the area below 9,000 feet MSL.

Impacts on commercial air tour operations. The Grand Canyon Flight Operators Association (GCFOA) and several individual tour operators generally supported the regulation, but requested changes to specific provisions of the temporary rule as proposed. GCFOA, the Helicopter Association International (HAI), and individual helicopter operators objected to the prohibition on operation closer than 500 feet to terrain (discussed below). GCFOA also expressed concern about delays in approval of the operators' Part 135 operations specifications if the rule was implemented on an expedited basis.

The FAA agrees that current air tour operators who submit their proposed tour routes and procedures to the FAA on a timely basis should not be prohibited from operating by a delay in the Las Vegas FSDO's processing of the submissions. Accordingly, the FAA has set an effective date for the rule 30 days after publication to permit review and approval of all submissions, and to make adjustments as necessary, before the requirement takes effect. Therefore, the FAA anticipates no interruption in the operations of operators who submit adequate and timely operating proposals.

GCFOA also commented that any altitude restrictions in the rule should be expressed as MSL (above mean sea level) altitudes rather than using a reference to the canyon "rim" or "rim level." As stated in the notice, the FAA believes that the canyon rim is not an adequate altitude reference as regulatory guidance for pilots operating above the canyon. The rim elevation varies along the length of the canyon, and the north and south rims are at different elevations for much of the canyon. Accordingly, the temporary rule adopted, as with the proposal, uses specific MSL altitudes rather than the term "rim level" to specify minimum altitudes. The authorizations issued by the Las Vegas FSDO will also use MSL altitudes and not references to the rim.

GCFOA also requested that the FAA establish a continuing working group composed of the FAA, the National Park Service, tour operators, general aviation, environmental groups, and perhaps congressional staff members. While this suggestion is not directly related to the proposed rules, the FAA will consider the Association's recommendation.

Commercial helicopter operations. Individual commercial helicopter tour operators at the Grand Canyon, as well as the GCFOA and HAI, objected to the requirement to remain at least 500 from terrain in the canyon. HAI and the individual helicopter operators also requested that helicopters be authorized to operate below the rim of canyon. The primary objection to the 500-foot restriction was that it would make helicopter tours of the Anasazi ruins near Point Sublime commercially infeasible, because the ruins could not be viewed adequately from 500 feet away. One operator stated that it currently hovers approximately 100 feet away from the ruins on its current tours. Operators also claimed that the restriction made helicopter tours less competitive with fixed-wing tours.

The FAA proposed the 500-foot limitation for both environmental and operational reasons. The rule does not affect fixed-wing Part 135 operations, which are already required by FAR section 135.203 to remain 500 feet from terrain. The rule does serve a safety purpose with respect to Part 91 operations, which are not restricted as

to distance from terrain in sparsely populated areas (as long as they remain 500 feet from persons, vehicles, boats, and structures). In addition, the limit provides an environmental buffer against aircraft flight which is unnecessarily close to the terrain and the wildlife of the GCNP. While neither environmental groups nor the NPS provided information to support any specific impact of aircraft overflight on wildlife or other park values (such as the Point Sublime archeological site), the FAA believes that the unique characteristics of the Park, and the congressional statement of policy in the Grand Canyon National Park Enlargement Act of 1975, warrant a greater degree of protection for the surface of the Park than is provided by the general minimum safe altitude restrictions in FAR section 91.79.

One helicopter operator enclosed a copy of a study by Professor D.S. Brumbaugh on the effects of helicopter flights on the Point Sublime Anasazi site. The study did not consider long term fatigue effects on the structure, but concluded that excessive ground velocity/acceleration and resonant shaking of the walls by a single helicopter would not result in damage. However, the study was based on a minimum distance of 300 feet. The operator who submitted the study represented that "current lateral separation from the ruins is maintained at approximately 100 feet." Because the study did not address long term effects, and because the study conditions were more favorable than those of actual tour flights, the FAA does not agree that information available at this time warrants a conclusion that no protection for the site is appropriate.

Other comments. In a joint letter, U.S. Representatives Morris K. Udall and (now Senator) John McCain stated that the proposed regulation forms a basis for a plan to manage aircraft operations around the Grand Canyon. However, they commented that flights should be kept above the canyon rim and expressed concern that the rule would not accomplish this. Also, they urged that the FAA work with NPS to develop a plan which restores the natural quiet of the Park as well as ensures aircraft safety. The FAA believes that the regulation adopted, as implemented using the minimum authorized altitudes described above, is generally consistent with the legislation introduced in the House of Representatives, although the minimum altitudes imposed are somewhat lower than those requested by Congressman Udall and Senator McCain. The views of the Congressmen were primarily directed toward the proposed permanent rule and, therefore, will be fully addressed in any further rulemaking to implement a permanent rule.

The National Transportation Safety Board (NTSB) strongly supported the prohibition on commercial operations conducted under Part 91 in the Special Flight Rules Area. The NTSB also supported the requirement that commercial operators comply with approved routes and altitudes and make position reports on common frequencies. The Board expressed concern, however, over the FAA resources available at the Las Vegas FSDO to evaluate and approve the routes requested by tour operators. As mentioned above, the FAA is allowing 30 days from publication before the rule becomes effective to provide time for the LAS FSDO to evaluate and approve the proposed routes.

The Truxton Canyon Agency noted FAA's statement in the preamble to the proposal that commercial operations to Indian reservations in the Special Flight Rules Area would be authorized, but the Agency requested that this be included in the language of the rule itself. The FAA will not deny any landowners in the Special Flight Rules Area aerial access to their land, including the Indian reservations in the area. Accordingly, the FAA does not believe that it is necessary to include in the rule a statement to the effect that access will continue to the reservations.

The Special Rule

For the reasons discussed above, the FAA is adopting a Special Federal Aviation Regulation, to take effect on April 27, 1987 and expire on June 15, 1987, which will do the following:

1. Establish a Grand Canyon National Park Special Flight Rules Area from the surface to 9,000 feet MSL. The area would be marked on aeronautical charts and described in other pilot information publications.

2. Prohibit operation by any aircraft in the defined area unless (a) the operator holds a Part 135 certificate and has express authorization in its Part 135 operations specifications to operate in the airspace, (b) the operator is authorized in writing by the FAA Las Vegas Flight Standards District Office to operate in the airspace, or (c) the aircraft is on an official search and rescue mission. In either of the first two cases (which will include virtually all flights within the area) the authorization will contain specific limitations on the operation, including minimum altitudes. Minimum allowable flight altitudes will be approximately the rim level of the canyon unless there is an operational need for flight below that level (such as landing at one of the reservations). The terms "rim" or "rim level" are not used to describe altitude restrictions in the authorizations because the north and south rims are at different levels and because the rim is too variable in elevation to constitute a practical flight reference for pilots.

3. Prohibit commercial tour operations below 9,000 feet MSL by Part 91 operators unless they obtain a Part 135 certificate and operations specifications which authorize operation in the Grand Canyon National Park Special Flight Rules Area.

4. Prohibit, except when necessary or when specifically authorized for certain purposes, flight closer than 500 feet to any terrain or structure in the canyon.

5. Require pilots to monitor certain common frequencies and make position reports as specified in their authorization to enter the airspace.

In effect, the rule generally prohibits flight below the approximate level of the south rim of the canyon, except in the western sector where safety and noise impacts permit a lower minimum altitude, and except for those flights necessary for operation of the park and for provision of emergency services. In addition, the rule restricts aircraft operations in the airspace between the rim and 9,000 feet MSL to aircraft with a park-related need to be in the area and to commercial tour aircraft which meet extensive equipment, experience, training, and operational requirements. The restrictions which apply to transient aircraft between the rim and 9,000 feet MSL are temporary and will remain in effect only until procedures for transient operations can be integrated with the standard procedures used by the regular commercial operators over the canyon. The rule imposes no new restrictions on flight above the canyon above 9,000 feet MSL.

Analysis by Section

Section 1 provides that the rule applies to all persons operating under VFR in certain airspace from the surface to 9,000 feet MSL and defines the boundaries of that airspace. Applying the rule to all persons has the effect of applying the rule to military as well as civil pilots. Aircraft operating under IFR would not be operating at the altitudes or in the area covered by the rule. (With the exception of a small portion of VOR airway in the northeast corner of the area, the base of controlled airspace within the designated area is at 9,000 feet MSL or higher.)

Airspace up to 9,000 feet MSL is restricted to include sufficient airspace to permit aircraft to operate at different altitudes for nonconflicting eastbound and westbound operations, e.g., 5,500 and 7,500 feet MSL eastbound and 6,500 and 8,500 feet MSL westbound. Capping the special area at 9,000 feet MSL permits overflight of the canyon by general aviation aircraft eastbound at 9,500 feet, which is within the capability of even small single-engine aircraft.

The lateral boundaries of the area extend beyond the limits of the park itself to include all of the areas which are commonly subject to canyon sightseeing overflights, including certain Indian reservation land, and to provide simplified boundaries for practical compliance by pilots. Where possible, the boundaries have been established coincident with VOR radials to enable pilots to use aircraft navigation equipment to locate their position in relation to a boundary line. A cutout from the area has been provided for the GCNP Airport control zone, in recognition of the need for aircraft to descend to and climb out from the airport. The two published instrument approaches to the GCNP Airport are from the southwest and will not be affected by procedures established by this rule.

Section 2 of the rule defines the term "Park" as the Grand Canyon National Park.

Section 3 of the rule sets forth the requirement for authorization for aircraft to operate in the Special Flight Rules Area. An exception to the general requirements is made for emergencies, to clarify that a bona fide emergency landing in the canyon would not violate this rule. Also, authority is reserved for the Administrator to authorize flights in the area in the infrequent case in which the normal authorization process would not apply. The agency does not anticipate the use of this provision during the duration of the special rule.

Section 3 prohibits flight in the Grand Canyon National Park Special Flight Rules Area unless authorization to operate in the designated area is obtained from the Las Vegas Flight Standards District Office or unless the aircraft is on an Air Force-directed search and rescue mission. Paragraph (a) provides that specific authorization may be incorporated in the operations specifications issued to a Part 135 operator. Operations specifications are detailed rules and conditions for commercial operations which are issued to each holder of a Part 135 certificate. To FAA's knowledge all of the operators currently conducting commercial air tours of the Grand Canyon hold Part 135 certificates. The Las Vegas Flight Standards District Office (FSDO), in cooperation with the active tour operators, has developed specific conditions and limitations on the Grand Canyon operation of each such operator. Those conditions and limitations will be included in the operations specifications of each tour operator and will be enforced by the FAA. The provisions will include detailed requirements for routes, altitudes, communications and other procedures, and for pilot experience and equipment.

Authorization through operations specifications will permit continuation of the air tour industry at the Grand Canyon without significant change from present procedures. The industry successfully serves a certain segment of the demand for tourist access to the Grand Canyon and has done so with an impressive safety record over the years. The restrictions promulgated in this rule will, however, make the procedures now voluntarily used by most operators mandatory and enforceable. Second, the prescription of certain minimum altitudes will require some operators to fly at higher altitudes on their tours, in some areas, than they have in the past. The minimum altitudes specified in the operations specifications will in most cases be an MSL altitude near to the approximate elevation of the south rim in each sector of the canyon.

Paragraph (a) will also permit continuation of commercial operations to Indian reservations within the Special Flight Rules Area. Such flights are routinely conducted for tourism at the reservations, for pick-up of river rafters, and for aerial supply and transportation services to the reservations. Operators conducting these flights must hold Part 135 certificates and operations specifications and will be subject to the same general restrictions as the tour operators consistent with the nature of their operations.

Paragraph (b) provides that operation in the area is not prohibited if authorized in writing by Las Vegas FSDO and conducted in accordance with the conditions of that authorization. The rule states that authorization will normally be provided only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment or evacuation of persons in or near the park, or for support of park maintenance or activities. As mentioned earlier, the NPS has a continuing need for aircraft access to the canyon surface by NPS and contractor aircraft for a wide range of purposes related to operation of the park. FAA, through the Las Vegas FSDO, will authorize such operations by written certificate of authorization upon confirmation from the Superintendent of the GCNP that he requests the authorization for that operation. The written authorization will contain conditions similar to those included in the air tour operators' operations specifications. This will ensure that operations in the Special Flight Rules Area are using common procedures and radio frequencies and that the incidence of low altitude aircraft flights is kept to the minimum necessary for operation of the park.

It is not the FAA's intent to deny air access to any surface point within the Special Flight Rules Area. Flights requested by the NPS or by representatives of the Indian reservation landing areas will be authorized subject to the standard conditions imposed on all operators within the area. Other requests for flight through the area below 9,000 feet MSL, including general aviation and military sightseeing flights, will normally be denied.

Paragraph (c) permits search and rescue (SAR) aircraft under the direction of the U.S. Air Force Rescue Coordination Center to enter the area without prior coordination with the Las Vegas FSDO. SAR missions over the canyon are very infrequent and are not expected to occur during the period of this special rule.

Section 4 requires all commercial sightseeing operations to be conducted under a Part 135 certificate, notwithstanding the exception to Part 135 applicability contained in § 135.1(b)(2). The requirement will prohibit tour operations by Part 91 operators, under § 135.1(b)(2), over the canyon below 9,000 feet MSL. To the agency's knowledge all operators currently providing commercial sightseeing flights over the Grand Canyon hold Part 135 certificates, although operations by Part 91 operators have been common in the past.

Section 5 prohibits operation within 500 feet of terrain in the canyon unless necessary for takeoff or landing, unless authorized by the Las Vegas FSDO for one of the park operation purposes listed in Section 3, or except in an emergency. This provision applies the Part 135 restrictions of § 135.203(a)(1) to all operators. The restriction provides certain minimum protections to unique park terrain, wildlife, and archaeological sites until the effect of low altitude aircraft flight can be determined.

Section 6 requires that pilots operating in the area monitor certain frequencies and make radio position reports at the points specified in their authorization. The FAA believes that the use of

common frequencies and periodic reporting of aircraft location, similar to the procedure for a Common Traffic Advisory Frequency at uncontrolled airports, significantly reduces the risk of midair collision. Therefore, this procedure is made mandatory for the duration of the special rule. Exceptions are incorporated for aircraft required to be in contact with the GCNP control tower or on a USAF-directed search and rescue mission.

Section 7 provides that this Special Federal Aviation Regulation will expire on June 15, 1987. The FAA intends to issue a permanent rule to become effective on or before that date, to incorporate the comments received and the results of experience under the SFAR. If development of the rule is delayed and cannot be completed by June 15, the SFAR may be extended to provide the necessary additional time.

The Proposed Permanent Regulation

This SFAR has an expiration date of June 15, 1987. The FAA proposes to issue a permanent final rule effective on or before that date. In Notice No. 86-21, the agency solicited comments on the need for permanent measures to regulate the flight of aircraft above the Grand Canyon, for safety and environmental reasons, and on what those measures should be.

The FAA proposes a final rule which would contain the following provisions:

1. The rule would take effect upon expiration of the SFAR on June 15, 1987.

2. The rule would incorporate the provisions of the SFAR, subject to the additions and revisions listed below.

3. The rule would provide means by which general aviation operators could operate within the Special Flight Rules Area, subject to certain limitations and preconditions.

Such provisions could include, for example:

—A requirement for a briefing from a Flight Standards district office or Flight Service Station in the region before entering the area. The briefing could include required procedures (such as reporting points), environmentally sensitive areas which should be avoided, and information on the activities of other operators in the area.

—Preferred or required routes and altitudes for general aviation transit over the canyon.

4. The rule would identify any parts of the canyon which the FAA finds, on the basis of comments received and the recommendations of the Department of the Interior, are unusually sensitive to low-altitude aircraft overflight. These areas could be the subject of voluntary or mandatory limits on overflight below certain minimum altitudes.

The agency specifically requested comments on the following issues:

1. The need for or adequacy of the specific measures proposed.

2. Minimum altitudes for air tour operations and general aviation sightseeing flights above the canyon, including whether different altitudes should be specified in different areas of the canyon.

3. The appropriate lateral boundaries of the proposed permanent Special Flight Rules Area.

4. Procedures for permitting general aviation flights above the canyon at altitudes comparable to those at which the commercial tour operators fly. Such procedures could include specific routes, altitudes, prerequisite briefings or training, etc.

5. Identification of wildlife, archaeological sites, and other natural and historical values in the Park which might be impacted by aircraft overflight.

6. Identification of the areas of the canyon which are most sensitive and least sensitive to aircraft overflight.

In reopening the comment period in Docket No. 25149 through April 15, the FAA solicits further comment on the above issues in light of the actual provisions adopted in this temporary special rule.

Economic Impact

The economic impact of the special regulation is expected to be minimal. The restriction which the rule imposes on commercial tour operators will not require any substantial changes in their operations. While the rule will require certain of the air tour flights to operate at higher minimum altitudes or farther from terrain than at present, this requirement will have no business or operational costs. The comment was made that, as a result of the requirement to remain 500 feet from terrain, helicopter tour operators would suffer loss of revenue because that distance was too far to permit worthwhile viewing of the Anasazi ruins near Point Sublime. The FAA assumes that even at the greater distance there would still be a demand for trips to the site, in conjunction with the other benefits of a helicopter tour, and that the rule would not inevitably lead to a direct loss in revenue. For the purpose of evaluating the impact of the temporary rule, therefore, the FAA concludes that the helicopter operators have not demonstrated a significant economic impact for the temporary duration of this rule. Other commercial flights necessary for Park and Indian reservation activities, such as air transportation to Indian reservations, will be authorized without substantial change from present operation.

Transient general aviation traffic, which constitutes a minority of canyon overflights, will be restricted only from operating at low altitude. Pilots may still overfly the canyon above 9,000 feet MSL, which at some points is less than 1,000 feet above the north rim of the canyon. En route traffic will not be affected because the Special Flight Rules Area is below the floor of controlled airspace in the area. There is no economic impact on the Department of Defense because there is no official reason for military aircraft to operate over the canyon below 9,000 feet MSL, with the exception of one approved VFR route which crosses the western corner of the Special Flight Rules Area. Because the special rule will have no substantial economic impact on any category of operator, and because the rule is temporary, the FAA has determined that the expected impact of the rule is so minimal that it does not warrant further regulatory evaluation. For the same reasons, this rule (1) is not a major rule under Executive Order 12291, and (2) is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to insure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant impact on a substantial number of small entities." For purposes of the RFA, small entities are considered to include small businesses, non-profit organizations, and municipalities but not private individuals. Small entities affected by this rule are limited to the approximately 40 Part 135 air tour and air taxi operators operating in the canyon area. As discussed under "Economic Impact" above, the rule will not require any change in the operations of these firms which the agency believes would impose an economic cost. As a result, the impact on the affected small entities, if any, will be substantially less than the threshold for significant impact under agency guidelines. Therefore, I certify that, under the criteria of the Regulatory Flexibility Act, this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Aviation safety, Air taxi and commercial operators, Grand Canyon.

Adoption of the Special Federal Aviation Regulation

For the reasons set out above, 14 CFR Parts 91 and 135 are amended by adopting a new Special Federal Aviation Regulation to read as follows:

Special Federal Aviation Regulation No. 50

Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

Section 1. *Applicability.* This rule prescribes special operating rules for all persons operating aircraft under VFR in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area:

That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at lat. 36°09'30" N., long. 114°03'00" W.; southwest to lat. 36°14'00" N., long. 113°12'00" W.; to lat. 36°30'00" N., long. 112°36'00" W.; to lat. 36°30'00" N., long. 111°42'00" W.; to lat. 35°59'30" N., long. 111°42'00" W.; to lat. 35°57'30" N., long. 112°03'20" W.; thence via the 5 statute mile radius of the Grand Canyon Airport reference point (lat. 35°57'09" N., long. 112°08'4.7" W.); to lat. 35°57'30" N., long. 112°14'00" W.; to lat. 35°58'00" N., long. 113°11'00" W.; to 35°42'30" 27'30" W.; thence via the 5-statute-mile radius of the Peach Springs VORTAC to lat. 35°41'20" N., long. 113°36'00" W.; thence to the point of beginning.

Section 2. *Definition.* For the purposes of this special regulation, "Park" means the Grand Canyon National Park.

Section 3. *Aircraft operations: general.* Except in an emergency or unless otherwise authorized by the Administrator, no person may operate an aircraft in the airspace described in Section 1 unless the operation—

(a) Is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's Part 135 operations specifications and approved by the Las Vegas Flight Standards District Office;

(b) Is authorized in writing by the Las Vegas Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization will be granted only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacuation of persons in the vicinity of the Park, or for support of Park maintenance or activities. Authorization may be issued on a continuing basis; or

(c) Is a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center.

Section 4. *Commercial sightseeing flights.*

(a) Notwithstanding the provisions of Federal Aviation Regulations § 135.1(b)(2), nonstop sightseeing flights that begin and end at the same airport, are conducted within a 25 statute mile radius of that airport, and operate in or through the airspace described in section 1 during any portion of the flight are governed by the provisions of Part 135.

(b) No person holding or required to hold an operating certificate under Part 135 may operate an aircraft in the airspace described in Section 1 except as authorized by operations specifications issued under that part.

Section 5. *Minimum terrain clearance.* Except in an emergency, when necessary for takeoff or landing, or unless authorized by the Las Vegas Flight Standards District Office for a purpose listed in section 3(b), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

Section 6. *Communications.* Except when in contact with the Grand Canyon National Park Airport Traffic Control Tower during arrival or departure or on a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center, no person may operate an aircraft in the airspace described in section 1 unless he—

(a) Transmits a position report on the appropriate frequency at each reporting point designated in the operator's Part 135 operations specifications or in a written authorization to operate in that airspace issued under section 3, and

(b) Monitors the appropriate frequency continuously while in that airspace.

Section 7. *Effective and termination dates.* This Special Federal Aviation Regulation is effective April 27, 1987 and terminates on June 15, 1987.

Authority: 49 U.S.C. 1303, 1348, 1354(a), 1421, and 1422; 16 U.S.C. 228g; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Issued in Washington, DC on March 23, 1987.

Donald D. Engen,

Administrator.

[FR Doc. 87–6647 Filed 3–24–87; 9:23 am]

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federal register

Thursday
March 26, 1987

Part IV

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Amendment to Opacity Provisions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3149-5]

Standards of Performance for New Stationary Sources; Amendment to Opacity Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Amendments to the opacity provisions affecting emissions from new stationary sources were proposed in the **Federal Register** on December 27, 1985 (50 FR 53115). This action promulgates the opacity amendments. These amendments implement section 114 of the Clean Air Act and provide for the use of continuous opacity monitoring system (COMS) data results in lieu of Method 9 data during any performance test required under Section 60.8 for the purpose of determining compliance with the opacity standards contained in 40 CFR Part 60.

EFFECTIVE DATE: March 26, 1987.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated amendments may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Opacity Provisions—Background Information for Promulgated Amendments," EPA–450/3–86–013. The BID contains (1) a summary of all the public comments made on the proposed opacity amendments and the Administrator's response to the comments, and (2) a summary of the changes made to the opacity amendments since proposal.

Docket. A docket, number A–85–08, containing information considered by EPA in development of the promulgated amendments, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, (919) 541–5624, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. EPA, Research Triangle Park, N.C. 27711.

SUPPLEMENTARY INFORMATION:

I. The Opacity Amendments

The amendments to the opacity provisions allow an owner or operator of an affected facility subject to an opacity standard to submit, for compliance purposes, COMS data results produced during any particulate matter performance test required under § 60.8 in lieu of Method 9 observation data. The decision to elect the COMS option will be made by the source owner or operator, and the Administrator must be notified of that decision, in writing, at least 30 days before any performance test required under § 60.8 is conducted. Once this notification has been made, the COMS data results will be used to determine opacity compliance during subsequent tests required under § 60.8 until the owner or operator of the affected facility notifies the Administrator, in writing, to the contrary. The minimum total time of COMS data collection for compliance purposes will be averages of all 6-minute continuous periods within the duration of the mass emission performance test. If a COMS is used for compliance purposes, the owner or operator of the affected facility must demonstrate that the COMS meets the requirements specified in 40 CFR 60.13(c), that it has been properly maintained and operated, and that the resulting data have not been altered in any way.

Provision of the COMS option does not affect the ability of an enforcing agency to use Method 9 either during the initial test or at any other time. If COMS results are submitted that indicate compliance with the opacity standard for a period during which Method 9 indicated noncompliance status of the source, the Method 9 data would continue to represent the reference method data and would be used to determine compliance. The use of COMS data results in such cases is probative but not conclusive evidence of the actual opacity.

II. Public Participation

The amendments to the opacity provisions were proposed in the **Federal Register** on December 27, 1985 (50 FR 53115). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed amendments, a public hearing was scheduled to be held on February 10, 1986, at Research Triangle Park, North Carolina. However, a public hearing was not held because it was not requested.

The public comment period was from December 27, 1985, to March 12, 1986. Ten comment letters were received concerning issues relative to the proposed opacity amendments. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed opacity amendments.

III. Significant Comments and Changes to the Proposed Opacity Amendments

Comments on the proposed opacity amendments were received from industry, State and local air pollution control agencies, and a law firm representing members of the Utility Air Regulatory Group (UARG). A detailed discussion of these comments and responses can be found in the promulgation BID, which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID serves as the basis for the revisions that have been made to the opacity amendments between proposal and promulgation. The major comments and responses are summarized in this preamble.

In response to public comments received on the proposed rulemaking and as a result of EPA reevaluation, some changes were made in the proposed amendments to the opacity provisions prior to promulgation. If Method 9 is used, the proposed opacity amendments included a minimum period of one 6-minute reading for determining opacity compliance after initial compliance if the enforcing agency were to require such tests. However, after further evaluation, the Agency has decided to delete the proposed minimum of one 6-minute reading from the final amendments because Method 9 already specifies that a minimum of 24 observations (one 6-minute reading) be recorded for opacity compliance determinations. In addition, enforcement personnel may require additional observations (more than one 6-minute reading) for opacity compliance determinations subsequent to initial compliance if they believe additional observations are necessary to provide data more representative of the

performance of the affected facility and the control device.

Also, the proposed requirement for the quarterly determination of optical and zero alignment (§ 60.11(e)(5)(ii)) has been deleted. Instead, the promulgated amendment (§ 60.13(c)) requires the source owner or operator submitting COMS data for opacity compliance during any particulate matter performance test required under § 60.8 to demonstrate that the COMS meets the requirements in Performance Specification 1 prior to the performance test. Presumably, particulate matter performance tests subsequent to the initial performance test will be required infrequently, and, therefore, the COMS zero and optical alignment checks need not be required quarterly.

In addition, the promulgated amendments to the opacity provisions (§ 60.11(e)(5)) has been revised consistent with the intent of the proposal; that is, to allow a source owner or operator to submit COMS data for compliance purposes during any performance test required under § 60.8 (regardless of whether it is the initial test or a subsequent test). Also, a provision has been added to paragraph (e)(5) of § 60.11, which specifies that (1) if a source owner or operator decides to submit COMS data for opacity compliance purposes, he must notify the Administrator of that decision, in writing, at least 30 days before any test required under § 60.8 is conducted, and (2) COMS data results will be used for subsequent opacity compliance during any particulate matter performance test conducted under § 60.8 until the source owner or operator notifies the Administrator, in writing, to the contrary.

Several of the comments and responses are summarized in this preamble.

Comment: A State air quality control office believes that it is unreasonable to use the results from a COMS to determine compliance with opacity standards without establishing its accuracy relative to Reference Method 9. According to the commenter, there may be many reasons why "in-stack" opacity may differ from "stack outlet" opacity, but that the relative accuracy of the COMS is easily determined using visible emission observations. The commenter suggested that the initial source performance test be used as the opacity relative accuracy test period. Although this would require a visible emissions observer to be present, subsequent enforcement of opacity standards could be based on COMS results with a confidence that the results represent the actual opacity at the stack outlet. A regional air pollution control agency also believes that the COMS readings must compare satisfactorily to Method 9 data collected and that the confirmation needs to occur during the source's NSPS performance test. Although confirmed COMS data would be reliable as indicators, the use of Method 9 observations conducted by enforcement personnel should remain the sole factor in determining a source's compliance with the opacity standard at any time.

Response: The Administrator judges that sources using COMS's (transmissometers) should be allowed the option of submitting monitoring results in lieu of conducting Method 9 visual observations during any performance test required under § 60.8 for the purpose of determining compliance with the applicable opacity standard. As described previously (49 FR 30676, July 31, 1984), EPA found that opacity tests were performed and the results documented only infrequently. The amendment promulgated on December 27, 1985 (50 FR 53108) now requires opacity tests during all initial particulate matter performance tests. Today's promulgation pertains primarily to these tests which were often not performed in the past. The use of the COMS option for these purposes results in a savings to the source owner and the enforcing agency in terms of personnel and money. Provision of the COMS option does not affect the ability of an enforcing agency to use Method 9 either during the initial test or at any other time. The EPA agrees that there are cases where in-stack and stack outlet opacity may differ. If COMS results are submitted that indicate compliance with the opacity standard for a period during which Method 9 indicated noncompliance status of the source, the Method 9 data would continue to represent the reference method data and would be used to determine compliance.

Comment: One regional air pollution control agency believes the use of COMS data, as a routine indicator of compliance during normal/non-performance testing, is beneficial. Another State agency feels it is very critical that both COMS and Method 9 results be used for determining continuous compliance with the opacity provisions of the NSPS. The basis for this conclusion is that the use of Method 9 is limited due to certain weather and operating conditions (moisture interference). The COMS data alone also have potential enforcement problems. For example, numerous situations have been observed where the COMS readings were very low, but Method 9 readings showed opacity much greater than 20 percent (level of the standard). Therefore, both methods should be referenced as compliance methods for the purpose of determining continued opacity compliance.

A law firm requests that the preamble to the final amendment make it clear that EPA has not established that COMS data are acceptable for determining opacity compliance on a continuous basis. According to the commenter, EPA would need to perform several tasks before a COMS can be used for compliance purposes during performance tests other than at the source owner/operator's option. For example, EPA would need to ensure that a COMS will not show noncompliance when Method 9 data show compliance. In other words, EPA must ensure that a proposed alternative compliance method is no more stringent than the current compliance method. (In 1981, 46 FR 53145, EPA conducted and studies promulgated an adjustment formula to ensure that "lidar-determined opacity values will not show an emission source exceeding an opacity standard when the reference method would not also show that it was exceeding the standard.) The commenter added that a COMS could not legally be used to determine compliance with the opacity standards on a continuous basis because the opacity standards were set based upon short-term Method 9 tests, and Method 9 tests are the current compliance method. The EPA could not change to a continuous compliance method without in effect making the opacity standards more stringent, which, under prior case law, is not allowed. The commenter referred to EPA's statement in the **Federal Register** (39 FR 9309, March 8, 1974), which states, "The opacity standard is established at a level which will . . . not require the design and installation of a control system more efficient or expensive than that required by the concentration/mass standard." Accordingly, neither EPA nor the States may enforce the opacity standards in a manner that in effect increases their stringency. A technical service and support company expressed the same concern based on similar reasons.

Response: The proposed amendment to the opacity provisions does not affect the opacity standards which are limits not to be exceeded at any time. Rather, the proposed amendment [§ 60.11(b) and 60.11(b)(5)(ii)] provided for the use of COMS data in lieu of Method 9 for compliance purposes during initial particulate matter and opacity performance tests and during subsequent particulate matter performance tests when the enforcement

agency required a source owner or operator to conduct simultaneous opacity performance tests.

It is not necessary to respond to comments on hypothetical future requirements that are not being imposed by the rulemaking.

Comment: One commenter states that the proposal appears to be reasonable and should be promulgated in a timely manner so that sources who want to use this option will not have to petition the Administrator to do so. A law firm supports the proposed amendment to the opacity provisions because only the source owner/operator has the option of choosing to use the COMS data collected during performance tests for compliance determinations. However, the commenter requested that the preamble and language in § 60.11(e)(5)(ii) make it clear that EPA is not authorizing the use of COMS data obtained during performance tests for compliance purposes without a request to do so by the source owner or operator. The commenter also feels that the proposed language of § 60.11(e)(5)(ii) could be construed as not authorizing the source owner/operator to opt out of the COMS compliance option at any time by notifying the Administrator. Therefore, it was requested that the final amendment also include a provision authorizing the source owner/operator to notify the Administrator that the COMS data are not to be used for the compliance determination.

Another commenter would also oppose any future attempt to require monitoring for determining opacity compliance without the source owner/operator's agreement. In two examples given, the commenter noted that the monitored opacity and Method 9 observations for the same source resulted in vastly different readings, even though the monitoring equipment had recently passed Performance Specification 1 testing (as provided in Appendix B of 40 CFR Part 60).

Response: In response to these comments, the final opacity provisions [Section 60.11(e)(5)] have been amended to clarify that COMS data obtained during a performance test will be used for compliance purposes only if requested by the source owner or operator. Also, § 60.11(e)(5) has been reworded to clarify that once the source owner/operator requests to use COMS data for compliance purposes, this option will remain in effect during any subsequent particulate matter tests until the source owner/operator notifies the Administrator, in writing, to the contrary.

Comment: Several commenters objected to the requirement for quarterly COMS optical and zero alignment checks. A State air quality control office believes that quarterly "optical and zero alignment procedures would be burdensome to most sources because it would probably require removal of the transceiver and retroreflector in order to simulate "clear stack" conditions (sources may not be able to shut down during a quarter). According to the commenter, this could also result in loss of a significant amount of data. As an alternative, the commenter suggested that the initial optical zero and alignment procedures include an adjustment of the internal zero (the normal daily zero check) to agree with the cross-stack zero. The integrity of the transceiver could then be checked quarterly using neutral density filters and a calibration device to conduct a calibration error test similar to that required for initial certification (in addition to periodic alignment checks using existing sighting devices). The commenter believes this procedure is easier and results in less loss of data than would repetition of the optical zero alignment procedures.

A city public utilities department believes that quarterly checks of optical and zero alignment are excessive, that annual checks would be adequate. It also believes that alternative provisions for sources which operate continuously and do not have adequate scheduled periods of clear stack conditions need to be written and that the requirements of paragraph 7.2.2 of Performance Specification 1 were written specifically for initial alignments and not for recurring checks. The commenter suggested that the continuous monitoring system requirements in Section 60.13 be referenced, rather than specifying requirements for alignment, maintenance, and calibration in § 60.11(e)(5)(ii). He added that if § 60.13 requirements were inadequate to assure proper operation of monitors, then those provisions should be revised.

Another State agency believes any change in the optical and zero alignment for a COMS will cause the resulting data to be biased against the source. For this reason, a source using a COMS to determine opacity compliance will insure the accuracy of these two settings; and, therefore, the proposed requirement for quarterly checks of these settings is unnecessary. As an alternative quality assurance technique, the State Agency proposes that a periodic repeat of the calibration error portion of the performance specification test be performed. For several years, the State Agency has incorporated this requirement into the operating permits of the affected sources.

Response: The Agency has considered these comments and agrees that the requirement for quarterly determination of optical and zero alignment is inappropriate. The Agency's intention is to assure that the COMS used during any performance test is operating as designed. Presumably, these performance tests will be required infrequently, and, therefore, the COMS optical and zero alignment checks need not be required quarterly. As a result of these comments and further evaluation, changes have been made in the final provisions. The proposed quarterly optical and zero alignment procedures required under § 60.11(e)(5)(ii) have been deleted. The remaining provisions in paragraphs (i) and (ii) of § 60.11(e)(5) have been combined with those in § 60.11(e)(5). This revised paragraph provides for the use of COMS data in lieu of Method 9 in determining compliance during any particulate matter performance test required under § 60.8 (rather than during the initial test) and requires the source owner/operator to demonstrate that the COMS meets the requirements in Performance Specification 1 prior to the performance test as specified in § 60.13(c).

Paragraph 60.13(c) has also been revised to require that a COMS to be used to demonstrate compliance pursuant to paragraph 60.11(e)(5) must be evaluated according to Performance Specification 1 and these results must be submitted at least 10 days before any performance test required under § 60.8 is conducted. This revision will ensure that the COMS used for compliance determinations is operating within acceptable operating specifications before compliance data are collected.

In response to the first comment regarding the optical zero and alignment procedures, the commenter has overlooked the alternative procedure allowed in § 7.2.2 of Performance Specification 1. The alternative procedure allows the COMS operator to adjust the optical alignment and postpone the zero alignment check when no clear stack conditions exist at the time of the check. The zero alignment is to be checked at the time of the next clear stack condition, and the COMS is adjusted as necessary at that time. It is not necessary that the COMS be removed from the stack if the alternative procedure in § 7.2.2 is applied.

In regard to the comment concerning the monitoring requirements in Section 60.13, the provisions in paragraph (c) of that section have been revised to address the use of a COMS used for compliance purposes. The proposed requirements specified in paragraph (ii)

of § 60.11(e)(5) have been deleted. Section 60.11(e)(5) now refers to § 60.13(c) regarding minimum COMS requirements.

The comment that most problems that can occur with COMS operations result in positive biases and, thus, are detrimental to the source is correct. However, the Agency does not agree with the conclusion that COMS performance checks need not be required because the COMS operator will perform them automatically if the data are to be used for compliance purposes. The Agency believes that data quality control procedures are a valuable part of any test method used for compliance determinations regardless of the direction of the potential biases.

Comment: A law firm believes the proposal could be interpreted to authorize a source owner/operator to submit COMS data taken during a performance test for compliance purposes only if the COMS data taken during the initial performance test required under §60.8 had been submitted for compliance purposes. The commenter requested that EPA confirm that the regulation allows a source owner/operator to submit COMS data for compliance purposes during *any* performance test (whether it is the initial test required under Section 60.8 or a subsequent test).

Response. The Agency confirms that a source owner/operator may submit COMS data for compliance purposes during any performance test required under § 60.8. Section 60.11(e)(5) has been clarified in this regard by deleting the word "initial."

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review. See Clean Air Act, section 307(d)(7)(A), 42 U.S.C. 7607(d)(7)(A).

These amendments become effective upon promulgation.

There are no information collection requirements associated with this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulatory action is "major" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that the amendments to the opacity provisions would result in none of the adverse economic effects set forth in section 1(b) of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that these amendments are not a "major rule" under Executive Order 12291. This rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by the Executive Order. Any written comments from OMB to EPA and any EPA response to those comments will be included in the docket.

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis for every rule unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities because the impact of the rule is not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Date: March 20, 1987.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Subpart A, is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. In § 60.7, a new paragraph (a)(7) is added to read as follows:

§ 60.7 Notification and record keeping.

(a) * * *

(7) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by § 60.8 in lieu of Method 9 observation data as allowed by § 60.11(e)(5) of this part. This notification shall be postmarked not less than 30 days prior to the date of the performance test.

* * * * *

3. Section 60.11 is amended by revising paragraph (b) and the last sentence of (e)(1), by redesignating paragraphs (e)(6) and (e)(7) as (e)(7) and (e)(8), by redesignating paragraph (e)(5) as (e)(6) and revising it, and by adding paragraph (e)(5), to read as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part, any alternative method that is approved by the Administrator, or as provided in paragraph (e)(5) of this section. For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).

* * * * *

(e)(1) * * * Except as provided in paragraph (e)(5) of this section, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

* * * * *

(5) An owner or operator of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under § 60.8 in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Administrator of that decision, in writing, at least 30 days before any performance test required under § 60.8 is conducted. Once the owner or operator of an affected facility

has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent tests required under § 60.8 until the owner or operator notifies the Administrator, in writing, to the contrary. For the purpose of determining compliance with the opacity standard during a performance test required under § 60.8 using COMS data, the minimum total time of COMS data collection shall be averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under § 60.8. The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in § 60.13(c) of this part, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates noncompliance, the Method 9 data will be used to determine opacity compliance.

(6) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by § 60.8, the opacity observation results and observer certification required by § 60.11(e)(1), and the COMS results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by § 60.8. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with § 60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

* * * * *

4. In § 60.13, paragraph (c) is revised to read as follows:

§ 60.13 Monitoring requirements.

* * * * *

(c) If the owner or operator of an affected facility elects to submit continous opacity monitoring system (COMS) data for compliance with the opacity standard as provided under § 60.11(e)(5), he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1, Appendix B, of this part before the performance test required under § 60.8 is conducted. Otherwise, the owner or operator of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any performance test required under § 60.8 or within 30 days thereafter in accordance with the applicable performance specification in Appendix B of this part, The owner or operator of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the Administrator under section 114 of the Act.

(1) The owner or operator of an affected facility using a COMS to determine opacity compliance during any performance test required under § 60.8 and as described in § 60.11(e)(5) shall furnish the Administrator two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in paragraph (c) of this section at least 10 days before the performance test required under § 60.8 is conducted.

(2) Except as provided in paragraph (c)(1) of this section, the owner or operator of an affected facility shall furnish the Administrator within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

* * * * *

[FR Doc. 87-6552 Filed 3-25-87; 8:45 am]

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federal register

Thursday
March 26, 1987

Part V

Department of the Treasury

Customs Service

19 CFR Parts 113, 151, and 178

Approval of Commercial Gaugers and Accreditation of Commercial Laboratories; Final Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 113, 151, and 178

[T.D. 87-39]

Approval of Commercial Gaugers and Accreditation of Commercial Laboratories

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to revise the procedures used by Customs to approve commercial gaugers (formerly "public gaugers"), and to establish procedures for Customs to accredit commercial laboratories.

The current regulations do not give Customs enough oversight over the technical operations of "public gaugers" and their laboratories; do not provide for Customs acceptance of private sector gauging reports for imported products other than petroleum and petroleum products; and do not provide for Customs accreditation of commercial laboratories or acceptance of commercial laboratory analysis reports on imported products other than petroleum and petroleum products. These amendments improve Customs oversight authority, permit the expansion of gauging services to imported products other than petroleum, and establish a mechanism for accrediting commercial laboratories and accepting their analysis reports on specified products.

EFFECTIVE DATE: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Technical Services Division, Room 7113, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC, 20229 (202–566–2446).

SUPPLEMENTARY INFORMATION:

Background

By notice published in the **Federal Register** of October 18, 1984 (49 FR 40882), Customs proposed to amend Part 151, Customs Regulations (19 CFR 151), relating to public gaugers and commercial laboratories. After reviewing the comments received on the proposal, Customs published a revised proposal in the **Federal Register** of July 18, 1986 (51 FR 26021). The revised proposal accommodated the public's concerns over paperwork burdens while allowing Customs to carry out its mission to collect the revenue and protect the commerce.

Discussion of Comments

Nine comments were received in response to the second proposal. Seven supported it, offering suggestions for improving or expanding the changes, and two criticized various aspects of the proposal. A discussion of the comments follows:

Comment: Customs should not initiate its own program of (laboratory) accreditation, but rather should make use of accreditation programs already in existence.

Analysis: Customs evaluated several existing accreditation programs, but found none which met our needs or which could have been sufficiently reworked to meet our needs. Also, Customs has, in effect, been operating a laboratory accreditation system for many years, albeit one over which we have had very little control. The second sentence of existing § 151.47(b) gives de facto approval of a laboratory "operated by (a) public gauger." That provision, indeed, was one of the principal reasons for proposing this mechanism in the first place. Customs did, however, take the most effective provisions from several existing systems and adapt them for our use in this proposal.

Comment: We recommend that commercial samplers be used to obtain samples of general merchandise.

Analysis: The proposal provides for this in its description of commercial gaugers as ". . . organizations or individuals who measure, gauge, or sample merchandise."

Comment: We encourage the use of contract personnel for operation of the ACS screening of entry documents to save Customs costs.

Analysis: While appreciative of this suggestion, the integration of the Automated Commercial System (ACS) with commercial gaugers and laboratories is beyond the scope of this proposal.

Comment: Customs should "grandfather-in" all currently approved gaugers to gauge all commodities.

Analysis: Customs does not agree. Customs realizes that, in certain situations, Customs officers may have accepted petroleum gauging reports from unapproved gaugers, or they may have accepted gauging or laboratory analysis reports from approved gaugers for commodities other than petroleum. Although these instances were not in accord with § 151.43(a), they were sporadic and were more an informal means of gathering information on a transaction than a deliberate contravention of this section. In administering this program in the future, however, Customs must ensure that its mission to protect the commerce and collect the revenue is fulfilled and that the program itself is administered fairly. Therefore, we cannot issue "blanket" approvals of this type.

As mentioned previously, organizations which have Customs approval to gauge or analyze petroleum and petroleum products and which want to gauge or analyze other commodities must submit the pertinent information described in § 151.13(1) to Customs, and must receive approval (or accreditation) for those services or commodities before submitting reports on them to Customs.

Comment: Customs should publish the standards it requires gaugers and laboratories to use, or, in the case of standards already published, should simply state their designations.

Analysis: Customs agrees in part, and has modified the proposal accordingly. Whenever Customs adds a service or commodity to the lists in § 151.13(a)(1) or § 151.13(a)(2), we will either state the acceptable method's published designation (e.g., its ASTM designation) or we will note that the full method (as developed and used by Customs) is available on request.

Comment: There is a conflict between proposed § 151.13(a) and proposed §§ 151.31 and 151.47(b). Section 151.13(a) states that "the district director *may* accept . . . quantity and laboratory analysis reports from Customs-approved commercial gaugers and Customs-accredited commercial laboratories . . . ." However, §§ 151.31 and 151.47(b) state that "the characteristics of sugar (or the quantity of sediment and water) . . . as determined by a Customs-accredited commercial laboratory *shall* be used for Customs purposes . . ." (emphasis added in both).

Commercial gaugers and laboratories must be able to assure their clients that Customs will accept their results. Therefore, we urge Customs to resolve this discrepancy in favor of accepting all results from approved or accredited commercial gaugers or laboratories unless Customs has clear evidence to the contrary.

Analysis: Customs appreciates this commenter's pointing out the discrepancy, and agrees with his proposed remedy. Customs realizes that the expansion of private sector opportunities can occur only in an environment in which businesses can be assured that Customs will accept their reports. Therefore, Customs has modified the proposal to require the acceptance of gauging and laboratory analysis reports under most circumstances. Customs does, of course,

retain the right to gauge and analyze any shipment at any time.

Comment: Customs should be bound to give or deny approval or accreditation within 30 days, since delays can prohibit competition and could result in the failure of a new company.

Analysis: This suggestion has merit. Although Customs cannot commit itself to issue an approval or accreditation within the time frame suggested, it recognizes that excessive delays can be costly. Therefore, Customs has modified its proposal to provide for the issuance of conditional approval or accreditation within 60 days of the receipt of a complete and acceptable application package, including a bond. This conditional approval or accreditation will bind the applicant to all pertinent regulations, and may be suspended or revoked for cause (see § 151.13(k)), or withdrawn if more detailed evaluation of the applicant uncovers disqualifying factors.

Comment: Customs should state the factors that would serve to deny approval or accreditation to an applicant.

Analysis: Customs cannot anticipate every circumstance that may warrant denial of an applicant's approval or accreditation. However, an applicant's failure to meet a requirement in proposed § 151.13(b), such as a bond, would be grounds for denial. Other factors, such as a felony conviction by an officer of the corporation, would also serve to deny approval or accreditation.

Comment: The names, titles, and qualifications of authorized signatories are not needed since these are the gauger's business.

Analysis: Customs does not agree. Authorized signatories provide a chain of accountability that is essential for Customs to administer this program.

Comment: The time frames for reporting status changes are unreasonable. A once-a-year update should be sufficient.

Analysis: Customs does not agree. We set the notice requirement for major changes at 5 days so as to protect the revenue. For example, a change in an accredited laboratory's ownership may affect that laboratory's independence, and therefore that change would have to be reported within 5 days.

Comment: Customs should publish the critical parameters that will be evaluated during inspections, and should establish a schedule for correcting deficiencies. Customs should also apply its inspection schedule uniformly across the industry.

Analysis: Customs cannot anticipate every condition that might come under scrutiny, since these factors are unique to each facility. However, the regulations themselves provide general guidance. For example, § 151.13(g)(1) requires that instruments be properly calibrated and maintained, while § 151.13(i)(4) requires that gauging and analysis records be kept. Customs would almost certainly check compliance with these requirements as part of an inspection. Customs would allow a reasonable amount of time to correct deficiencies, depending on their nature and the risk they pose to the commerce or revenue.

Customs considered the pros and cons of publishing a fixed inspection schedule but rejected the idea for two reasons. First, Customs ability to conduct "routine" on-site inspections depends on priorities, availability of staff, etc., and is thus not readily set to a firm schedule. Second, certain on-site inspections will be internal enforcement matters for which advance notice may jeopardize the government's interests.

Comment: (Compliance with) facility regulations is already monitored by OSHA, NIOSH, EPA, etc. Customs should limit itself to adequacy for applicable testing, or grossly unsafe conditions.

Analysis: It appears that the commenter misread the proposal, which stated that facilities shall have adequate space, lighting, and environmental controls ". . . to ensure compliance with the conditions prescribed in the appropriate procedures."

Comment: We recommend that Customs restore its original proposal regarding the qualifications of gaugers and laboratory staff, to include 6 months training or experience in performing the same services with the same commodities (for gaugers), and a bachelor's degree or 2 years experience in the laboratory analysis of the products concerned (for laboratory staff). In addition, we recommend that laboratory staff be required to demonstrate an adequate level of experience, etc., periodically.

Analysis: Several commenters noted the changes in personnel qualification requirements. Although most agreed with the principle of "leaving business decisions to business," many feared that the lack of firm guidelines would result in a "guessing game" between Customs and an applicant or approved gauger or laboratory. Customs continues to believe that it is the gauger's or laboratory's responsibility to employ competent staff, since gaugers and laboratories are accountable for the actions of their staffs both legally (through the regulations and their bond) and ethically (through the canons of professional ethics). Although the gauger's and laboratory's responsibility and accountability remain, we have added a sentence to the effect that 6 months training and experience (for gauging staff) and a bachelor's degree in the sciences or two years experience (for laboratory staff) would be considered minimal qualifications.

Provision for "demonstrations of technical competence" were given in the third paragraph of the Commercial Gauger (or Laboratory) Agreement and in proposed § 151.13(i) [now § 151.13(j)].

Comment: In proposed § 151.13(f)(2), the Director of Technical Services should be empowered to impose specific procedures only if he certifies in writing to the gauger or laboratory that the procedures are consistent with voluntary standards of the ASTM, API, etc., and with commonly accepted norms of laboratory and gauging procedures.

Analysis: Customs appreciates the concern over this authority, but does not agree with the suggestion. Existing § 151.43(f) gave even wider authority to district directors, and we are not aware that this has caused problems. Customs has limited this authority in the proposal, which stated that specific procedures could be imposed ". . . if warranted by local circumstances." Customs believes that it is precisely those "local circumstances" which would thwart the use of industry-wide standards and thus require specific procedures. Customs will not impose specific procedures without putting them in writing.

Comment: The second sentence of proposed § 151.13(g) is confusing. There are two very distinct thoughts in this provision which should be clarified.

Analysis: Customs agrees, and regrets the confusion. We have expressed these two ideas in two sentences; one allowing a gauger or laboratory to request the Director of the Technical Services Division to impose specific procedures if the gauger feels them necessary, and the other allowing a gauger or laboratory to request the Director to review or delay a decision to impose specific procedures. See new § 151.13(h).

Comment: A product can only be identified as per bill of lading. There is no published criteria for naming a product. The test results speak for themselves.

Analysis: Customs does not understand this comment. A gauging or analysis report that does not name or otherwise identify the product that was gauged or analyzed is meaningless and useless.

Comment: In stating grounds for suspension or revocation of approval/accreditation in proposed § 151.13(j)(1), the expression "repeatedly inaccurate to a significant degree" is ambiguous and therefore unenforceable. We recommend that Customs replace it with language specifying three inaccurate gauging reports within nine months for gaugers and repeatedly nonreproducible laboratory analysis reports (with "reproducibility" as defined in the procedure) for laboratories.

Analysis: Customs disagreed with a similar suggestion made in response to our original proposal for the following reasons, which are unchanged. First, identical language appears in current § 151.43(h)(2), and has caused no problems. Second, we need to maintain our flexibility to deal with serious problems without waiting for a certain number of offenses, but on the other hand we do not want to be compelled to take punitive action for a coincidence of minor errors. Customs will take a procedure's reproducibility into account in these situations. However, we do not believe that reproducibility is the sole criterion with which to judge laboratory analysis reports. A report that incorrectly identifies a product or incorrectly states its characteristics [see new § 151.13(i)(5)] is inaccurate even though it contains perfectly reproducible data.

Comment: Specific application for each commodity or test serves no purpose. If an applicant is acceptable, then credibility should extend to all work performed.

Analysis: It appears that the commenters misread the proposal. Customs did not intend each gauger or laboratory to send in a complete application package for each additional commodity or test desired, but only the pertinent information relating to those commodities or tests. However, to avoid ambiguity, Customs has revised proposed § 151.13(k)(2) [now § 151.13 (1)(2)] so that only new information in paragraphs (1), (2), (6), and (7) of § 151.13(b) is needed.

Comment: Organizations which propose to gauge or analyze additional commodities should not have to provide economic reasons for adding the commodities to the list.

Analysis: Customs does not agree. We want to avoid, as far as possible, the necessity of setting up an elaborate mechanism, publishing methods, accepting and evaluating public comments, etc., for "fugitive" commodities for which there is very little trade or a very small number of manufacturers or importers. The request to provide some economic justification, such as trade statistics, a recognized need for the services, etc., is necessary to prevent Customs from getting bogged down with "nuisance" requests.

Comment: The table of Maximum Percentage Difference Allowable in § 151.47(b) gives the criterion by which Customs will use its own laboratory analysis reports instead of those from a commercial laboratory. We recommend that Customs omit the table and substitute, for those differences, the reproducibility limits of the test method used.

Analysis: Virtually identical language appears in current § 151.47(d) and has caused no problems. However, the commenter has pointed out, albeit indirectly, that the differences in the table are outdated, and no longer correspond to the reproducibility limits described in the analysis methods. Therefore, we have eliminated the table, and have substituted the value of 0.11 percent water as the Maximum Percentage Difference Allowable between a Customs laboratory's result and a commercial laboratory's result, regardless of the amount of water in the petroleum.

In further considering this comment, we have consolidated the "difference" tables for petroleum (as discussed here) and for sugar (see current § 151.31) into a new and comprehensive section (see new § 151.14 in this document) that sets out the Maximum Percentage Differences Allowable for all the products authorized in § 151.13(a)(2). These differences define the criteria by which Customs will use its own laboratory analysis reports instead of those from a commercial laboratory.

Comment: The proposal to expand the private sector's gauging and laboratory analysis services to products other than sugar and petroleum is an excellent idea, but should be put into effect to the fullest possible extent immediately, and not delayed. Commercial gaugers now gauge other commodities, such as bulk liquid chemicals, for domestic transfers. These gaugers are obviously qualified and should be approved to gauge these products for Customs purposes without delay. Similarly, independent commercial laboratories now analyze many products, such as chemicals, ores, etc., as part of the contract in domestic transactions. These laboratories are also qualified and should be accredited to do these analyses for Customs purposes.

Analysis: It was, of course, Customs intention to expand this program as the need arose. However, since several commenters have strongly urged Customs to expand the scope of both gauging and laboratory services immediately, Customs has decided to accept this suggestion. Accordingly, Customs has retained the mechanism for further expansion in § 151.13(1), but has modified § 151.13(a) of its proposal to expand the scope of gauging and laboratory services. In addition to petroleum and sugar, Customs will now accept quantity reports from Customs-approved commercial gaugers for bulk liquid organic chemicals (e.g., acetone) and vegetable oils, and will accept laboratory analysis reports from Customs-accredited commercial laboratories for the identity and composition of bulk liquid organic chemicals, for the criteria for "standard newsprint paper" (item number 252.65, TSUS), and for the basis weight of paper. See the complete list in § 151.13(a).

Customs wishes to emphasize, however, that organizations having current Customs approval to gauge or analyze petroleum and petroleum products do *not* have approval to gauge or analyze anything else. Approved commercial gaugers and laboratories which want to gauge or analyze other commodities such as those mentioned in the preceding paragraph must submit the pertinent information described in § 151.13(1) to Customs, and must receive approval (or accreditation) for those services or commodities *before* submitting gauging or analysis reports on them to Customs.

In addition, the public is advised that Customs is reviewing the overall commercial gauging and laboratory program to ensure that the revenue is protected. In particular, Customs is concerned that the limit of liability on the requisite Customs bond is both sufficient to protect the revenue and fair to all organizations. Given the value of most petroleum shipments compared to that of other products, and in light of the wide variation in size among both approved organizations and applicants for approval, Customs believes that adjustments in the limit of liability of certain bonds will be necessary.

Also, Customs has amended § 113.67 to reflect the change in terminology from "Licensed Public Gauger" to "Commercial Gauger" and to add "Commercial Laboratories" to the bond regulations.

After careful consideration of comments received in response to the notice, and after further review of the matter, it has been determined to adopt the proposal with some modifications.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, a regulatory impact

analysis and review as prescribed by § 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that these amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604.

Paperwork Reduction Act

The amendments are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). Accordingly, they have been cleared by the Office of Management and Budget and assigned control number 1515–0155

Drafting Information

The principal author of this document was Roger J. Crain, Technical Services Division, Office of Commercial Operations, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 113

Customs bonds.

19 CFR Part 151

Customs duties and inspection, Imports, Chemicals, Flammable materials, Petroleum, Sugar.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collection of information.

Amendments to the Regulations

Parts 113, 151 and 178, Customs Regulations (19 CFR Parts 113, 151 and 178), are amended as set forth below.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. Section 113.67 is revised to read as follows:

§ 113.67 Commercial gauger and commercial laboratory bond conditions.

Commercial Gauger Bond Conditions

(a) *Commercial gauger bond conditions.* A commercial gauger's bond shall contain the conditions listed in this section and shall be a continuous bond.

(1) If the principal is a commercial gauger whose reports of gauging or whose samples are accepted for Customs purposes, the principal agrees to:

(i) Gauge or sample merchandise according to the standards and procedures set out in the Customs Regulations;

(ii) Abide by the terms of the Commercial Gauger Agreement [see § 151.13(b)(9)] and by the requirements set out in §§ 151.13 and 151.14 of this chapter; and

(iii) Submit properly any required report, proof, abstract, or sample to Customs.

(2)(i) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages or such other amount as may be authorized by law or regulation.

(ii) If the principal defaults on the agreements in these conditions and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation.

(iii) It is understood and agreed that whether the default involves merchandise is determined by Customs, that the amount to be collected under this condition shall be based on the quantity and value of the merchandise as determined by Customs and that value as used in these provisions means value as determined under 19 U.S.C. 1401a.

Commercial Laboratory Bond Conditions

(b) *Commercial laboratory bond conditions.* A commercial laboratory's bond shall contain the conditions listed in this subsection and shall be a continuous bond.

(1) If the principal is a commercial laboratory whose laboratory analysis reports are accepted for Customs purposes, the principal agrees to:

(i) Conduct laboratory analyses according to the standards and procedures set out in the Customs Regulations;

(ii) Abide by the terms of the Commercial Laboratory Agreement [see § 151.13(b)(9)] and by the requirements set out in §§ 151.13 and 151.14 of this chapter; and

(iii) Submit properly any required report, proof, abstract, or sample to Customs.

(2)(i) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default or three times the value of the merchandise involved in the default if the merchandise is restricted merchandise or alcoholic beverages or such other amount as may be authorized by law or regulation.

(ii) If the principal defaults on the agreements in these conditions and the default does not involve merchandise, the obligors agree to pay liquidated damages of $1,000 for each default or such other amount as may be authorized by law or regulation.

(iii) It is understood and agreed that whether the default involves merchandise is determined by Customs, that the amount to be collected under this condition shall be based on the quantity and value of the merchandise as determined by Customs and that value as used in these provisions means value as determined under 19 U.S.C. 1401a.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The authority citation for Part 151 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnotes. 11 and 12, Tariff Schedules of the United States (TSUS)), 1624. Subpart A also issued under 19 U.S.C. 1499. Subpart D also issued under sch. 6, pt. 1, hdnotes. 1–6, TSUS. Subpart E also issued under sch. 3, pt. 1C, hdnote. 6, TSUS. Subpart F also issued under sch. 3, pt. 1A, hdnote. 3, TSUS. Subpart H also issued under sch. 1, part 3B, TSUS.

Section 151.21 also issued under sch. 1, part 10, TSUS;

Section 151.42 also issued under 19 U.S.C. 1460, 1584, 1592;

Section 151.43 also issued under 19 U.S.C. 1592;

Section 151.46 also issued under 19 U.S.C. 1507;

Section 151.62 also issued under 19 U.S.C. 1481;

Section 151.63 also issued under 19 U.S.C. 1484;

Section 151.66 also issued under 19 U.S.C. 1562;

Section 151.68 also issued under 19 U.S.C. 1311, 1562;

Section 151.69 also issued under 19 U.S.C. 1557, 1562;

Section 151.82 also issued under 19 U.S.C. 1481;

Section 151.91 also issued under sch. 1, part 12A, hdnote. 3, TSUS.

2. All other statutory authority cited at the end of various sections in Part 151 is removed.

3. Section 151.10 is revised to read as follows:

§ 151.10 Sampling.

When necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official purposes. Samples shall be taken by a Customs officer or a commercial

gauger approved in accordance with § 151.13. Samples shall be marked to ensure identification and retained according to established policies.

4. Part 151 is amended by adding new § 151.13 to Subpart A to read as follows:

§ 151.13 Commercial gaugers and commercial laboratories.

Commercial gaugers are commercial organizations and individuals who measure, gauge, or sample merchandise. (The term "public gauger" has been used to denote a type of commercial gauger dealing mainly with petroleum and petroleum products. "Public gaugers" are commercial gaugers and are subject to the regulations in Part 151.) Commercial laboratories are commercial organizations and individuals who analyze merchandise, i.e., determine its composition and/or characteristics through laboratory analysis. Commercial gaugers may own and operate commercial laboratories and vice versa. They may be approved or accredited, respectively, as a single organization, but each part of the organization is subject to the appropriate requirements of Part 151.

(a) *Acceptance of reports.* Provided that the commercial gauger or laboratory has complied with the appropriate provisions of this section, and in the absence of clear evidence that the district director should not do so, the district director shall accept, for Customs purposes, the following quantity and laboratory analysis reports from Customs-approved commercial gaugers and Customs-accredited commercial laboratories, respectively:

(1) From Customs-approved commercial gaugers:

(i) Petroleum and Petroleum Products: gross or net landed quantity (see § 151.47);

(ii) Organic Chemicals of Schedule 4, Part 2, Subpart D, TSUS, in bulk and in liquid form: net quantity;

(iii) Vegetable and Animal Oils of Schedule 1, Part 15, Subparts B and C, TSUS, in bulk and in liquid form: net quantity;

(2) From Customs-accredited commercial laboratories:

(i) Petroleum and Petroleum Products:

(A) API gravity,

(B) Amount of sediment and water (S&W),

(C) Antiknock index, and

(D) Distillation characteristics;

(ii) Sugar, Sirups, and Molasses:

(A) Sugar degrees determined by polariscope,

(B) Percent soluble nonsugar solids,

(C) Percent total sugars, and

(D) Weight per gallon in air at 60°F.

(iii) Organic Chemicals of Schedule 4, Part 2, Subpart D, TSUS, in bulk and in liquid form:

(A) Identity using common or IUPAC nomenclature, and

(B) Composition, giving percent by weight of each component;

(iv) "Standard Newsprint Paper" of item number 252.65, TSUS:

(A) Weight per ream,

(B) Thickness,

(C) Time of transudation of water (ground glass method),

(D) Percent by weight ash, and

(E) Gloss (Ingersoll).

If the commercial gauger's or laboratory's results differ from Customs results by more than the amounts published in § 151.14, then the Customs results shall be used unless the commercial gauger or laboratory can establish that Customs is in error. Quantity or analysis reports issued by or based on work performed by unapproved subcontractors, i.e., non-Customs-approved commercial gaugers or non-Customs-accredited commercial laboratories, will not be accepted. Additional services and commodities may be added to the list according to the procedures given in § 151.13(1).

(b) *Approval of commercial gaugers and commercial laboratories.* Commercial gaugers seeking approval and commercial laboratories seeking accreditation shall send a letter of application to the U.S. Customs Service, Attention: Director, Technical Services Division, Washington, DC 20229. Applications shall include:

(1) The applicant's legal name and the addresses of the principal place of business and any other facilities;

(2) A statement of:

(i) The services to be provided (e.g., gauging, laboratory analysis, etc.);

(ii) The commodities to be gauged, sampled, or analyzed (e.g., petroleum and petroleum products);

(iii) The characteristics to be determined (e.g., distillation characteristics, the amount of sediment and water, etc.); and

(iv) References to the procedures to be used (e.g., ASTM D 1085: Ga(u)ging Petroleum and Petroleum Products, ASTM D 86: Distillation of Petroleum Products, etc.);

(3) Detailed statements of ownership and any partnerships, parent-subsidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers; other commercial gaugers, laboratories, or samplers; producers; refiners; Customs brokers; carriers; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of the articles of incorporation and the names of all officers and directors;

(6) The names (or titles) and qualifications of each person who will be authorized to sign or approve gauging or analysis reports on behalf of the commercial gauger or laboratory;

(7) A complete description of the applicant's facilities, instruments, and equipment;

(8) A bond executed in accordance with Part 113, Customs Regulations (19 CFR Part 113); and

(9) A written agreement in the following form to avoid conflict-of-interest situations and to comply with requirements prescribed by Customs:

Commercial Gauger (Laboratory) Agreement

As conditions for approval (accreditation), I agree:

- To have no financial interest in or other connection with any business or other activity which might affect the unbiased performance of my duties as a Customs-approved (-accredited) commercial gauger (laboratory). I understand that this does not prohibit my accepting the usual fees for professional services.
- To comply with the requirements of Part 151, Customs Regulations (19 CFR Part 151), and to conduct my professional services in conformance with approved standards and procedures, including procedures which may be required by the Commissioner of Customs or the Director, Technical Services Division.
- To maintain the ability, i.e., the instruments, equipment, qualified staff, facilities, etc., to perform the services for which I am approved (accredited) and to allow my performance to be evaluated by the Director, Technical Services Division, on a periodic basis by such means as on-site inspections, demonstrations of gauging (analysis) procedures, reviews of submitted records, and proficiency testing through check-samples.
- To notify both the district director and the Director, Technical Services Division, of any attempt to impede, influence, or coerce me in the performance of my duties immediately.
- To investigate any circumstances which might affect the accuracy of my work promptly; to correct the situation immediately and to notify both the district director and the Director, Technical Services Division, of such matters, their consequences, and any actions taken immediately.
- To notify the Director, Technical Services Division, by certified mail within 5 days of any major changes involving legal name; address; ownership; parent-subsidiary relationships; bond; other offices; managerial, professional, or executive staff; approved signatories; facilities, instruments, or equipment; etc.

(c) *Combined approval and accreditation.* An organization having both gauging offices and laboratories

may apply for approval and accreditation, respectively, in a single submission. Each part of the organization must meet and maintain the appropriate qualifications and technical and operational requirements, but any requirement imposed on the organization as a whole (e.g., the bond) may be met with one document.

(d) *Determination of competence.* The Director, Technical Services Division, shall determine the applicant's competence, independence, and reputation by use of appropriate techniques, including background investigations by Customs Office of Investigations.

(e) *Notice of conditional approval.* The Director, Technical Services Division, shall issue conditional approval or accreditation within 60 days of receiving a complete and acceptable application package, including a bond. Gaugers and laboratories may operate under conditional approval or accreditation for no more than 6 months or until their permanent approval or accreditation is issued or disapproved. While under conditional approval or accreditation, gaugers and laboratories are subject to all of the requirements of this Part, and their conditional approval or accreditation may be suspended or revoked for cause [see § 151.13(k)], for failure to comply with any provision of this Part, or if Customs evaluation uncovers disqualifying factors.

(f) *Notice of approval, disapproval, suspension, or revocation.* When Customs evaluation of the applicant is complete, the Director, Technical Services Division, shall notify the applicant that his application has been approved or give the reasons for disapproval. Approvals or accreditations may be suspended or revoked at any time for cause [see § 151.13(k)] or for failure to comply with any provision of this Part, and liquidated damages may be assessed under the commercial gauger's or laboratory's bond. Notices of approval, suspension, and revocation shall be published in the **Federal Register** and the Customs Bulletin.

(g) *Technical and operational requirements.* To be approved and to maintain approval, a commercial gauger or laboratory shall conform to the following:

(1) *Equipment.* The commercial gauger or laboratory shall be equipped with all instruments and equipment needed to conduct approved services and analyses according to appropriate standards published by recognized standards-writing organizations such as the American Society for Testing and Materials (ASTM), the American Petroleum Institute (API), the International Commission for Uniform Methods of Sugar Analysis (ICUMSA), or the American National Standards Institute (ANSI). The commercial gauger or laboratory shall ensure that all instruments and equipment are properly calibrated, checked, and maintained.

(2) *Procedures.* The commercial gauger or laboratory shall comply in all respects with appropriate procedures published by ASTM, API, etc., and with specific procedures required by the Director, Technical Services Division, under paragraph (h) of this section.

(3) *Facilities.* The commercial gauger or laboratory shall conduct his services in facilities which have adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed in the appropriate procedures.

(4) *Personnel.* The commercial gauger or laboratory shall be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (e.g., maintaining equipment, calibrating instruments, performing gauging services or laboratory analyses, evaluating gauging or analytical results, signing gauging or analysis reports on behalf of the commercial gauger or laboratory, etc.). In general, gauging staff should have a minimum of six (6) months training and experience in gauging, and laboratory staff should have a bachelor's degree in the sciences or two years related experience in an analytical laboratory.

(h) *Specific procedures.* The Director, Technical Services Division, may require commercial gaugers or laboratories to follow specific procedures if warranted by local circumstances. Commercial gaugers or laboratories may request that such procedures be imposed if they believe that such procedures are warranted. Commercial gaugers or laboratories also may request the Director to review the imposition of specific procedures or delay their implementation.

(i) *Recordkeeping requirement.* The commercial gauger or laboratory shall maintain records of the type normally kept in the ordinary course of business. In addition, the commercial gauger or laboratory shall maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records shall be maintained for five (5) years in accordance with §§ 162.1a through 162.1c of this chapter.

(1) *Transaction records.* Records for each Customs-related transaction, including samples, must have the following:

(i) A unique identifying number;

(ii) The date and location where the transaction occurred or the sample was received or taken;

(iii) The identity of the product (e.g., crude oil);

(iv) The name of the client; and

(v) The source of the sample (e.g., name of vessel, flight number of airline, name of individual taking the sample, etc.).

If available, records for each Customs-related transaction, including samples, should have the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

(2) *Major instrument records.* Records for each major piece of equipment or instrument (including analytical balances) used in Customs-related work must have the name and type of the instrument, the manufacturer's name, the instrument's model and serial numbers, and the details (names, dates, etc.) of all major servicing, recalibration, etc.

(3) *Records of gauging and analytical procedures.* The commercial gauger or laboratory must maintain complete and up-to-date copies of all approved gauging and analytical procedures, calibration methods, etc., and must document the procedures each staff member is authorized to perform.

(4) *Gauging and laboratory analysis records.* The commercial gauger or laboratory must identify by number (see paragraph (i)(1)(i) of this section) and must maintain all information or data (such as sample weights, temperatures, references to filed spectra, etc.) associated with each Customs-related gauging transaction or laboratory analysis. Each gauging and analysis record (i.e., the complete file of all data for each separate transaction) must be dated and initialed or signed by the staff member(s) who did the work.

(5) *Gauging and laboratory analysis reports.* Each gauging or laboratory analysis report submitted to Customs must include:

(i) The name and address of the commercial gauger or laboratory;

(ii) A description and identification of the sample, including its unique identifying number;

(iii) The designations of each gauging or analysis procedure used;

(iv) The gauging or analysis report itself (i.e., the quantity and/or the characteristics of the sample);

(v) The date of the report; and

(vi) The initials or signature of the person accepting technical

responsibility for the gauging or analysis report (i.e., an approved signatory).

(j) *Verification requirement.* To ensure compliance with Part 151 and the accuracy of the information submitted to Customs by commercial gaugers and laboratories, the Director, Technical Services Division, may conduct on-site inspections, record reviews, periodic check samples, etc.

(k) *Suspension or revocation of Customs approval or accreditation*—(1) *Grounds.* If a commercial gauger's or laboratory's reports are repeatedly inaccurate to a significant degree, or if the gauger or laboratory fails to comply with any applicable provision of the Customs Regulations (19 CFR Chapter I), the Director, Technical Services Division, may suspend or revoke the commercial gauger's approval or the commercial laboratory's accreditation in its entirety, or the Director may suspend or revoke one or more of the gauger's or laboratory's facilities or field offices.

(2) *Notice.* The Director shall give the commercial gauger or laboratory a notice containing specific written grounds for the proposed suspension or revocation, the scope of the proposed suspension or revocation, and all procedures and timeliness for appeal and review.

(3) *Appeal.* The commercial gauger or laboratory has 30 days from the date of the notice to file a written appeal to the Director. The appeal may contain an acceptance of responsibility and may also provide extenuating circumstances and rebuttal evidence. In addition, this appeal may ask for a meeting with the Director or his designee to discuss the proposed action. Failure to file an appeal within 30 days may result in the suspension or revocation of the commercial gauger's approval or the commercial laboratory's accreditation.

(4) *Response.* If the Director accepts the commercial gauger's or laboratory's appeal, he shall notify the gauger or laboratory immediately and close the case. If not, he shall notify the gauger or laboratory within 30 days of receipt of the appeal and advise him of his right to file a written petition to the Commissioner to review the proposed action.

(5) *Commissioner's review.* The commercial gauger or laboratory has 30 days from the date of the Director's response to file (with the Director) a written petition for the Commissioner to review the proposed action. The Commissioner or his designee shall review the petition and shall forward the written decision to the Director for implementation.

(6) *Publication.* The Director shall publish notice of suspensions or revocations of a commercial gauger's approval or a commercial laboratory's accreditation in the **Federal Register** and the Customs Bulletin, giving the effective date, duration, and scope of each such action.

(l) *Additional services and Commodities.* (1) Customs will consider adding additional services or commodities to those set out in § 151.13(a) upon the submission of a request setting out the scope of the services or commodities being proposed, the identification of the specific standards and procedures that would be used, and technical and economic reasons why Customs should add the services or commodities.

(2) Currently-approved commercial gaugers and currently-accredited commercial laboratories which are approved or accredited to gauge or analyze certain commodities may request the Director, Technical Services Division, to approve or accredit them to gauge or analyze additional commodities listed in § 151.13(a) by sending the Director a letter describing their proposal and giving the information set out in paragraphs (b)(1), (b)(2), (b)(6), and (b)(7) of § 151.13.

(m) *Costs of using Customs-approved commercial gaugers or Customs-accredited commercial laboratories.* No expense incurred by the use of a Customs-approved commercial gauger or a Customs-accredited commercial laboratory shall be borne by the Government.

5. Part 151 is amended by adding new § 151.14 to Subpart A to read as follows:

§ 151.14 Use of commercial laboratory tests in liquidation.

The characteristics of products as set out in § 151.13(a)(2) and as determined by a Customs-accredited commercial laboratory shall be used for Customs purposes if the difference between these characteristics and those found by the Customs laboratory does not exceed the differences in the following table:

Reference in § 151.13	Characteristic	Difference between Customs value and commercial laboratory's value
(a)(2)(i)	Sediment & water (S&W).	0.11 percent S&W.
(a)(2)(ii)	Degrees polarization	0.4 sugar degree.
(a)(2)(iii)	Total sugars	2.0 percent total sugars.

If the difference exceeds these values and the Customs-accredited commercial laboratory cannot establish that Customs is in error, then the Customs results shall be used.

§ 151.31 [Removed and Reserved]

6. Part 151 is amended by removing § 151.31 and marking it "reserved."

7. Section 151.42 is amended by revising paragraph (a)(1)(i); removing paragraph (a)(1)(ii) and redesignating paragraphs (a)(1)(iii) and (a)(1)(iv) as (a)(1)(ii) and (a)(1)(iii), respectively; adding a new paragraph (a)(3); and revising paragraph (b) introductory text. Redesignating paragraphs (a)(1)(ii) and (a)(1)(iii) are republished. The revised portions read as follows:

§ 151.42 Controls on unlading and gauging.

(a) * * *

(1) * * *

(i) Customs-approved metering and sampling installations provided by the importer;

(ii) Shore tank gauging; or

(iii) Weighing for trucks and railroad cars.

(2) * * *

(3) The metering and sampling installations described in paragraph (a)(1)(i) are approved by Customs on a case-by-case basis. Importers seeking approval shall send a complete description of the installation to the district director who, with the concurrence of the Director, Technical Services Division, or his designee, shall give approval or shall state, in writing, the reasons for disapproval. Approved installations are subject to periodic verification by Customs. Importers desiring to modify a Customs-approved installation shall obtain Customs approval beforehand.

(b) *Duties of Customs officers.* Customs officers may perform or witness ullaging and gauging as follows:

* * * * *

§ 151.43 [Removed and Reserved]

8. Part 151 is amended by removing § 151.43 and marking it "reserved."

§ 151.45 [Amended]

9. Section 151.45(a) is amended by removing the reference "§ 151.43" and inserting, in its place, "§ 151.44."

10. The heading and text of § 151.47 are revised to read as follows:

§ 151.47 Optional entry of net quantity of petroleum or petroleum products.

Instead of stating the gross quantity of petroleum or petroleum products on the entry summary, the importer may state the net quantity, which shall be determined in accordance with §§ 151.46 and 158.13 of this chapter. The analytical report from the Customs-accredited commercial laboratory shall be filed with the entry summary.

§ 151.54 [Amended]

11. Section 151.54 is amended by removing the terms "chief chemist of the Customs laboratory" and "chief chemist" and inserting in their place the term "Customs laboratory director."

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501, *et seq.*

§ 178.2 [Amended]

2. Section 178.2 is amended by inserting, in numerical order, the following entry:

19 CFR Section	Description	OMB Control No.
§ 151.13(i)	Application and other documents relating to approval of commercial gaugers and accreditation of commercial laboratories.	1515-0155

William von Raab,

Commissioner of Customs.

Approved:

Francis A. Keating, II,

Assistant Secretary of the Treasury.

February 26, 1987.

[FR Doc. 87-6487 Filed 3-25-87; 8:45 am]

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Thursday, March 26, 1987

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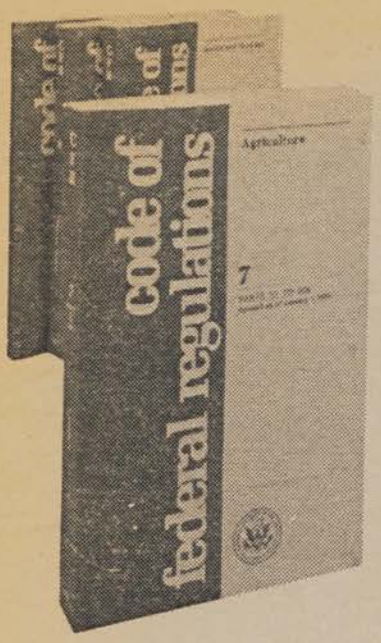
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