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Presidential Documents

Title 3—

The President

Proclamation 5684 of July 22, 1987

Minority Enterprise Development Week, 1987

By the President of the United States of America

A Proclamation

Each year, we set aside a special week to salute the many contributions of minority business men and women to our Nation's economic well-being and to celebrate the free market that makes these contributions possible. Our observance of Minority Enterprise Development Week this year, during the Bicentennial of the Constitution, summons us to reflect on the debt every business man and woman—and each of us—owes to the fundamental principles of freedom and justice guaranteed by this great charter.

By creating a limited form of government, our Constitution protects the inalienable rights of all Americans and ensures equal opportunity for all. Our free market economy springs from these principles. The equality of opportunity it creates makes our Nation prosperous, expands our technological prowess, and keeps our country economically competitive. The more than 840,000 minority American entrepreneurs exemplify the success our economic freedom offers. These energetic business men and women inspire all Americans as they create jobs, bring new products and services to the marketplace, and enhance our quality of life.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of October 4 through October 10, 1987, as Minority Enterprise Development Week. I call upon all Americans to join together with minority business enterprises across our country in appropriate observances.

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

Ronald Reagan

[FR Doc. 87-16956
Filed 7-22-87; 2:49 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 87–18 of July 7, 1987

Transfer of Funds in Support of Jordan's West Bank/Gaza Program

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 610(a) of the Foreign Assistance Act of 1961, as amended (the "Act"), I hereby determine that it is necessary for the purposes of the Act that up to $2 million appropriated to carry out the provisions of Section 219 of the Act for the Israel Prototype Desalting Plant be transferred to, and consolidated with, funds made available under Section 531 of the Act (Economic Support Fund), subject to the limitation that funds so transferred shall be available only to support the Jordan/West Bank program.

This determination shall be reported, pursuant to Section 652 of the Act and Section 514 of the Foreign Assistance and Related Programs Appropriations Act, 1987, to the Committee on Foreign Relations and Committee on Appropriations of the Senate and to the Speaker of the House of Representatives and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives. It shall be effective immediately and the transfer shall be implemented upon completion of the congressional notification period necessary for deobligation and reobligation of foreign assistance funds and shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 7, 1987.

[FR Doc. 87–16987
Filed 7–22–87; 4:15 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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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

Federal Crop Insurance Corporation

7 CFR Part 413

[Doc. No. 4464S; Amdt. No. 1]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Texas Citrus Corp Insurance Regulations (7 CFR Part 413), effective for the 1987 calendar year only, by extending the date for filing contract changes specified in the policy for insuring such crop. The intended effect of this rule is to allow additional time for FCIC to complete actuarial studies of this program for possible amendment of the contract for the 1989 crop year. The authority for the promulgation of the rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: July 24, 1987. Written comments, data, and opinions on this interim rule must be submitted not later than September 22, 1987.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1990.

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

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

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

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

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

Section 16 of the policy for insuring Texas Citrus provides that any changes in the contract must be placed on file in the service office by a certain date. The contract consists of the application, the policy, and the actuarial table. Due to the time frame involved in determining certain actuarial material and making changes for insuring Texas Citrus, it is necessary to extend the date for filing such changes to conform to the date for filing changes. It has been determined that the date for filing contract changes now August 31, 1987, must be extended to October 31, 1987.

Due to previous year's tree damage, FCIC is reviewing the Texas Citrus crop insurance regulations with a view toward making necessary changes in the policy for insurance based on actuarial soundness. In order to allow time for completion of this review, and filing of the applicable changes in each service office before the first required date for such filing (August 31), FCIC is amending such regulations to extend the time for filing program changes for Texas Citrus from August 31 to October 31, effective for the 1987 calendar year only.

E. Ray Fosse, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Without this review, the statutory mandate that the program be actuarially sound could not be met. The time frame involved in making these changes will not permit filing of such changes by the present contract change date of August 31. There is not sufficient time to provide for public comment and implement these changes prior to August 31. It has been determined that the date by which such changes are required to be placed on file in the service office must be extended from August 31, 1987 until October 31, 1987, and made effective for the 1987 calendar year only.

The changes for the crop affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes affecting their individual crop insurance contract and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this interim rule for 60 days after publication in the **Federal Register**. The rule will be scheduled for review so that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible thereafter.

Any comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regulation business hours, Monday through Friday.

List of Subjects in 7 CFR Part 413

Crop insurance, Texas citrus.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Texas Citrus Crop Insurance Regulations (7 CFR Part 413) effective for the 1987 calendar year only in the following instances:

PART 413—[AMENDED]

1. The authority citation for 7 CFR Part 413 continues to read as follows:

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

2. 7 CFR 413.7(d)16 is revised to read as follows:

§ 413.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 (October 31 for the 1987 calendar year only) preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

Done in Washington, DC on June 30, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–16808 Filed 7–23–87; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 571]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 571 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 367,654 cartons during the period July 26 through August 1, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 571 (§ 910.871) is effective for the period July 26 through August 1, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on July 21, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by a 10 to 2 vote (with one abstention) a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good.

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

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, and Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.871 is added to read as follows:

§ 910.871 Lemon Regulation 571.

The quantity of lemons grown in California and Arizona which may be handled during the period July 26, 1987, through August 1, 1987, is established at 367,654 cartons.

Dated: July 22, 1987.

Ronald L. Cioffi,

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

[FR Doc. 87–16986 Filed 7–23–87; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30 and 32

Manufacturers' Registration of Radiation Safety Information for Certain Devices and Sealed Sources

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to formally endorse its current administrative practice under which manufacturers of radiation sources and devices containing radiation sources file safety information about their products with the NRC. The NRC evaluates and uses the information in its issuance of specific licenses to users of the products. Filing of information by a manufacturer (called registration) avoids multiple filings of the same information by the customers and thus expedites NRC's issuance of licenses. The amendments, directed toward manufacturers, describe the information

that the NRC needs for its evaluation of a source or device and state the registrant's responsibility to ensure that distributed products meet radiation safety specifications filed with the NRC.

EFFECTIVE DATE: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: Steven Baggett, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-9005.

SUPPLEMENTARY INFORMATION:

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On January 23, 1987 (52 FR 2540), the NRC published for public comment a proposed rule that would formally endorse current administrative practice under which manufacturers of certain radiation sources and devices containing radiation sources file safety information about their products with the NRC. The public comments, discussed below, have been considered and the NRC is issuing the final rule without substantive change from the proposed rule.

I. Purpose of Rule

Current NRC regulations clearly provide for the issuance of specific licenses which reference so-called "pre-marketing" evaluations and registrations of radiation safety information on certain sealed sources of radioactive material and on devices which incorporate those sources. Examples include smoke detectors used under an exemption from regulations, gauges used under a general license, and certain medical devices used under a specific license.

The regulations are less clear about pre-marketing evaluation of other products such as industrial radiographic devices and industrial gauging devices which are used under a specific license. For these products, the NRC has developed and implemented an administrative procedure for the pre-marketing evaluation and registration of radiation safety information under general provisions of its regulations.

The final rule adds specific provisions to the regulations for this established administrative procedure at 10 CFR 32.210. The final rule describes NRC's evaluation and registration criteria and clarifies the regulatory responsibility of manufacturers of products for which the NRC evaluates and registers radiation safety information. In particular, the final rule clearly states that the registrant is required to manufacture and distribute its product in accordance with its request for evaluation and registration and with the terms of NRC's registration certificate. Additionally, the registrant's quality control procedures are expected to ensure that its product meets the specifications that the registrant furnished to the NRC.

The final rule ensures that all manufacturers, applicants for specific licenses, and other interested persons are informed of and comply with the NRC's procedures and requirements for pre-marketing registration of radiation safety information on sealed sources and devices.

II. Background

Section 30.33 of Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," states that an application for a specific license will be approved if, among other things, "the applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property."

With respect to certain of the proposed equipment, particularly sealed sources of byproduct material and devices containing sealed sources, applicants for specific licenses frequently describe that equipment by referring to data already filed with the NRC by the equipment manufacturer under a practice of direct communication between the NRC and the manufacturer.

This practice is administratively convenient to the NRC, manufacturers, and to applicants because it reduces and simplifies paperwork. A single submission by a manufacturer is evaluated by the NRC and the results of the evaluation are used in NRC's review of multiple applications for specific licenses, thus avoiding repetitive submissions by applicants and reviews by the NRC. This practice is provided for under the general provision of § 30.32 of Part 30, whereby "information contained in previous applications, statements or reports filed with the Commission . . . may be incorporated by reference, provided that the reference is clear and specific."

The following sections explain the key terms "sealed source" and "device" and describe the program for registration of radiation safety information on this equipment.

A. Sealed Sources

Byproduct material used a specific licensee often is contained in a sealed capsule, held between layers of non-radioactive metal foil, or firmly fixed to a non-radioactive surface by electroplating or other means. The byproduct material with its capsule or other confining barrier is termed a "sealed source." The confining barrier prevents dispersion of the byproduct material under normal and most accident conditions related to use of the source.

There is a wide range in the amount of byproduct material used in sealed sources under a specific license. For example, (1) the sealed sources used in industrial gauges frequently contain several millicuries of byproduct material, (2) the sealed sources used in industrial radiography may contain tens of curies of byproduct material, and (3) a sealed source used in a teletherapy unit for treatment of cancer may contain several thousand curies of byproduct material.

Radiation safety programs for the use of byproduct material as a sealed source are structured on the presumption that the byproduct material will not leak from the sealed source and contaminate the environment or expose individuals to radiation. This presumption depends upon the adequacy of the containment properties of the sealed source to withstand the stresses imposed by the environment in which the source is used.

Before authorizing the distributing and use of a sealed source containing byproduct material, the NRC determines the adequacy of its containment and other radiation safety features. This determination is based on radiation information submitted by the manufacturer or distributor of the sealed source or by the applicant for a specific license that authorizes its use. The NRC uses its regulations and radiation safety criteria set out in industry standards in making this determination.

B. Devices

Frequently, the byproduct material is contained in a sealed source that, in turn, is contained in a shielded source housing. The source housing may have a shutter mechanism that allows an operator to greatly reduce the shielding in a particular direction so that a beam of radiation can exit the housing. The radiation beam is then available for

such purposes as the treatment of cancer or for the examination of flaws in metal castings.

The source housing, together with its shutter mechanism and other radiation control mechanisms (if any), is commonly called a "device." Examples of devices are teletherapy units, industrial radiographic equipment, and industrial thickness and density gauges.

Before authorizing the distribution and use of byproduct material in a device, the NRC determines the adequacy of the radiation safety features of the device. This determination is based on information submitted by the manufacturer or distributor of the device or by the applicant for a specific license that authorizes use of the device containing byproduct material. Thw NRC uses its regulations and radiation safety criteria set out in industry standards in making this determination.

C. Sealed Source and Device Registry

Manufacturers and distributors of sealed sources and devices subject to NRC regulation routinely submit radiation safety information about their byproduct directly to the NRC. This system avoids multiple and time-consuming submission of the same detailed information by each applicant for a specific license that proposes to obtain and use those products.

The NRC maintains a nationwide registry of radiation safety information on sealed sources and devices containing byproduct material. Regulatory authorities in the Agreement States (where NRC has relinquished its regulatory jurisdiction) also provide information to the NRC for the registry on their radiation safety evaluations and have access to all the information contained in the registry. Thus, when a nanufacturer or distributor of products within either an Agreement State or in NRC's regulatory jurisdiction provides detailed information about its sealed source or device to its regulatory agency, the results of the radiation safety evaluation will be available for use in granting licensing approval to users of the sealed source or device throughout the United States, its territories and possessions, and in Puerto Rico.

D. Requests for Registration

Requests for evaluation and registration of sealed sources and devices must contain sufficient information for an NRC determination that the radiation safety properties of the product are adequate to protect health and minimize danger to life or property. This general guidance on the expected content of a request is supplemented currently by detailed guidance in two NRC documents: (1) Regulatory Guide 10.11, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Sealed Sources Containing Byproduct Material," and (2) Regulatory Guide 10.10, "Guide for the Preparation of Applications for Radiation Safety Evaluation and Registration of Devices Containing Byproduct Material." [1] These documents discuss the expected technical content of a request and offer a suggested format. Included in each document is a checklist that may help an applicant to assure that it submits adequate information for NRC's radiation safety evaluation and determination of the conditions under which the source or device will be authorized for distribution and use. Manufacturers and distributors of sealed sources and devices are encouraged to consider these documents when preparing requests for registration.

E. Certificate of Registration

After a determination of the adequacy of the radiation safety properties of a sealed source or device, the NRC or an Agreement State issues a numbered certificate or registration to the manfacturer or distributor. This certificate, among other things, summarizes the submitted radiation safety information and specifies the limitations and conditions of use of the sealed source or device, such as requirements for periodic leak tests and restrictions on environmental condition of use. Although the certificate of registration is, in effect, a premarketing approval of the source or device, its issuance does not constitute a commitment to issue a specific license authorizing use of the source or device. Approval of an application for a specific license also requires satisfaction of other requirements listed in § 30.33 of 10 CFR Part 30 such as the training and experience qualifications of the applicant.

Copies of the registration certificate are provided to regulatory authorities in the Agreement States for their use in granting specific licensing approval to users within their jurisdictions.

[1] Copies of Regulatory Guides may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

III. Public Comments

The proposed rule was published for public comment on January 23, 1987. The comment period ended March 24, 1987. A total of nine letters of comment were received. Five letters were from regulatory authorities in Agreement States supporting issuance of the final rule. One letter from a trade association and two letters from manufacturers support the rule. A third manufacturer commented that if all sources are to be included under the proposed rulemaking, a major revision should be made to clarify the conditions imposed upon a diverse field of manufacturers. This comment and others that suggest significant modification of the proposed rule are discussed below.

The manufacturer that submitted the comment about a needed revision if all sources were to be covered by the rule is a distributor of reference standards that are used under the exemption from regulations provided in 10 CFR 30.18. The regulatory requirements for distribution of these small quantities of radioactive material are set out in 10 CFR 32.18, 32.19 and 32.20. Similarly, regulatory requirements for distribution of devices used under the general license in 10 CFR 31.5 are set out in §§ 32.51 and 32.52. This final rule has no effect on those and similar products for which particular manufacturing requirements are set out in the regulations. This final rule pertains only to sealed sources and devices that are to be used under a specific license. To clarify this point, the text of the proposed § 30.32(g) is changed from "An application for a license to receive and possess byproduct material in the form of a sealed source or in a device * * *" to "An application for a specific license to use byproduct material in the form of a sealed source or in a device * * *."

One commenter interpreted the proposed rule to require that licensees now using sealed sources and devices determine that the products are properly registered with the NRC immediately. The commenter asked that the due date for submitting additional information to NRC be delayed until the next license renewal or update cycle after the effective date of the final rule. This interpretation of the rule was not intended by NRC. The rule is merely a codification of current administrative practice and requires no additional action for sources and devices presently used because necessary safety information was evaluated before issuance of the specific license to the user. Consistent with administrative practice and the rule, applications

submitted after the effective date of the rule must identify the source or device by manufacturer and model number as registered with the NRC or an Agreement State or the application must contain the information identified in § 32.210(c).

A manufacturer suggested that the NRC perform all the safety evaluations of sealed sources and devices in lieu of sharing this activity with regulatory authorities in the Agreement States. The commenter remarked that the Agreement States often have a shortage of manpower for the performance of evaluations and that performance of all evaluations by a single group at NRC would enable evaluation personnel to gain the benefit of multiple experiences. The NRC is aware that some, but not all, manufacturers share the commenter's opinion that all safety evaluations should be done centrally. Other manufacturers prefer the States' involvement because of the increased availability of, and ease of communication with, State regulatory authorities as a result of their relatively close location. Upon consideration of distribution of the regulatory burden, the States' interests in regulating their respective manufacturers, and the established program for cooperation with the States, the NRC favors the continued sharing of this safety evaluation activity with the States.

One manufacturer recommended that, in addition to providing in the regulations for the manufacturers' registration of safety information about their sealed sources and devices, a system be established for manufacturers' registration of approved transportation containers for sealed sources. As proposed by the commenter, firms using radioactive sources then could use any approved transportation container without prior approval of the NRC and license amendment. The system described by the commenter deals with the NRC's and the Department of Transportation's packaging and transportation requirements for radioactive material. The sealed sources and devices generally contain no more than a Type A quantity of radioactive material and would be subject to the packaging and transportation requirements of the Department of Transportation. In those cases where sealed sources and devices contain greater than a Type A quantity of radioactive material, an administratively convenient system is in place to use packages under general licenses provided in 10 CFR Part 71 and under multiple specific licenses which are related to a single package evaluation and approval by NRC. However, this comment is beyond the scope of this rulemaking proceeding and the feasibility of the suggested system is not under consideration. This final rule is published without substantive change from the proposed rule.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described in the categorical exclusion set out in 10 CFR 51.22(c)(3)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

V. 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 under approval numbers 3150–0017 and 3150–0001.

VI. Regulatory Analysis

The Commission has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Mr. Steven Baggett (see "For Further Information Contact:" heading).

VII. Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The Sealed Source and Device Registry now contains approximately 3,000 certificates of registration which have been issued to about 400 manufacturers and distributors. These totals include actions both by the Agreement States and by the NRC. NRC's current rate of issuance of certificates is about 100 per year to an estimated 40 manufacturers and distributors. From year to year, there is some turnover among the manufacturers and distributors. Although a substantial number would be considered small entities, the rule is not expected to have a significant impact on them.

Under present practice, the estimated average technical time (in addition to time spent on laboratory work and engineering analysis) required by the manufacturer or distributor to prepare a request for evaluation of a sealed source is 10 hours and for evaluation of a device is 30 hours. The rule does not change the technical time needed for the preparation of a request for an evaluation and registration.

Use of the Sealed Source and Device Registry under present practice and as provided in the rule results in savings to manufacturers and distributors and to applicants for specific licenses in the following manner. The NRC annually processes about 1,500 applications for specific licenses, or amendments to specific licenses, which reference safety information contained in the Registry. If, in lieu of referring to information in the Registry, each license applicant submitted complete safety information for the source or device, the increased technical time needed by the applicant for license to prepare its application is estimated to be 5 hours for a source and 15 hours for a device. These estimated times assume that the license applicant obtains needed test and engineering data and some assistance from the manufacturer or distributor. The increased assistance provided to each of its multiple customers by the manufacturer or distributor is estimated to be 2 hours for a source and 6 hours for a device.

The NRC has determined that the rule does not impose an additional burden on any manufacturer or distributor of sealed sources and devices.

VIII. Backfit Analysis

The NRC has determined that the backfit analysis provisions in 10 CFR 50.109 do not apply to this rule because these amendments apply to materials licenses issued under Parts 30 and 32. These amendments do not apply to licenses under 10 CFR Part 50.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 32

Byproduct material, Labeling, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

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. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 30 and 32.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 is revised to read as follows:

Authority: Sections 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34(b) and (c), 30.41(a) and (c), and 30.53 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 30.6, 30.36, 30.51, 30.52, 30.55, and 30.56(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 30.32 is amended by adding a new paragraph (g) to read as follows:

§ 30.32 Application for specific license.

* * * * *

(g) An application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either—

(1) Identify the source or device by manufacturer and model number as registered with the Commission under § 32.210 of this chapter or with an Agreement State; or

(2) Contain the information identified in § 32.210(c).

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIALS

3. The authority citation for Part 32 is revised to read as follows:

Authority: Sections 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273; §§ 32.13, 32.15(a), (c), and (d), 32.19, 32.25(a) and (b), 32.29(a) and (b), 32.54, 32.55(a), (b), and (d), 32.58, 32.59, 32.62, and 32.210 are issued under sec. 161B, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 32.12, 32.16, 32.20, 32.25(c), 32.29(c), 32.51a, 32.52, 32.56, and 32.210 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 32.1, paragraph (a) is revised to read as follows:

§ 32.1 Purpose and scope.

(a) This part prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing byproduct material for sale or distribution to:

(1) Persons exempted from the licensing requirements of Part 30 of this chapter, or

(2) Persons generally licensed under Part 31 or 35 of this chapter.

This part also prescribes certain regulations governing holders of these licenses. In addition, this part prescribes requirements for the issuance of specific licenses to persons who introduce byproduct material into a product or material owned by or in the possession of the licensee or another and regulations governing holders of such licenses. Further, this part describes procedures and prescribes requirements for the issuance of certificates of registration (covering radiation safety information about a product) to manufacturers or initial transferors of sealed source or devices containing sealed sources which are to be used by persons specifically licensed under Part 30 of this chapter or equivalent regulations of an Agreement State.

* * * * *

5. Subpart D is added as follows:

Subpart D—Specifically Licensed Items

§ 32.210 Registration of product information.

(a) Any manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to NRC for evaluation of radiation safety information about its product and for its registration.

(b) The request for review must be made in duplicate and sent to the U.S. Nuclear Regulatory Commission; Division of Fuel Cycle, Medical, Academic, and Commercial Use Safety; Medical, Academic, and Commercial Use Safety Branch; Washington, DC 20555.

(c) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(d) The NRC normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the NRC formulates reasonable standards and criteria with the help of the manufacturer or distributor. The NRC shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(e) After completion of the evaluation, the Commission issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(f) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with—

(1) The statements and representations, including quality control program, contained in the request; and

(2) The provisions of the registration certificate.

Dated at Bethesda, Maryland, this 14th day of July, 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87-16727 Filed 7-23-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-10, Amdt. 39-5679]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) Model SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspections of this main rotor mast on Aerospatiale Model SA 365 helicopters. This amendment is needed because the FAA has determined that the inspections specified in the existing AD are

inadequate to detect all main rotor mast cracks to prevent mast failure and consequent loss of control of the helicopter.

DATES: Effective Date: August 10, 1987. *Compliance:* Within the next 50 hours' time in service after the effective date of this amendment.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Varoli, Manager, Brussels Aircraft Certification Office, Federal Aviation Administration, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO New York 09667, or Mr. Robert Weaver, Rotorcraft Standards Staff, Federal Aviation Administration, Southwest Region, Fort Worth, Texas 76193–0111, telephone (817) 624–5122.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–5093 (50 FR 29649; July 22, 1985), AD 85–15–01, which currently requires inspection of the main rotor mast for cracks and repair or replacement, as necessary, on Aerospatiale (SNIAS) Model SA 365 series helicopters. After issuing Amendment 39–5093, the FAA has determined, based on French AD Revisions 84–19–21(B) R1, 84–20–6(B) R1, and French AD 86–123–17(B), that the repetitive inspections required by AD 85–15–01 are inadequate and that inspections at more frequent intervals are required. Therefore, the FAA is amending Admendment 39–5093 by supplementing the 300-hour repetitive inspection intervals specified in the AD with visual inspections at 50-hour intervals on Aerospatiale (SNIAS) Model SA 365 series helicopters.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By amending Amendment 39–5093 (50 FR 29649; July 22, 1985), AD 85–15–01, by revising paragraph (g) as follows:

Aerospatiale (Societe Nationale Industrielle Aerospatiale): Applies to Aerospatiale Model SA 365 series helicopters, certificated in all categories.

Compliance is required as indicated (unless already accomplished).

* * * * *

(g) Conduct the following repetitive inspections:

(i) Repeat the inspections of paragraph (d) at intervals to exceed 300 hours' time in service from the last inspection.

(ii) Visually inspect the upper mast flange-to-shaft radius within the next 50 hours' time in service from the effective date of this amendment and thereafter at intervals not to exceed 50 hours' time in service from the last inspection. Inspect for finish deterioration, corrosion, or cracks. Use a 10-power glass in areas of suspected cracks. Conduct magnetic particles or dye penetrant inspections of all areas where finish deterioration is found. Remove polyurethane shock-proofing coating of the upper main rotor shaft, if installed, to allow more effective inspections of this area (Service Bulletin SA 365 No. 01–17 provides information concerning the shock-proofing coating and its removal).

* * * * *

This amendment becomes effective August 10, 1987.

This amendment amends Amendment 39–5093 (50 FR 29649; July 22, 1985), AD 85–15–01.

Issued in Fort Worth, Texas, on July 10, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–16786 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–ASW–28, Amdt. 39–5681]

Airworthiness Directives; Costruzioni Aeronautiche Giovanni Agusta S.p.A. Model A109A and A109A II Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which imposes a calendar life of 10 years on main rotor retention straps on Agusta Model A109A and A109A II helicopters. The AD is needed to prevent failure of the main rotor retention straps which could result in rotor head failure and consequent loss of control of the helicopter.

DATES: Effective August 10, 1987. *Compliance:* As indicated in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Agusta Aviation Corporation, NE. Service Center, Norcom and Red Lion Roads Philadelphia, Pennsylvania 19154.

A copy of the technical bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 400 Blue Mound Road, Fort Worth, Texas 76106–9958.

FOR FURTHER INFORMATION CONTACT: Mr. John Varoli, Manager, Brussels Aircraft Certification Office, Federal Aviation Administration, c/o American Embassy, APO New York 09667–1011, or Mr. Robert Weaver, Rotorcraft Standards Staff, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106–9958, telephone (817) 624–5122.

SUPPLEMENTARY INFORMATION: The FAA has determined that the main rotor retention straps deteriorate with calendar time, as well as flight time, on Agusta Model A109A and A109A II helicopters. Such deterioration could lead to strap failure and loss of control of the helicopter if the straps are not replaced. Since this condition is likely to exist or develop on other helicopters of the same type design, as airworthiness directive is being issued which requires replacement of main rotor retention straps no later than 10 years from

installation on Agusta Model A109A and A109A II series helicopters.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Costruzioni Aeronautich Giovanni Agusta S.p.A. Applies to Model A109A and A109A II series helicopters certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To prevent possible failure of main rotor retention straps, accomplish the following:

(a) Replace the main rotor retention strap assemblies (Part Numbers (P/N) 2601521 and 109-0101-95-1, -3, and -105) with serviceable parts in accordance with the following schedule:

(1) For assemblies which have more than 10 years' calendar time since installation on the effective date of this AD, replace the strap assemblies within the next 6 months' calendar time from the effective date of this AD or before the accumulation of 5,000 hours' time in service on the strap assembly, whichever occurs first.

(2) For assemblies which have less than 10 years' calendar time since installation on the effective date of this AD, replace the strap assemblies before the accumulation of 10 years' and 6 months' calendar time since installation or before the accumulation of 5,000 hours' time in service on the strap assembly, whichever occurs first.

(b) An alternate method of compliance with the AD, which provides an equivalent level of safety, may be used when approved by the Manager, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0111, or by the Manager, Brussels Aircraft Certification Office, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective August 10, 1987.

Issued in Fort Worth, Texas, on July 10, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-16862 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ASW-3; Amdt. 39-5680]

Airworthiness Directives; Sikorsky Model, S-61A, S-61L, S-61N, S-61NM, S-61R and S-61V Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which reduces the retirement life of the main gear box servo support bracket and servo support bracket assembly of the S-61L, S-61N, S-61NM, and S-61R helicopters certificated in any category and S-61A and S-61V helicopters certificated in the restricted category. The AD is needed to prevent failure of the servo support bracket assembly which could result in loss of attitude control of the helicopter.

DATES: *Effective:* August 24, 1987. *Compliance:* As required in the body of the AD.

ADDRESSES: Copies of the applicable sections of the maintenance manual for installation and removal of the bracket assembly may be obtained from: Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601-1381.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Fahr, Federal Aviation Administration, ANE-153, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an airworthiness directive which reduces the retirement life of the main gear box servo support bracket and servo support bracket assembly on certain S-61 Series helicopters was published in the **Federal Register** on March 19, 1987 (52 FR 8614).

The proposal was prompted by an analysis which confirmed a need for reduction in the retirement life of the main gear box servo bracket and bracket assembly due to interference wear.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation only involves 15 aircraft with negligible cost to each aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Sikorsky Aircraft: Applies to Model S-61L, S-61N, S-61NM and S-61R series helicopters certificated in all categories and S-61A and S-61V series helicopters certificated in restricted category equipped with main gearbox servo cylinder support brackets (P/N's S6135-20248-0 and -2) or bracket assemblies (P/N's S6135-20249-0 and -1).

Compliance is required as indicated unless already accomplished.

To preclude possible fatigue failure of the main gearbox servo support bracket (P/N's S6135-20248-0 and -2) or bracket assembly (P/N's S6135-20249-0 and -1) accomplish the following:

(a) Replace the P/N's S6135-20248-0 and -2 servo support brackets or the P/N's S6135-20249-0 and -1 support bracket assemblies with serviceable parts in accordance with the following schedule:

(1) For Model S-61A, S-61L, S-61N, S-61NM, and S-61V helicopters, replace the servo support bracket or assembly within the next 25 hours' time in service after the effective date of this AD or before the accumulation of 23,200 hours' time in service on the bracket or assembly, whichever occurs later. Thereafter, replace the bracket or assembly in intervals not to exceed 23,200 hours' time in service.

(2) For the Model S-61R helicopter, replace the servo support bracket or assembly within the next 25 hours' time in service after the effective date of this AD or before the accumulation of 6,200 hours' time in service on the bracket or assembly, whichever occurs later. Thereafter, replace the bracket or assembly at intervals not to exceed 6,200 hours' time in service.

(b) Operators who have not kept records of hours' time in service on individual component parts that were installed at time of issuance of the initial rotorcraft airworthiness certificate shall substitute rotorcraft hours' time in service.

(c) For purposes of complying with this AD, the hours' time in service for individual components that were not installed at the time of issuance of the initial rotorcraft airworthiness certificate must be determined from operators' rotorcraft records.

(d) Upon request, an alternate means of compliance which provides a level of safety equivalent to the requirements of this AD may be used when approved by the Manager, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7118.

(e) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7118, may adjust the compliance time specified in this AD.

This amendment becomes effective on August 24, 1987.

Issued in Fort Worth, Texas, on July 10, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-16787 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AGL-2]

Alteration of VOR Federal Airways; Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Federal Airway V-214 between Zanesville, OH, and Kokomo, IN. The Indianapolis Air Route Traffic Control Center (ARTCC) has been resectorized and V-214 has been identified for deletion so as not to complicate new arrival routes to Cincinnati and Columbus, OH, terminal areas. This action decreases en route and terminal delays, increases safety, and reduces coordination procedures and controller workload.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On April 13, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-214 between Kokomo, IN, VORTAC and Appleton, OH, VORTAC (52 FR 11828). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the decription of VOR Federal Airway V-214 between Zanesville, OH, and Kokomo, IN. The Indianopolis ARTCC has been resectorized and V-214 has been identified for deletion so as not to complicate new arrival routes to Cincinnati and Columbus, OH, terminal areas. This action decreases en route and terminal delays, increases safety, and reduces coordination procedures and controller workload.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-214 [Amended]

By removing the words "Richmond, IN; INT Richmond 097° and Appleton, OH, 236° radials; INT Appleton 236°" and substituting the words "Richmond, IN. From INT Appleton, OH, 236°"

Issued in Washington, DC, on July 16, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-16790 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 87-AEA-13]

Restricted Areas; Change in Times of Use for R-5203; Oswego, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reduces published times of useage for Restricted Area R-5203 Oswego, NY. The current published hours are in excess of actual requirements for the airspace. This action returns airspace for public use when not actually needed for hazardous military operations.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 73 of the Federal Aviation Regulations reduces the hours to use for Restricted Area R-5203 to more accurately reflect actual useage. Activation of the airspace will be by Notice to Airmen at least 24 hours in advance. Because this action returns airspace for public use when not actually needed for hazardous military operations, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.52 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.52 [Amended]

2. Section 73.52 is amended as follows:

R-5203 Oswego, NY [Amended]

By removing the present time of designation and substituting the following:

Time of designation. By NOTAM 24 hours in advance.

Issued in Washington, DC, on July 16, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-16789 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 25329; Amdt. No. 338]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: July 30, 1987.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

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

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on July 16, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT:

PART 95—[AMENDED]

1. The authority citation for Part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354 and 1510; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 338 EFFECTIVE DATE, JULY 30, 1987

FROM	TO	MEA

§95.1001 DIRECT ROUTES-U.S.

BAHAMA ROUTES

1 LIMA IS AMENDED TO READ IN PART

SATELLITE, FL NDB *1500 - MOCA	ISLANDS, BF NDB	*2000
ISLANDS, BF NDB *1300 - MOCA	BARTS, BF FIX	*2000
BARTS, BF FIX *1200 - MOCA	BURGO, BF FIX	*2000
BURGO, BF FIX *1200 - MOCA	RAHAM, BI FIX	*2000
RAHAM, BI FIX *1300 - MOCA	GRAND TURK, BF NDB	*2000

20LIMA IS AMENDED TO DELETE

FREEPORT, BF NDB *1400 - MOCA	WEST END, BF NDB	*2000
WEST END, BF NDB *1300 - MOCA	STAGE, FL FIX	*2000
STAGE, FL FIX *1400 - MOCA	SATELLITE, FL NDB	*2000

ATLANTIC ROUTES

AR 13

GRAND BAHAMA, BF NDB	TORRY, FL FIX	18000 MAA-45000

§95.6003 VOR FEDERAL AIRWAY 3

IS AMENDED TO READ IN PART

PEASE, NH VOR *5500 - MRA **2400 - MOCA	*YUKES, NH FIX	**3500
YUKES, NH FIX *2400 - MOCA	PARSO, ME FIX	*3500

§95.6015 VOR FEDERAL AIRWAY 15

IS AMENDED TO DELETE

ST JOSEPH, MO VORTAC *2400 - MOCA	ELMOS, MO FIX	*2900
ELMOS, MO FIX *2500 - MOCA	EMEND, IA FIX	*4000
EMEND, IA FIX *2500 - MOCA	NEOLA, IA VORTAC	*3000
NEOLA, IA VORTAC *4000 - MRA	*BECOM, IA FIX	3000

§95.6015 VOR FEDERAL AIRWAY 15—Continued

BECOM, IA FIX	SIOUX CITY, IA VORTAC	3000

§95.6018 VOR FEDERAL AIRWAY 18

IS AMENDED TO READ IN PART

CONNI GA FIX *2300 - MOCA	MADDI, GA FIX	*4000
RAFFE, GA FIX *2000 - MOCA	COLLIERS, SC VORTAC	*2500
COLLIERS SC VORTAC	LASHE, SC FIX	2400
LASHE, SC FIX *4000 - MCA NORMS FIX, E BND **1800 - MOCA	*NORMS, SC FIX	**3000
NORMS, SC FIX *1700 - MOCA	SACKS, SC FIX	*4000

§95.6025 VOR FEDERAL AIRWAY 25

IS AMENDED TO READ IN PART

FREES, CA FIX *10000 - MRA *12000 - MCA GETER FIX, N BND	*GETER, CA FIX	6000

§95.6027 VOR FEDERAL AIRWAY 27

IS AMENDED TO READ IN PART

FREES, CA FIX	MENDOCINO, CA VORTAC	6000

§95.6032 VOR FEDERAL AIRWAY 32

IS AMENDED TO READ IN PART

LOVELOCK, NV VORTAC	BATTLE MOUNTAIN, NV VORTAC	11000

§95.6056 VOR FEDERAL AIRWAY 56

IS AMENDED TO READ IN PART

HARLE, GA FIX	COLLIERS, SC VORTAC	2300
COLLIERS, SC VORTAC *1900 - MOCA	COLUMBIA, SC VORTAC	*3000

§95.6059 VOR FEDERAL AIRWAY 59

FROM	TO	MEA
§95.6059 VOR FEDERAL AIRWAY 59—Continued		
IS AMENDED TO READ IN PART		
PULASKI, VA VORTAC	BECKLEY, WV VORTAC	6000
§95.6093 VOR FEDERAL AIRWAY 93		
IS AMENDED TO READ IN PART		
BALTIMORE, MD VORTAC	SKILS, MD FIX	2500
SKILS, MD FIX *2500—MOCA	KLACK, MD FIX	*4000
§95.6113 VOR FEDERAL AIRWAY 113		
IS AMENDED TO READ IN PART		
ROBUD, NV FIX	SOD HOUSE, NV VORTAC	10000
§95.6114 VOR FEDERAL AIRWAY 114		
IS AMENDED TO READ IN PART		
QUITMAN, TX VORTAC	GREGG COUNTY, TX VORTAC	2400
§95.6119 VOR FEDERAL AIRWAY 119		
IS AMENDED TO READ IN PART		
BURST, NY FIX *3100 - MOCA	GENESEO, NY VORTAC	*3600
§95.6125 VOR FEDERAL AIRWAY 125		
IS AMENDED TO READ IN PART		
NIKEL, IL FIX *2300 - MOCA	BURCK, IL FIX	*4500
BURCK, IL FIX *2600 - MOCA	ST LOUIS, MO VORTAC	*3500
§95.6138 VOR FEDERAL AIRWAY 138		
IS AMENDED BY ADDING		
OMAHA, NE VORTAC	HARLN, IA FIX	3400
HARLN, IA FIX *5500 - MRA	*MADUP, IA FIX	4500
IS AMENDED TO DELETE		
LINCOLN, NE VORTAC	NEOLA, IA VORTAC	3000
NEOLA, IA VORTAC *3900 - MRA **2800 - MOCA	*MADUP, IA FIX	**3300

FROM	TO	MEA
§95.6155 VOR FEDERAL AIRWAY 155		
IS AMENDED TO READ IN PART		
BEYLO, GA FIX *1900 - MOCA	COLLIERS, SC VORTAC	*2500
COLLIERS, SC VORTAC	MONET, SC FIX	2400
§95.6159 VOR FEDERAL AIRWAY 159		
IS AMENDED TO READ IN PART		
ST JOSEPH, MO VORTAC	VIKKI, IA FIX	3000
VIKKI, IA FIX	OMAHA, NE VORTAC	3400
§95.6172 VOR FEDERAL AIRWAY 172		
IS AMENDED TO READ IN PART		
COLUMBUS, NE VOR/DME	OMAHA, NE VORTAC	3700
OMAHA, NE VORTAC *5500 - MRA	*BAGSS, IA FIX	5500
BAGSS, IA FIX *5500 - MRA	*LINDE, IA FIX	5500
§95.6185 VOR FEDERAL AIRWAY 185		
IS AMENDED TO READ IN PART		
SARDY, GA FIX	COLLIERS, SC VORTAC	2900
COLLIERS, SC VORTAC	GREENWOOD, SC VORTAC	2400
§95.6289 VOR FEDERAL AIRWAY 289		
IS AMENDED TO READ IN PART		
HONEE, TX FIX	LUFKIN, TX VORTAC	3000
PIPES, TX FIX	GREGG COUNTY, TX VORTAC	2000
§95.6308 VOR FEDERAL AIRWAY 308		
IS AMENDED BY ADDING		
QUINHAGAK, AK VOR/DME *1400 - MOCA	BETHEL, AK VORTAC	*2000
§95.6317 VOR FEDERAL AIRWAY 317		
IS AMENDED TO READ IN PART		
U.S. CANADIAN BORDER	ANNETTE ISLAND, AK VORTAC	5000
HOODS, AK FIX *5900 - MOCA	SISTERS ISLAND, AK VORTAC	*7000
SISTERS ISLAND, AK VORTAC *5300 - MOCA	CAPE SPENCER, AK FIX	*7000

FROM	TO	MEA

§95.6319 VOR FEDERAL AIRWAY 319

IS AMENDED TO READ IN PART

KATAT, AK FIX *5300 - MOCA	CASEL, AK FIX	*7000

IS AMENDED TO DELETE

HAPIT, AK FIX *2000 - MOCA #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	CENTA, AK FIX	#*9000
CENTA, AK FIX *2000 - MOCA	YAKUTAT, AK VORTAC	*3000

§95.6328 VOR FEDERAL AIRWAY 328

IS ADDED TO READ

KIPNUK, AK VOR/DME	QUINHAGAK, AK VOR/DME	2000
QUINHAGAK, AK VOR/DME	WARRT, AK FIX	5000
WARRT, AK FIX *5200 - MOCA	PERCI, AK FIX	*7000
PERCI, AK FIX	DILLINGHAM, AK VOR/DME	5000

§95.6408 VOR FEDERAL AIRWAY 408

IS AMENDED TO READ IN PART

BALTIMORE, MD VORTAC	SKILS, MD FIX	2500
SKILS, MD FIX *2500—MOCA	KLACK, MD FIX	*4000

FROM	TO	MEA

§95.6417 VOR FEDERAL AIRWAY 417

IS AMENDED TO READ IN PART

ATHENS, GA VORTAC	COLLIERS, SC VORTAC	2500
COLLIERS, SC VORTAC	ALLENDALE, SC VOR	2900

§95.6428 VOR FEDERAL AIRWAY 428

IS AMENDED TO READ IN PART

HAINES, AK NDB	WHITEHORSE, CANADA VOR/DME	#10000

#FOR THAT AIRSPACE OVER U.S. TERRITORY.

§95.6442 VOR FEDERAL AIRWAY 442

IS AMENDED TO READ IN PART

PARADISE, CA VORTAC *8000 - MOCA	APLES, CA FIX	*9000

§95.6494 VOR FEDERAL AIRWAY 494

IS AMENDED TO READ IN PART

MENDOCINO, CA VORTAC	SANTA ROSA, CA VOR/DME	6000

FROM	TO	MEA	MAA
§95.7001 JET ROUTE NO. 1			
	IS AMENDED TO READ IN PART		
LOS ANGELES, CA VORTAC	FILLMORE, CA VORTAC	18000	45000
FILLMORE, CA VORTAC	AVENAL, CA VORTAC	18000	45000
§95.7004 JET ROUTE NO. 4			
	IS AMENDED TO READ IN PART		
MONTGOMERY, AL VORTAC	COLLIERS, SC VORTAC	18000	45000
COLLIERS, SC VORTAC	COLUMBIA, SC VORTAC	18000	45000
§95.7007 JET ROUTE NO. 7			
	IS AMENDED TO READ IN PART		
LOS ANGELES, CA VORTAC	FILLMORE, CA VORTAC	18000	45000
FILLMORE, CA VORTAC	FRIANT, CA VORTAC	18000	45000
§95.7032 JET ROUTE NO. 32			
	IS AMENDED TO READ IN PART		
MUSTANG, NV VORTAC	LOVELOCK, NV VORTAC	18000	45000
LOVELOCK, NV VORTAC	BATTLE MOUNTAIN, NV VORTAC	18000	45000
§95.7052 JET ROUTE NO. 52			
	IS AMENDED TO READ IN PART		
ATLANTA, GA VORTAC	COLLIERS, SC VORTAC	18000	45000
COLLIERS, SC VORTAC	COLUMBIA, SC VORTAC	18000	45000
§95.7053 JET ROUTE NO. 53			
	IS AMENDED TO READ IN PART		
JACKSONVILLE, FL VORTAC	COLLIERS, SC VORTAC	18000	45000
COLLIERS, SC VORTAC	SPARTANBURG, SC VORTAC	18000	45000
§95.7067 JET ROUTE NO. 67			
	IS AMENDED BY ADDING		
LINDEN, CA VORTAC	LAKEVIEW, OR VORTAC	18000	45000
§95.7085 JET ROUTE NO. 85			

FROM	TO	MEA	MAA
§95.7085 JET ROUTE NO. 85—Continued			
	IS AMENDED TO READ IN PART		
ALMA, GA VORTAC	COLLIERS, SC VORTAC	18000	45000
COLLIERS, SC VORTAC	SPARTANBURG, SC VORTAC	18000	45000
§95.7094 JET ROUTE NO. 94			
	IS AMENDED TO READ IN PART		
MUSTANG, NV VORTAC	LOVELOCK, NV VORTAC	18000	45000
LOVELOCK, NV VORTAC	BATTLE MOUNTAIN, NV VORTAC	18000	45000
§95.7099 JET ROUTE NO. 99			
	IS AMENDED TO READ IN PART		
COLLIERS, SC VORTAC	KNOXVILLE, TN VORTAC	18000	45000
§95.7179 JET ROUTE NO. 179			
	IS ADDED TO READ		
ST MARYS, AK NDB	ANIAK, AK NDB	18000	45000
ANIAK, AK NDB	SPARREVOHN, AK VOR/DME	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-428			
IS AMENDED TO READ IN PART			
SISTERS ISLAND, AK VORTAC	HAINES, AK NDB	21	SISTERS ISLAND

[FR Doc. 87-16788 Filed 7-23-87; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 385

[Docket No. 70611-7111]

Addition of Apartheid-Enforcing Agencies to the Export Administration Regulations

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce, at the request of the Department of State, is adding the Department of Public Works and Land Affairs to the list of South African apartheid-enforcing entities identified in Supplement No. 1 to Part 385 of the Export Administration Regulations. The Department is also amending the listing of the Ministry of Education and Developing Aid in Supplement No. 1 to Part 385. This rule also adds the South African Ministry of Transportation to the list of nonapartheid-enforcing entities identified in the Note to Supplement No. 1 to Part 385 of the Export Administration Regulations.

EFFECTIVE DATE: This rule is effective July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Joan Sitnik, Office of Technology and Policy Analysis, U.S. Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-4830).

SUPPLEMENTARY INFORMATION: .

Rulemaking Requirements

1. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule is exempt from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date because it involves a foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 385

Administrative practice and procedure, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 385—[AMENDED]

1. The Authority citation for 15 CFR Part 385 continues to read as follows.

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986; Pub. L. 99-440 (October 2, 1986); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Supplement No. 1 to Part 385 is amended by revising the entries following "Ministry of Manpower" to read as follows:

Supplement No. 1—South Africa Entities Enforcing Apartheid

* * * * *

Ministry of Manpower
Department of Public Works and Land Affairs
Ministry of Education and Development Aid, including the Development Boards and the Rural Development Boards (formerly known as the Ministry of Cooperation, Development and Education), but excluding the Department of National Education and Training.

Other agencies enforcing apartheid, including local, regional and "Homeland" agencies, e.g., those that regulate employment, classification, or residence of non-whites.

Note: The Department of State has determined that the following agencies are not considered to be apartheid enforcing entities:

Ministry of Communication and Public Works (This includes post and telecommunication agencies)
Ministry of Agricultural Economics and Water Affairs
Ministry of Mineral and Energy Affairs
Ministry of Finance
Department of Transportation

Dated: July 21, 1987

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-16806 Filed 7-23-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM85-1-000]

Natural Gas Pipelines After Partial Wellhead Decontrol; Order Staying Effectiveness

Issued: July 2, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order staying effectiveness of regulation.

SUMMARY: The Federal Energy Regulatory Commission is staying the effectiveness of § 284.10 of its regulations, 18 CFR 284.10 (1987), until the effective date of dispositive Commission action in light of the decision of the United States Court of Appeals in *Associated Gas Distributors* v. *FERC*, Nos. 85-1811, *et al.* (D.C. Cir. June 23, 1987). The Court required the Commission on remand to further address contract demand adjustment and gas purchase contract take-or-pay cost issues arising from Order No. 436, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42.408 (Oct. 18, 1985). Because the contract demand adjustment provisions set forth in § 284.10 are interrelated with take-or-pay costs, the Commission is temporarily staying § 284.10 to allow time to coordinate action on the various aspects of its Order No. 436 transportation program.

EFFECTIVE DATE: This stay is effective July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Andrea Wolfman, Acting Assistant General Counsel, Pipeline Rates and Valuation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 257-8497.

SUPPLEMENTARY INFORMATION:

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

Section 284.10 of the Commission's regulations [1] permits customers of interstate pipelines that elect to transport gas on an open access basis after June 30, 1986, to reduce or convert contract demand under a phased five-year schedule. This section of the regulations was promulgated in Order No. 436,[2] and amended in Order No. 436–A and Order No. 436–B so that the phase-in schedule for reductions and conversions that was originally intended to begin on December 15, 1985 would be extended. In extending the effective date, the Commission recognized that Order No. 436 represented a major change in the regulatory environment for the natural gas industry and that postponement of the effectiveness of the contract demand adjustments until July 1, 1986 would allow pipelines, their customers and suppliers, and the Commission itself to confront issues of first impression and to provide for a smooth transition to this new environment. Subsequently, the Commission granted waiver of § 284.10 to certain pipelines for specified reasons.[3]

On June 23, 1987, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *Associated Gas Distributors v. FERC.*[4] While upholding the substance of the open access transportation program under Order No. 436, the Court held the the Commission had not adequately justified the need for the contract demand reduction option in § 284.10. In addition, the Court held that the Commission could not rely on its Natural Gas Act section 7(e) conditioning authority and section 7(b) abandonment authority as a basis for contract demand adjustment.

In light of the Court's decision, we find that § 284.10 of the regulations should be stayed until the Commission can act in a more dispositive manner on the issues focused upon by the Court that require further action. We consider such action appropriate because of the Court's decision (1) that the CD adjustment provisions are, in their present form, flawed, and (2) that those provisions would appear to interact with the take-or-pay problem in ways that require more comprehensive Commission attention. Thus, while the Commission considers a dispositive course of action, a stay of the CD adjustment provision is appropriate in order to maintain a *status quo* most consistent with the Court's decision.

Our stay of § 284.10 is a temporary measure. In order to remove the uncertainty which could otherwise exist in the natural gas industry as to the applicable transportation regulations, we intend to promulgate an interim rule to replace the regulations vacated by the Court.[5] In the interim rule, and possibly other related actions, the Commission will take steps to correct the problems found by the Court with respect to CD adjustments, take-or-pay and grandfathered transportation. In the meantime, however, because the CD adjustment provisions are interrelated with take-or-pay costs, the Commission is temporarily staying § 284.10 of the regulations to allow time to coordinate action on the various aspects of the transportation program.

The Commission Orders

(A) Section 284.10 of the regulations, 18 CFR 284.10, is stayed until the effective date of dispositive Commission action in light of the decision of the United States Court of Appeals in Associated Gas Distributors v. FERC, No. 85–1811 (D.C. Cir. June 23, 1987).

(B) This order shall not be effective unless and until leave of the United States Court of Appeals for the District of Columbia Circuit is obtained that § 284.10 of the regulations may be stayed.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

Kenneth F. Plumb,

Secretary.

By the Commission.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

§ 284.10 [Amended]

2. 18 CFR 284.10 is suspended.

[FR Doc. 87–16725 Filed 7–23–87; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 86F–0413]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of allylmethacrylate as a component of acrylic copolymer adhesives used in food packaging. This action responds to a petition filed by Rohm and Haas Co.

DATES: Effective July 24, 1987; objections by August 24, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 21, 1986 (51 FR 42139), FDA

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[1] 18 CFR 284.10.

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436 [Reg. Preambles 1982–1985] FERC Stats. & Regs. ¶ 30,665 (1985), *modified,* Order No. 436–A, [Reg. Preambles 1982–1985] FERC Stats. & Regs. ¶ 30,675 (1985), *modified further,* Order No. 436–B, III FERC Stats. & Regs. ¶ 30,688 *reh'g denied,* Order No. 436–C, 34 FERC ¶ 61,404, *reh'g denied,* Order No. 436–D, 34 FERC ¶ 61,405, *reconsideration denied,* Order No. 436–E, 34 FERC ¶ 61,403 (1986), *vacated and remanded, sub nom.,* Associated Gas Distributors v. FERC, No. 85–1811 (D.C. Cir. June 23, 1987) (Generally upholding the substance of Order No. 436 and the procedures employed in adopting it, but finding problems with certain issues and vacating and remanding the matter for further proceedings; as of this date, the court's mandate has not issued and the regulations promulgated by Order No. 436 are still in effect).

[3] Texas Eastern Transmission Corp., 35 FERC ¶ 61,405 (1986); 37 FERC ¶ 61,217 (1986); 39 FERC ¶ 61,027 (1987); United Gas Pipe Line Co., *et al.,* 35 FERC ¶ 61,424 (1986); Consolidated Gas Transmission Corp., 35 FERC ¶ 61,441 (1986); Kentucky West Virginia Gas Co., 36 FERC ¶ 61,039 (1986); Natural Gas Pipeline Company of America, *et al.,* 36 FERC ¶ 61,372 (1986).

[4] See n. 2, supra. The Commission does not expect to seek rehearing of the Court's decision.

[5] The Commission recognizes that until the mandate issues, it may need leave of Court to make its interim rule effective. The Commission also recognizes that the Court in the recent *Mid-Tex* opinion has emphasized that an interim rule must be faithful to the letter and spirit of the court's underlying opinion. Mid-Tex Electric Cooperative, Inc. *et al.* v. FERC, (No. 86–1414, D.C. Cir., June 20, 1987).

announced that a petition (FAP 6B3967) had been filed by Rohm and Haas Co., Philadelphia, PA 19105, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of allylmethacrylate as a component of acrylic copolymer adhesives used in food packaging.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in 21 CFR 175.105(c)(5) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before August 24, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically inserting a new item under the heading "Polymers: Homopolymers and copolymers of the following monomers," to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Polymers: Homopolymers and copolymers of the following monomers:	
* * * * *	
Allylmethacrylate (CAS Reg. No. 00096-05-09).	
* * * * *	

Dated: July 15, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-16799 Filed 7-23-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Pennfield Chemical Corp. providing for manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles. The Type A articles are intended for use in making Type C medicated feeds for use in swine, beef cattle, and chickens. The regulations are further amended to add the firm to the list of sponsors of approved applications.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137, is the sponsor of NADA 140–680 submitted on its behalf by Elanco Products Co. The NADA provides for the manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles used to make Type C medicated feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The NADA is approved and 21 CFR 558.625(b)(89) is added to reflect the approval. The regulations are further amended in 21 CFR 510.600(c) (1) and (2) to add the firm to the list of sponsors of approved NADA's.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Part 510 is amended in § 510.600 in paragraph (c)(1) by adding a new sponsor entry alphabetically and in paragraph (c)(2) by adding a new entry numerically to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137.	053389
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
053389	Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. Part 558 is amended in § 558.625 by adding new paragraph (b)(89) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(89) To 053389: 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: July 13, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-16798 Filed 7-23-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF EDUCATION

34 CFR PARTS 75, 76, 500, and 745

Direct Grant Programs, State-Administered Programs, Bilingual Education; General Provisions, and Women's Educational Equity Act Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Education Department General Administrative Regulations (EDGAR) to provide for greater flexibility and to eliminate obsolete and unnecessary regulations. Certain EDGAR provisions are transferred to the program regulations to which they apply.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. Amendment number 11, revising § 75.210, does not apply to any competition announced in an application notice published in the **Federal Register** before July 24, 1987. If you want to know the effective date of these regulations, call or write the Department of Education (ED) contact person.

FOR FURTHER INFORMATION CONTACT: Hazel Fiers, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3021, Federal Office Building No. 6), Washington, DC 20202. Telephone (202) 472–5123.

SUPPLEMENTARY INFORMATION: On February 19, 1987, the Secretary published in the **Federal Register** (52 FR 5142) a Notice of Proposed Rulemaking (NPRM) proposing certain amendments to EDGAR. The NPRM included a discussion of the specific sections proposed for revision. Some of the provisions were made obsolete by laws passed since EDGAR became effective. Other provisions duplicated existing statutory or regulatory requirements. Still others were not required by statute. The Secretary believes these amended regulations will assist the Department in its efforts to reduce regulatory burden on the public and to streamline and promote efficient operation of Departmental programs. There are no differences between the revisions published in the NPRM and these final regulations.

The revisions in this document do not include regulatory provisions related to the Office of Management and Budget (OMB) Circular A–102. The OMB has initiated a separate effort to revise the Circular A–102 requirements.

Two letters commenting n the NPRM were received. The commenters questioned:

- The removal of program lists at § 75.1 and § 76.1;
- The removal of § 75.111(d) and (e), which required an applicant under a formula grant program to submit information about "traditionally underrepresented group";
- The removal of §§ 75.202(b)(5) and 75.203(b)(4), regarding certain population groups, and the related incorporation of new language at §§ 75.210(b)(3)(v) and (b)(4)(i)(D); and
- The revision to the evaluation procedures at § 75.217.

A summary of the comments and the Department's responses follow:

Sections 75.1 and 76.1 Programs to Which Parts 75 and 76 Apply

Comment: The commenter believed the removal of the list of programs to which the respective parts apply would require administrators of Federal programs to expend more time and effort in order to compile the information from other sources.

Response: The lists may provide a reference for administrators of Federal programs to the extent that the lists are current. However, frequent revisions would be necessary due to changes in legislation and regulations. The Secretary believes it is a disservice to the public to use obsolete lists. Also, program regulations specifically state whether Part 75 or Part 76 applies; therefore, program administrators have the current information cited in those regulations.

Changes: None.

Sections 75.111 Describe the Project

Comment: One commenter objected to the removal of § 75.111(d)and (e). The commenter believed the removal of these paragraphs would weaken the affirmative commitment to ensure that "traditionally underrepresented groups" are served by federally supported programs.

Response. These paragraphs required applicants under direct grant programs that are based on a statutory formula to describe characteristics of project participants and beneficiaries and to describe the effects of the project on certain population groups. However,

under these specific programs, the Secretary must fund an applicant that meets the minimum requirements for funding under the statute for the program even if that applicant fails to provide the requested descriptive information related those population groups. As the NPRM preamble stated, the purpose of the deletion is to bring EDGAR into compliance with the OMB regulations implementing the Paperwork Reduction Act of 1980. Under those regulations, the Federal Government may not collect information that is unnecessary to the administration of a program (5 CFR 1320.4(b)(2) and (d)). The removal of the collection requirement from EDGAR will in no way weaken the Secretary's commitment to nondiscriminatory practices.

Changes: None.

Sections 75.202–75.206 and 75.210 Selection Criteria

Comment: One commenter supported incorporating selection criteria from §§ 75.202–75.206 into § 75.210 which provides selection criteria for a discretionary grant program that does not have regulations. However, the commenter believed the change in language regarding certain population groups did not clearly reflect a commitment to nondiscriminatory employment practices. A second commenter disagreed with the changes, stating that the proposed provisions do not address the total application and approval process for federally funded grants as do the current provisions. This commenter cited current laws relating to affirmative efforts to serve underrepresented groups as supporting retention of the regulatory language.

Response: In the process of adapting language from the general selection criteria for use in § 75.210, the Secretary proposed revising provisions requiring applicants to describe how an applicant would provide equal access to eligible participants who are members of "traditionally underrepesented groups" and how the applicant would encourage applications for employment by members of those groups. Under the proposed revisions, the Secretary would ask an applicant to provide information on how eligible participants would be selected in an unbiased manner and how the applicant would ensure that it uses nondiscriminatory employment practices. The proposed language will prevent discrimination by ensuring that project participants who are otherwise eligible to participate and applicants for employment in the project are selected without regard to race, color, national orgin, gender, age, or handicapping condition. The second commenter's concern that this revision will limit the Secretary's efforts to support nondiscriminatory practices to programs that lack regulations is unfounded. The EDGAR criteria were simply a guide used by the Department in preparing selection criteria for inclusion in particular program regulations. Program regulations will continue to contain selection criteria and the Secretary will establish internal directives to guide the Department's employees in preparing criteria for future regulations. These directives will ensure that any new discretionary grant regulations will have appropriate criteria, including criteria regarding nondiscrimination in selecting participants and hiring employees. As has been the case in the past, the Department will solicit public comment on any proposed selection criteria for its discretionary grant programs. The public will have an opportunity to express views at that time as to whether the criteria adequately address the concerns expressed by the commenter.

Concerning the current laws which one commenter cited as evidence that Congress supports a policy of encouraging participation and employment by persons who are traditionally underrepresented, the Secretary has implemented those statutory requirements in relevant program regulations.

Changes: None. However, because a number of programs are relying on the existing regulations in 34 CFR 75.210 to make awards in fiscal year 1987, the revisions to this section will not apply to any competiton that has been announced in the **Federal Register** before the publication of these final regulations.

Section 75.217 Application Evaluation Process

Comment: One Commenter expressed concern that the proposed revision to § 75.217 world exclude from the application review process the required participation of at least one expert who is not an employee of the Federal Government and disagreed with the removal of the requirement that ED employees who have been involved in administering the program could not evaluate applications under that program.

Response: Revision of § 75.217 will allow the Secretary to determine the review process that is most appropriate according to the nature of the program for which applications are under review. As stated in the NPRM, the Secretary can achieve time and costs savings and improve service to grantees by using a review process that can be tailored to meet the needs of the various programs. Previously, the same review procedures had to be used for every program, regardless of the nature or competitiveness of the program. For example, recipient eligibility for certain programs is established by legislation and 85–100% of the applicants are funded. In these types of programs there is often little reason for the Department to spend limited resources to establish application review groups using outside experts of employees other than those involved in the administration of the program to select the grants. On the other hand, certain highly competitive programs make awards to only 8–10% of the applicants. In these competitions it may be more appropriate to use groups of experts, both Federal and non-Federal, to review applications. The Secretary is committed to ensure that all applications are reviewed in a fair and impartial manner.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major, because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

Information collection requirements contained in these regulations in § 75.210 will be sent to the OMB for review, as required by section 3504(h) of the Paperwork Reduction Act of 1980, and will become effective after they have been approved by OMB.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 75

Education Department, Grant programs—education, Grant administration.

34 CFR Part 76

Education Department, Grant programs-education, Grant

administration, intergovernmental relations, State-administered programs.

34 CFR Part 500

Adult education, Bilingual education, Education Department, Elementary and secondary education, Grant programs—education, Teachers.

34 CFR Part 745

Education, Government contracts, Grant programs—education, Sex discrimination.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: July 20, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 75, 76, 500, and 745 of Title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

1. The authority citation for Part 75 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), unless otherwise noted.

2. In § 75.1, the tables following this section and the note following paragraph (a) are removed and paragraph (a) is revised to read as follows:

§ 75.1 Programs to which Part 75 applies.

(a) The regulations in Part 75 apply to each direct grant program of the Department of Education.

* * * * *

3. Section 75.50 is revised to read as follows:

§ 75.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Department is governed by the authorizing statute and implementing regulations for that program.

[Authority: 20 U.S.C. 1221e–3(a)(1)]

§ 75.111 [Amended]

4. In § 75.111, paragraphs (d) and (e) are removed.

§ 75.124 [Amended]

5. Section 75.124 and the heading "Joint Funding Simplification Procedures" preceding § 75.124 are removed.

§ 75.125 [Amended]

6. Section 75.125 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§§ 75.138, 75.139, 75.140, 75.141 [Removed]

7. Sections 75.138, 75.139, 75.140, and 75.141 and the heading "OPEN MEETING CERTIFICATION UNDER CERTAIN ESEA PROGRAMS" are removed.

8. Section 75.200 is amended by revising paragraphs (b)(3) and (c)(2) to read as follows:

§ 75.200 How applications for new grants are selected for funding.

* * * * *

(b) * * *

(3) If a program does not have regulations, the Secretary uses the selection criteria in §75.210 to select grantees under the program.

(c) * * *

(2) The Secretary applies the program statute and regulations to fund projects under a formula grant program.

Authority: 20 U.S.C. 1221e–3(a)(1)]

§ 75.201 [Amended]

9. Section 75.201 is amended by removing paragraph (b)(2) and the designation (1) after the heading for paragraph (b).

§§ 75.202 through 75.206 [Removed]

10. Sections 75.202 through 75.206 are removed.

11. Section 75.210 is revised to read as follows:

§ 75.210 Selection criteria for a discretionary grant program that does not have regulations.

(a) *How this section works.* (1) If a discretionary grant program does not have implementing regulations, the Secretary uses the criteria in this section to evaluate applications for new grants under the program.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each

application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(c) *Weighting the criteria.* (15 points) The Secretary distributes an additional 15 points among the criteria listed in paragraph (b) of this section. The Secretary indicates in the application notice for the program how these 15 points are distributed.

(Authority: 20 U.S.C. 1221e-3(a)(1))

12. Section 75.217 is revised to read as follows:

§ 75.217 How the Secretary selects applications for new grants.

(a) The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the **Federal Register** and apply to the selection of those applications.

(b)(1) The Secretary may use experts to evaluate the applications submitted under a program.

(2) These experts may include persons who are not employees of the Federal Government.

(c) The Secretary prepares a rank order of the applications based solely on the evaluation of their quality according to the selection criteria.

(d) The Secretary then determines the order in which applications will be selected for grants. The Secretary considers the following in making these determinations:

(1) The information in each application.

(2) The rank ordering of the applications.

(3) Any other information relevant to a criterion, priority, or other requirement that applies to the selection of applications for new grants, including information concerning the applicant's use of funds under a previous award under the same Federal program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

13. Section 75.219 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising the newly redesignated paragraph (b) to read as follows:

§ 75.219 Exceptions to the procedures in § 75.217.

* * * * *

(b)(1) The application was evaluated under the preceding competition of the program;

(2) The application rated high enough to deserve selection under § 75.217; and

(3) The application was not selected for funding because the application was mishandled by the Department.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 75.221 [Removed]

14. Section 75.221 is removed.

§ 75.222 [Amended]

15. Section 75.222 is amended by changing "§ 75.219(c)" wherever it appears in the heading and section to "§ 75.219(b)".

§ 75.250 [Amended]

16. Section 75.250 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§ 75.254 [Removed]

17. Section 75.254 is removed.

18. In § 75.260, paragraph (a) is revised to read as follows:

§ 75.260 Allotments and reallotments.

(a) Under some of the programs covered by this part, the Secretary allots funds under a statutory or regulatory formula.

* * * * *

19. In § 75.708, paragraph (a) is revised to read as follows:

§ 75.708 Prohibition of subgrants.

(a) A grantee may not make a subgrant under a program covered by this part unless specifically authorized by statute.

* * * * *

§ 75.721 [Removed]

20. Section 75.721 is removed.

§ 75.733 [Removed]

21 Section 75.733 is removed.

PART 76—STATE-ADMINISTERED PROGRAMS

22. The authority citation for Part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3(a)(1), unless otherwise noted.

23. § 76.1, the note following paragraph (a) and the tables following paragraph (b) are removed, and paragraph (a) is revised to read as follows:

§ 76.1 Programs to which Part 76 applies.

(a) The regulations in Part 76 apply to each State-administered program of the Department.

* * * * *

24. In § 76.50, the introductory text in paragraph (a) is revised to read as follows:

§ 76.50 Statutes determine eligibility and whether subgrants are made.

(a) Under a program covered by this part, the Secretary makes a grant—

* * * * *

25. Section 76.100 is revised to read as follows:

§ 76.100 Effect of this subpart.

This subpart establishes general requirements that a State must meet to apply for a grant under a program covered by this part. Additional requirements are in the authorizing statute and the implementing regulations for the program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

26. Section 76.101 is revised to read as follows:

§ 76.101 The general State application.

A State that makes subgrants to local educational agencies under a program subject to this part shall have on file with the Secretary a general application that meets the requirements of Section 435 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d)

27. The cross-reference following § 76.102 is removed.

28. Section 76.301 is revised to read as follows:

§ 76.301 Local educational agency general application.

A local educational agency that applies for a subgrant under a program subject to this part shall have on file with the State a general application that meets the requirements of Section 436 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d)

29. In § 76.401, the introductory text in paragraph (a) and paragraph (b) are revised to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) *State agency hearing before disapproval.* Under the following programs the State agency that administers the program shall provide an application with notice and an opportunity for a hearing before it may disapprove the application:

* * * * *

(b) *Other programs—hearings not required.* Under other programs covered by this part, a State agency—other than a State educational agency—is not required to provide an opportunity for a hearing regarding the agency's disapproval of an application.

* * * * *

§ 76.563 [Amended]

30. In § 76.563 introductory text, "listed in § 76.1" is removed.

31. The cross-reference following § 76.772 is removed.

PART 500—BILINGUAL EDUCATION: GENERAL PROVISIONS

32. The authority citation for Part 500 continues to read as follows:

Authority: 20 U.S.C. 3221–3262, unless otherwise noted.

33. A new center heading "OPEN MEETING CERTIFICATION" is added to Part 500 after the title for Subpart C.

34. A new § 500.15 is added after the new center heading to Subpart C, to read as follows:

§ 500.15 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency [LEA] that submits an application under a program subject to this subpart to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application.

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

PART 745—WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

35. The authority citation for Part 745 is revised to read as follow:

Authority: 20 U.S.C. 3341–3348, unless otherwise noted.

36. A new § 745.12 is added to Subpart A to read as follows:

§ 745.12 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency (LEA) that submits an application under a program subject to this part to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

[FR Doc. 87–16734 Filed 7–23–87; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Indian Health; Preference in Employment

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the definition of the term "Indian" for purposes of Indian preference in employment in the Indian Health Service (IHS) to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The amendment extends the previous expiration date of October 4, 1985 to September 14, 1988 to permit the tribe to formally organize and to establish current membership standards.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, (301) 443–1116. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: As a result of the April 22, 1977, decision of the U.S. District Court for the District of Columbia in *Tyndall* v *U.S.*, the Department of Health and Human Services (HHS) is under continuing court order to apply the same definition of the term "Indian" for purposes of Indian preference in employment in the IHS as that adopted by the Department of the Interior (DOI) and to publish the definition as a regulation in the **Federal Register** within 30 days of the DOI's publication.

Rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 8553) generally involve publication of a notice of proposed rulemaking, affording interested persons the opportunity to comment, and publication of the final rule after consideration of the comments received. However, the statute allows the agency to dispense with notice and comment procedures:

(b) When the Agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The Court's order in *Tyndall* provides good cause for dispensing with notice and comment procedures in this instance.

On July 11, 1978 (43 FR 29783), HHS published a final rule which brought the definition of Indian for purposes of Indian preference in employment in the IHS into conformance with the DOI's Bureau of Indian Affairs definition published January 17, 1978 (42 FR 2393). On July 17, 1981 (46 FR 37044, 45), on October 4, 1984 (49 FR 39157), and most recently on September 15, 1986 (51 FR 32631, 32) the DOI amended its definition to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The HHS rule was revised on November 4, 1981 (45 FR 54743) and November 6, 1984 (49 FR 44288, 89) to conform to the DOI's 1981 and 1984 changes.

The membership rolls of the Osage Tribe of Oklahoma, like a number of other tribes, were closed by an act of Congress, and therefore, these tribes did not have current membership standards. The original regulation provided a 3-year period for such tribes to formally organize and establish membership standards and, in the interim, permitted persons of one quarter degree blood of

such tribes to qualify for Indian preference rather than having to meet the normal one half degree requirement. This was extended twice to give the Osage Tribe additional time to establish membership standards. The new DOI regulation and this HHS revision again extend the expired date. The quarter degree standard will remain applicable through September 14, 1988 or until the Osage tribe has formally organized and established membership standards, whichever comes first.

Under terms of the Court's order and our conforming regulations the IHS has been obligated to apply the revised DOI definition of Indian for purposes of employment uninterruptedly since 1978.

The Department's definition varies slightly from that of the DOI in order to clarify that there is no gap in the application of the definition to people of Osage ancestry. People of Osage ancestry, who are employed by the IHS and who received preference in any previous appointment, will continue to be preference eligibles so long as they are employed in HHS positions governed by the Indian Preference Act.

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

The Department of Health and Human Services has determined that this document does not have a significant economic impact on a substantial number of small entities. This rule affects only persons of the Osage Tribe of Indians. No notice of proposed rulemaking (NPRM) is required because, as a result of the Court's order, the Department does not have discretion in this matter and, therefore, pursuant to 5 U.S.C. 553(b)(B) the Department is waving the proposed rulemaking requirements.

List of Subjects in 42 CFR Part 36

Alaska Natives, Employees, Eskimos, Government employees, Health, Indian preference, Indians.

Accordingly, the Department of Health and Human Services revises 42 CFR 36.41(e) as follows:

Dated: June 3, 1987.

Robert E. Windom,

Assistant Secretary for Health.

Approved: July 2, 1987.

Otis R. Bowen,

Secretary.

PART 36—[AMENDED]

Subpart E—Preference in Employment

1. The authority citation for Part 36, Subpart E continues to read as follows:

Authority: 25 U.S.C. 44, 45, 46 and 472; Pub. L. 83–568, 42 U.S.C. 2003.

2. Section 36.41(e) is revised as follows:

§ 36.41 Definitions.

* * * * *

(e) Until September 14, 1988 or until the Osage Tribe has formally organized, whichever comes first, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

[FR Doc. 87–16744 Filed 7–23–87; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 31 and 52

Federal Acquisition Regulation (FAR)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects final rules in Federal Acquisition Circular (FAC) 84–25 published in the **Federal Register** on Friday, March 20, 1987 (52 FR 9036).

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 87–6002 beginning on page 9036, make the following corrections:

31.109 [Corrected]

On page 9038, in the second column, the amendatory language in the second line, "paragraph (h)(15)" should read "paragraph (h)(14).

31.205–44 [Corrected]

On page 9039, in the first column, paragraph (h)(2), fifth line, "with 12 months" should read "within 12 months".

52.210–1 [Corrected]

On page 9039, in the second column, add the instruction to remove in the title of the provision the date "APR 1984" and insert in its place the date "JUL 1987" and remove the derivation line following "End of provision".

List of Subjects in 48 CFR Parts 31 and 52

Government procurement.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 87–16829 Filed 7–23–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 83–09; Notice 2]

Consumer Information Regulations; Vehicle Stopping Distance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the requirements of the Consumer Information Regulations by deleting the requirement that vehicle stopping distance information be provided to first purchasers of new passenger cars and motorcycles at the time the vehicle is delivered to the first purchaser. The agency has taken this action because the primary purpose of the consumer information is to permit prospective purchasers to obtain as much comparative information as possible *before* deciding which particular model to buy. Information provided *after* the consumer has purchased the vehicle cannot serve that purpose. Since NHTSA is unaware of any other value to the consumer being given stopping distance information after purchasing a new vehicle, this rule rescinds that requirement. Based on cost information provided by General Motors, the agency estimates that this action will save vehicle manufacturers over one million dollars annually.

DATES: This rule is effective July 24, 1987.

Any petitions for reconsideration of this rule must be received by NHTSA not later than August 24, 1987.

ADDRESS: Any petitions for reconsideration must be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Charles Gauthier, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4805).

SUPPLEMENTARY INFORMATION: This rule amends the requirements of 49 CFR Part

575, *Consumer Information Regulations*, to delete the requirement that manufacturers of passenger cars and motorcycles provide stopping distance information to the first purchasers of their vehicles at the time of delivery of the new vehicle. The primary purpose underlying the requirement that vehicle manufacturers provide consumers with stopping distance information is to provide consumers with comparative information on different vehicles so that they can consider this information when deciding which new vehicle to purchase. Stopping distance information that is given to consumers after they have purchased a new vehicle does not serve this purpose.

Vehicle manufacturers have been required to provide stopping distance information to first purchasers of new vehicles at the time of delivery of the vehicle ever since the original consumer information regulations were published at 34 FR 1246, January 25, 1969. At this time, however, it is not clear what benefits the agency believed first purchasers would derive from information provided to them after they had purchased the vehicle. The preamble to the 1969 rule requiring manufacturers to provide such information explained only that, "This regulation is intended to be the initial part of a comprehensive program to supply the consumer with information concerning safety and other performance characteristics of motor vehicles." 34 FR 1247. No further explanation was set forth in the final rule or any other document of how or why the agency believed it would be helpful to consumers to obtain stopping distance information for vehicles *after* they had purchased the vehicle. The agency is not aware of any empirical or analytical evidence that stopping distance information is or could be useful to consumers after they have purchased a new vehicle. Therefore, the requirement to provide this information to first purchasers is deleted from Part 575 by this rule.

Under the requirements as they existed before today's amendment, stopping distance information was required to be disseminated to consumers via three separate sources. First, § 575.6(a) requires manufacturers to provide the first purchasers of new vehicles with stopping distance information at the time of delivery of the new vehicle. Second, § 575.6(c) requires stopping distance information to be provided by each vehicle manufacturer to each of its dealers, so that prospective purchasers can examine the information in the dealer's showroom at no cost. Third, § 575.6(d) requires the stopping distance information to be provided by each vehicle manufacturer to NHTSA, so that it can be made available to the public in NHTSA's Technical Reference Library and upon request.

General Motors Corporation (GM) filed a petition for rulemaking with the agency, in which GM asked that the requirements for vehicle manufacturers to disseminate stopping distance information about their vehicles be deleted altogether. GM asserted that the stopping distance information was not actually used by consumers, that it was not a meaningful comparison between different vehicles, and that dissemination of the stopping distance information was an unnecessary economic burden on the vehicle manufacturers. In response to this petition, NHTSA carefully reexamined the requirements that stopping distance information be disseminated to consumers via the three separate sources identified above.

As a result of this reexamination, NHTSA published a notice of proposed rulemaking (NPRM) on June 30, 1983; 48 FR 30166. This NPRM proposed to delete the requirement that manufacturers provide stopping distance information to the first purchasers of new vehicles, since this information does not become available to the consumer soon enough to serve the primary purpose of these consumer information regulations. However, the agency did not propose to delete the requirements that vehicle manufacturer provide stopping distance information to their dealers and to this agency. The agency stated in the NPRM that it did not agree with GM's assertion that the stopping distance information was not meaningful to consumers. While some manufacturers report that their vehicles stop exactly at the maximum stopping distance allowed under Standard No. 105, *Hydraulic Brake Systems* (49 CFR 571.105), most manufacturers reported that their vehicles stop in a shorter distance. The differences in reported stopping distance could be used by consumers to make comparative evaluations of the vehicles. Further, the NPRM noted that 14 percent of the dealerships surveyed by that company reported that they had been asked by consumers for stopping distance information. The NPRM stated that these requests "indicate that the information is being used by the public and NHTSA is reluctant to curtail the amount of information available to the public when that information is reliable and can be provided at a reasonable cost." 48 FR 30167. Based on GM's estimates of its own costs for providing stopping distance information to the three sources presently required by Part 575, NHTSA estimated total costs to vehicle manufacturers at $266,000 if stopping distance information were required to be provided only to each dealer and this agency. This translates to less than 3 cents for each new car and motorcycle sold, and NHTSA tentatively adjudged this to be a reasonble cost for providing the information.

The NPRM also sought comments on the desirability of requiring vehicle manufacturers to permanently affix a label to the vehicle, setting forth the stopping distance information. Such labeling would ensure the continuing availability of stopping distance information to subsequent purchasers of the vehicle. The current practice of putting stopping distance information in the owner's manual or in a separate consumer information booklet can result in the stopping distance information not being available to the subsequent purchasers of the vehicle.

After publication of this NPRM, NHTSA undertook research to gain a better understanding of consumer awareness of and interest in NHTSA's consumer information programs, and to learn if there were ways in which the consumer information programs could be made more useful to consumers. The final report is entitled "Consumer Attitudes Toward Consumer Information Programs", and is available in the General Reference section of Docket No. 83–09. This report indicated that most consumers are satisfied with the information available to them when purchasing a vehicle. There is, however, a small segment of car buyers who actively seek information about vehicles when making a purchase and would prefer that more information be made available. This segment's interest in the subject of stopping distance increases when they are informed that stopping distances for comparable vehicles may vary.

The agency received 12 comments on the NPRM. Nine of these 12 comments were submitted by vehicle manufacturers. Each of these manufacturers supported the proposal to delete the requirement that stopping distance information be provided to first purchasers at the time of delivery of a new vehicle. However, all nine of the vehicle manufacturers disagreed with the agency's decision to continue requiring stopping distance information to be provided to each of their dealers and to NHTSA.

Along with its petition, GM submitted a survey of 162 of its dealers. Of these

162 dealers, 140 had not received a single request for stopping distance information, while 22 (14 percent) had received such requests. The 22 dealers that received requests for stopping distance information received an average of five such requests each. In the NPRM, the agency stated, "The fact that 14 percent of the dealerships surveyed by GM received requests for stopping distance information indicates that the information is being used by the public and NHTSA is reluctant to curtail the amount of information available to the public when that information is reliable and can be provided at a reasonable costs." 48 FR 30167.

All nine of the commenting vehicle manufacturers stated in their comments that the public had shown little or no interest in stopping distance information. Most of these commenters questioned the agency's interpretation of the GM dealer survey, and suggested that sales-weighting of the survey results would show that very few consumers requested the information. GM stated that by adjusting the requests received by the number of potential purchasers passing through each dealership, NHTSA would conclude that less than 1/10 of one percent of prospective purchasers had requested stopping distance information. Volkswagen raised the same point in its comments. Suzuki Motor Co., Ltd. (Suzuki) provided a survey of 50 of its dealerships in its comments. Suzuki's survey showed that 30 of 50 dealers had no requests for the information, 13 of 50 had one percent or fewer of their customers ask for stopping distance information, 4 dealers had five percent of their customers ask for the information, and 3 dealers said that ten percent of their customers asked for stopping distance information.

Admittedly, the GM and Suzuki surveys, as well as the agency's own research of this topic, show that most consumers do not request stopping distance information from dealers. However, NHTSA does not believe that consumer information requirements need to be justified by a majority vote of consumers. If majority use of information were the test, it seems likely that few, if any, consumer information requirements could pass this test. For instance, whether or not most consumers read the list of ingredients on processed food, the point of that consumer information requirement, as is the case for the stopping distance information requirements, is to permit those consumers that choose to do so to obtain useful comparative information on different products *before* deciding which of the products to purchase. The surveys submitted by the commenters and the agency's own research indicate that some consumers do use the information in this manner. The agency believes this number is not insignificant. NHTSA believes it would be inappropriate to curtail the amount of information available to these consumers simply because other consumers do not use this information when making their purchase decisions.

American Motors Corporation commented that there was no evidence that stopping distance information was actually used by consumers in making the purchase decision. Mercedes-Benz commented that it was doubtful that stopping distance information would be a decisive criterion for a consumer in choosing a particular car. As noted above, the agency's consumer research indicated that a small minority of consumers are interested in stopping distance information. Some consumers asserted that stopping distance information could be used as an indicator for assessing the car as a whole, while other perceived stopping distance information as crucial information all by itself. These research findings do not directly contradict the assertions of either commenter. However, the findings do indicate that some consumers are interested in stopping distance information and that the information would be useful to those consumers when making their purchase decisions. Since this is the reason for requiring the information to be made available, NHTSA is not persuaded by the manufacturers' comments.

Several commenters stated that stopping distance information *as currently reported* is not useful to consumers. Volkswagen stated that the example offered in the NPRM of the differing reported stopping distances for the three largest U.S. automakers illustrated why the stopping distance information was not useful to consumers. The NPRM noted that the 1982 stopping distance reported by Ford and Chrysler showed that all of their domestically produced vehicles stop at exactly the maximum distance permitted by Standard No. 105, *Hydraulic Brake Systems* (49 CFR 571.105), while GM reported that its vehicles stopped on average in about 5 percent less than the maximum permissible distance.

First, Volkswagen stated its doubts that both Ford and Chrysler build all of their cars to stop exactly at the limit prescribed by Standard No. 105. Instead, Volkswagen stated that the reported stopping distances do not reflect the actual performance of the vehicles, but are "very conservative estimates". Volkswagen stated that the companies have a very strong incentive to overstate the actual stopping distances, so as to minimize consumer complaints that the car does not perform up to expectations. By being "conservative", Volkswagen stated that the manufacturers avoid consumer complaints, but also dilute the usefulness of the stopping distance information for comparative purposes. Hence, Volkswagen concluded that the requirement to provide stopping distance information should be rescinded altogether.

NHTSA does not agree with Volkswagen's premise that most manufacturers will follow this practice of reporting conservative estimates. For 1986, Ford and Chrysler were the only manufacturers that reported that their vehicles stopped at the limit specified in Standard No. 105. The other 16 manufacturers reported some value under that limit. Additionally, two manufacturers have included stopping distance information in some of their television advertising during the past two years. This indicates either that those manufacturers believe that stopping distance information is an aspect of vehicle performance in which some consumers are interested or that stopping distance is indicative of the image they are trying to achieve for their vehicles. In either case, the advertising strategy of these manufacturers uses stopping distance information to distinguish the performance of one vehicle from another to try to influence consumers. Thus, no matter how plausible the Volkswagen premise sounds, it is simply not borne out by the facts.

Even if the premise were true, it is not clear to the agency why the commenter concluded that the requirement to report stopping distance information should be rescinded for all manufacturers, since some manufacturers have chosen not to report useful stopping distance information. To the contrary, it seems more responsible to conclude that some steps should be taken to encourage all manufacturers to report more representative stopping distance information. Indeed, it is possible that the marketplace itself will force manufacturers to report more representative stopping distance information, if the aforementioned advertising campaigns are effective. Alternatively, the agency could "market" the facts about stopping distance: stopping distance is an important safety attribute of a vehicle, not all comparable vehicles perform

equally, and good driving skills become better when combined with better breaking performance. By trying to get all manufacturers to provide more representative stopping distance information to consumers, the agency would better achieve its goal of informing consumers of performance differences in cars. If the agency rescinded the stopping distance requirements altogether, it would have simply abandoned that goal.

The Automobile Club of Southern California (ACSC) also directed its comments towards the practice of some vehicle manufacturers just publishing the limits allowed under Standard No. 105 as the stopping distance for all of their vehicles. ACSC commented that disseminating such information is not useful to consumers, and recommended that Standard No. 105 be reevaluated by the agency to determine if the results obtained according to Standard No. 105's test procedures are sufficiently accurate and useful as probable indices of the braking performance for the vehicles tested. This comment was probably based on the erroneous assumption that vehicle manufacturers are required to report the actual stopping distances measured under Standard No. 105 as the stopping distance information under Part 575. Instead, Part 575 requires only that vehicle manufacturers report stopping distance values that can be *met or exceeded* by the group of vehicles in question. Those manufacturers that have chosen to report the Standard No. 105 stopping distance limit for all their vehicles have chosen a value that can be *exceeded* by the overwhelming majority of vehicles. If a regulatory change were chosen as the means for addressing this problem, it could be accomplished by amending Part 575 without changing the test procedures in Standard No. 105.

As stated earlier, Volkswagen commented on the NPRM's example that the 1982 stopping distance information reported by the the largest U.S. auto manufacturers showed that two of the three reported that all their vehicles stopped in the maximum distance allowed by Standard No. 105, while the other manufacturer reported that its vehicles generally stoped in a distance that was five percent less than the maximum allowed under Standard No. 105. According to Volkswagen, the five percent shorter stopping distance was "inconsequential" and "certainly not a good reason to purchase a vehicle". This comment misunderstands the purpose of the consumer information regulations. Under these regulations, manufacturers of new vehicles are required to provide consumers with pertinent safety information about the particular vehicles they might purchase. Thus, whether or not a five percent stopping distance difference is a good reason to choose a particular vehicle, it is a decision to be made by consumers and making such information available to consumers is the underlying purpose of the consumer information regulations.

American Motors Corporation stated its opinion that a consumer information program is not needed for stopping distance, because Standard No. 105 already specifies performance requirements for vehicle stopping distance. What is omitted from this argument is that Standard No. 105, like all of the Federal motor vehicle safety standards, merely establishes minimum levels of performance necessary for safe operation of vehicles on the public roads. The amount by which a vehicle exceeds those minimum levels, if any, is still relevant and useful information for consumers contemplating the purchase of that vehicle. Therefore, NHTSA does not find this argument persuasive.

After considering all the comments received, this agency has decided to amend Part 575 to incorporate the proposed actions with respect to the dissemination of stopping distance information. Vehicle manufacturers are no longer required to provide stopping distance information to the first purchasers of new vehicles at the time of delivery of the vehicle. As noted in the NPRM, the purposes of requiring the dissemination of the stopping distance information is to provide consumers with relevant safety information on the different vehicle models they are considering purchasing. Requiring such information to be provided to consumers *after* they have just purchased a new vehicle does not serve this purpose. As explained at the beginning of this preamble, NHTSA is unaware of any other purpose that would be served by providing stopping distance information to consumers after they have purchased a new vehicle. No commenters, disagreed with this proposed determination, or suggested some purpose that would be served by providing stopping distance information after a consumer has purchased a new vehicle.

On the other hand, the agency believes that the requirements to disseminate stopping distance information to each dealer and to this agency could serve the above-described intended purpose. Moreover, this purpose can be served while imposing minimal burden and cost on the vehicle manufacturers.

The National Automobile Dealers Association (NADA) indicated their support for the changes proposed in the NPRM. However, NADA asked that, in conjunction with the proposed amendments, the agency retain the requirements that manufacturers provide the stopping distance information to dealers free of charge and in sufficient quantity. NHTSA did not propose to amend those requirements, and has not changed them in this rule. Therefore, this rule will not result in any increase in burden for the dealers.

The NPRM asked for comments on the desirability of requiring the stopping distance information to be permanently labeled on vehicles, so as to ensure its availability for subsequent purchasers of the vehicles. One commenter, an individual, supported this idea, stating that it was "obvious that labels with stopping distance information would be best for consumers."

All of the other commenters that addressed this topic opposed the idea for a number of reasons. The motorcycle manufacturers stated that there is almost no place to put another label on a motorcycle. They believed that if stopping distance information requirements were to be retained for first purchasers, the manufacturers should be allowed to continue printing it in the owner's manuals. Several passenger car manufacturers stated that proper maintenance of the vehicle was a far more significant factor in a vehicle's braking performance for subsequent purchasers than was its braking performance when it was delivered to the first purchaser. GM commented that requiring permanent labels to disseminate stopping distance information would cost manufacturers twice as much as requiring the information to appear in owner's manuals.

The agency sought comments on this topic to learn if there was an effective and inexpensive way to make stopping distance information available to prospective purchasers of used vehicles, in the same way that such information is availble to prospective purchasers of new vehicles. If the information could be used for comparative purposes by persons shopping for used car, NHTSA was considering proposing a requirement that stopping distance information be permanently affixed to new vehicles.

However, the agency agrees with the comment stating that maintenance of a particular vehicle would have the

greatest impact on that particular vehicle's braking performance. This gives rise to the possibility that subsequent puchasers could be misled by the stopping distance information labeled on a vehicle. For instance, a vehicle with very good braking performance when it was new may subsequently exhibit very poor braking performance because of inadequate maintenance by the owner. A person purchasing the vehicle might be led to believe that the braking performance was still very good, because of the stopping distance label. NHTSA believes that any labeling requirement for stopping distance information would give rise to this potential misuse. Accordingly, the agency has no plans to propose adopting a stopping distance labeling requirement.

As explained above, the agency has concluded that no purpose was served by the requirement that vehicle manufacturers provide first purchasers with stopping distance information at the time of delivery of the new vehicle. The amendment made by this rule will relieve vehicle manufacturers of this unnecessary restriction, without lessening the information available to potential purchasers *before* they make a final purchase decision. Accordingly, the agency finds for good cause that this final rule should become effective immediately upon publication in the **Federal Register**, instead of 30 days after publication as is generally required by 5 U.S.C. 553(d).

NHTSA has analyzed the impacts of this final rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. Using the cost estimates provided in GM's petition for that company and extrapolating GM's costs over the entire industry, NHTSA estimates that the requirements for disseminating stopping distance information before publication of this rule imposed annual costs of $1,384,000 on the vehicle manufacturers. This translates to about 18 cents per new vehicle, assuming an annual production of 8 million new passenger cars and motorcycles. Again using the GM cost estimates, the requirement to provide stopping distance information to first purchasers cost manufacturers $1,118,000 per annum (about 15 cents per vehicle), while the requirement to provide stopping distance information to prospective purchasers cost about $266,000 per annum (about 3 cents per vehicle). The total savings expected for vehicle manufacturers as a result of this rule are $1,118,000 per annum, which is well below the threshold for classifying a rule as major or significant. No impacts are anticipated for new vehicle dealers as a result of this rule. Interested consumers will still be able to obtain stopping distance information from dealers or this agency before they buy a new vehicle. Accordingly, a full regulatory evaluation of this rule has not been prepared.

The agency has also considered the impacts of this rule as required by the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. NHTSA believes that few, if any, of the passenger car and motorcycle manufacturers qualify as small entities. To the extent that some of those manufacturers are small entities, the savings they realize as a result of this rule will be minimal, as explained above in the discussion of costs and other impacts. Since the effects of this rule on new vehicle prices will be insignificant, small organizations and small governmental units will not be affected by this rule.

Finally, the agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act and determined that it will not significantly affect the human environment.

The requirements that vehicle manufacturers disseminate stopping distance information are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. OMB has approved the more extensive information dissemination requirements that existed prior to the publication of this rule (OMB No. 2127–0049), but has not approved the more limited requirements in this rule. Accordingly, the requirements in this rule are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). A notice will be published in the **Federal Register** when OMB makes its decision on this request.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 575 is amended as follows:

PART 575—[AMENDED]

1. The authority citation for Part 575 is revised to read as set forth below and the authority sections following §§ 575.6, 575.7, and 575.104 are removed.

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

2. 49 CFR 575.6(a) is amended by revising the first sentence to read as follows:

§ 575.6 Requirements.

(a) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide to the purchaser, in writing and in the English language, the information specified in §§ 575.103 and 575.104 of this part that is applicable to that vehicle and its tires. * * *

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Issued on July 20, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87–16827 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1090

[Ex Parte No. 230 (Sub-No. 6)]

Intermodal Transportation Trailer or Flatcar and Container on Flatcar Service Improvement; Improvement of TOFC/COFC Regulations, (Railroad-Affiliated Motor Carriers and Other Motor Carriers)

AGENCY: Interstate Commerce Commission.

ACTION: Clarification and amendment of final rules.

SUMMARY: In response to a petition seeking clarification the Commission has adopted minor amendments to its new regulations (52 FR 23660, June 24, 1987) currently found in 49 CFR 1090.2 and 1090.3. The regulations concern exemption of the motor portion of joint-rail motor TOFC/COFC services.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357 (DC Metropolitan area).

Environment and Energy

This action will not significantly affect either the quality of the human environment or energy conservation.

Regulatory Flexibility

This action will not have a significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Part 1090

Intermodal transportation, Motor carriers, Railroads.

Decided: July 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons was absent and did not participate.

Noreta R. McGee,

Secretary.

Title 49, Chapter X, Part 1090, of the Code of Federal Regulations is amended as follows:

PART 1090—[AMENDED]

1. The authority citation for 49 CFR Part 1090 is revised to read as follows:

Authority: 49 U.S.C. 10321 and 10505; 5 U.S.C. 553.

2. Section 1090.2 is revised to read as follows:

§ 1090.2 Exemption of rail and highway TOFC/COFC service.

Except as provided in 49 U.S.C. 10505 (e) and (g), 10922(1), and 10530, rail TOFC/COFC service and highway TOFC/COFC service provided by a rail carrier either itself or jointly with a motor carrier as part of a continuous intermodal freight movement is exempt from the requirements of 49 U.S.C. Subtitle IV, regardless of the type, affiliation, or ownership of the carrier performing the highway portion of the service. Tariffs heretofore applicable to any transportation service exempted by this section shall no longer apply to such service. The exemption does not apply to a motor carrier service in which a rail carrier participates only as the motor carrier's agent (Plan 1 TOFC/COFC).

3. Section 1090.3 is revised to read as follows:

§ 1090.3 Use TOFC/COFC service by motor and water carriers.

(a) Except as otherwise prohibited by these rules, motor and water common and contract carriers may use rail TOFC/COFC service in the preformance of all or any portion of their authorized service.

(b) Motor and water common carriers may use rail TOFC/COFC service only if their tariff publications give notice that such service may be used at their option, but that the right is reserved to the user of their services to direct that in any particular instance TOFC/COFC service not be used.

(c) Motor and water contract carriers may use rail TOFC/COFC service only if their transportation contracts and tariffs (for water carriers) make appropriate provisions therefor.

(d) Tariffs of motor and water common or water contract carriers providing for the use of rail TOFC/COFC service shall set forth the points between which TOFC/COFC service may be used.

[FR Doc. 87-16933 Filed 7-23-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Addition of Five National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird, Upland Game, and Big Game Hunting, and One to the List for Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The fish and Wildlife Service (Service) is adding five national wildlife refuges (NWRs) to the lists of open areas for migratory game bird, upland game, and/or big game hunting, and one NWR to the list for sport fishing. The Service has determined that such uses will be compatible with and, in some cases, enhance the major purposes for which each refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with the principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities.

EFFECTIVE DATE: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy Marx, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets NW., Room 2343, Washington, DC 20240; Telephone (202) 343-3922.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purpose(s) for which each refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must othewise be in the public interest. This rulemaking opens five refuges to hunting and one to sport fishing. Refuge-specific regulations for these refuges are contained in a separate rulemaking document on refuge-specific hunting and fishing regulations. Also included in this document are three administrative corrections. McFaddin NWR in Texas and Susquehanna NWR in Maryland were opened to migratory game bird hunting by final rules (September 4, 1980; 45 FR 58554) and (June 16, 1978; 43 FR 26024) respectively, but as an oversight were never added to the list of open areas in 50 CFR Part 32. And, due to a name conflict with the neighboring Sea Rim State Park, Sea Rim NWR in Texas was renamed to Texas Point NWR by an action of the Service in 1981. Therefore, Sea Rim NWR will be deleted and Texas Point NWR substituted in its place. McFaddin and Susquehanna NWRs will also be added to the list of refuges open to migratory game bird hunting in § 32.11

On April 23, 1987, at 52 FR 13484, the Service published a proposed rule to open five refuges to hunting and one to sport fishing. Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordlingly, written comments received on the proposed rule are addressed in the following section.

Responses To Comments Received

Written comments on the proposed rule were received from three organizations and four individuals. Substantive comments on issues not already addressed in hunting and fishing plans, environmental assessments (EA), and section 7 endangered species analyses (all of which were available for public review during the comment period) are responded to below:

Issue: Several commenters take issue with the idea of hunting on a refuge, thinking that the word "refuge" should be taken literally (as in dictionary defined).

Response. NWRs are established for a variety of purposes other than strict protection of mammals and birds. Each individual national wildlife refuge is managed for the purpose(s) for which it was established; such purposes could include providing for environmental education, the protection of hardwood forests, the protection of endangered

species or providing fish and wildlife oriented recreation including but not limited to birdwatching, fishing or hunting. By law (16 U.S.C. 688dd), an activity or a refuge, such as hunting, can be permitted as long as it is compatible with the purpose(s) for which the refuge was established. As a form of recreation to almost 17 million people, hunting, when compatible with refuge purpose(s), is considered to be a valid activity that is often the only practical population control for some species, notably big game.

Issue: No data or studies are cited to back up the assertion that the Kirtland's warbler will not be adversely affected by disturbance from sport hunting.

Response. As addressed in the EA, during the period that the warblers are present (normally late May through August), any "occupied Kirtland's warbler habitat will be closed by State order or Federal regulation, clearly posted against public entry, and patrolled by State officers from May 1 to August 15 each year." Fledgling activity is usually completed by early August. The majority of the hunting will take place when the warblers are not present (the earliest hunting season begins September 15); thus there will be minimal, if any, disturbance to the warblers.

Issue: No positive benefit is shown to the Kirtland's warbler from the proposed program. Without such benefits, the program is illegal under the Endangered Species Act.

Response: There is no such requirement in the Endangered Species Act. Instead, what is required by the Act is that a Federal action, or actions requiring Federal approval or permits, are not likely to "jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical habitat]." As stated in the section 7 evaluation, this proposed hunting program "will not affect" the continued existence of the Kirtland's warbler. No critical habitat has been designated for this species. None of the numerous field researchers who have studied this species in the past has ever documented any adverse effects of hunting to the warbler of its habitat.

Issue: Illegal transfer of authority to the State of Michigan by using Michigan regulations.

Response: As stated in many previous rules, "Refuges open to hunting are managed in accordance with the Secretary's authority under the Refuge Administration Act and the Refuge Recreation Act. The Refuge Administration Act requires hunting and fishing regulations on NWRs to be consistent with State fish and wildlife laws, to the extent practicable. Moreover, the Act is not intended to affect the authority, jurisdiction, or responsibility of the States to regulate fish and resident wildlife under State law or regulations." Therefore, Service policy as stated in 50 CFR 32.2(d) says: "Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulations." Under the regulations that will govern these hunts, the Service maintains its authority to enforce all State and Federal game regulations on NWRs.

Issue: There is an illegal diversion of funds from Washita NWR to pay for the hunt program on Optima NWR.

Response: Optima NWR is a satellite unit of and managed by the staff of the Washita NWR Complex. As such, appropriated funds have been allocated to Washita NWR for the hunting program at Optima NWR.

Issue: On Optima NWR, predatory raptors will likely be shot because of the "hatred felt toward them." Also, significant potential for wildfires due to hunting makes this activity incompatible with Service responsibilities.

Response: The refuge manager is not aware of any "hatred felt toward predatory raptors" in the area. With Federal and State personnel patrolling the refuge during the big game hunting season, any person(s) found shooting raptors, prairie dogs, snakes or any other wildlife that is protected, will be forwarded for prosecution in accordance with Federal and State laws. While some potential always exists on any land for fires to originate from cigarettes thrown from cars, lightning, etc., the threat in this case is slight. In addition, there is a very cooperative atmosphere in the local area to suppress any accidental fires that may occur.

Issue: The EA for Squaw Creek NWR relies on the obsolete 1976 programmatic EIS on the National Wildlife Refuge System for NEPA compliance.

Response: While the EA does reference the 1976 EIS, it does not rely upon it to conclude that opening the refuge to big game hunting will not have any adverse environmental impact. Potential conflicts such as disturbance to endangered species (bald eagles) have been well thought out and discussed, and appropriate recommendations have been made. Also, a section 7 evaluation, as required by the Endangered Species Act, concludes that the proposed hunting program "will not affect" the continued existence of the bald eagle.

Issue: The Squaw Creek NWR hunt plan illegally considers political and economic factors in support of the decision.

Response: The refuge was established as a refuge and breeding ground for migratory birds. The crops (grain and winter wheat browse) grown on the refuge provide food for the migratory birds. The primary purpose of the proposed hunt is to reduce the deer herd which has exceeded the carrying capacity of the refuge and consequently severely reduced, by overbrowsing, the available food supply (crops). Since a great deal of the crops are cooperatively farmed, the potential for losing the benefits of cooperative farming (economics) needs to be considered. Nonetheless, the need to reduce the deer herd is related to the fulfillment of the primary purpose of the refuge. Thus the hunt is supportive of achieving the primary purpose of the refuge and is compatible regardless of political or economic considerations.

Issue: The ratio of 0.5 fawns per doe as stated in the EA for Parker River NWR, indicating an unhealthy deer population, is in direct conflict with the ratio of 1.5 fawns per doe determined by necropsy reports on Parker River deer killed in early 1986. A ratio of 1.7 fawns per doe described in the EA is an indicator of healthy deer in good habitat. Unless additional samples were taken late in 1986 demonstrating a ratio of 0.5, a hunt is clearly unnecessary.

Response: The EA on Parker River NWR was not clear on what the 0.5 ratio indicated. The following should clarify the confusion: The spring necropsy reports reflect the fetus/doe ratio (1.5) which is not the same as production. Some does may not carry to full term or some fawns may not survive the first few critical weeks of life. The fall spotlight counts (0.5 ratio) include only fawns that have survived and have therefore been added to the population. The major concern regarding herd size is the pre-winter population, since winter habitat, weather, etc., present the most critical challenges for deer survival. The fall spotlight counts indicate a low reproductive rate.

If a comparison is made between the number of *fawns* per doe observed in the fall and the number of *fetuses* per doe recorded from necropsy results, the conclusion is that there is a high degree of fetus/fawn mortality. True productivity is more accurately reflected by the fawns observed in the fall population. The comparison of fetus/doe ratios over time is valuable to show trends. A decline in the fetus/doe ratio is a valid indicator of the health of the

deer, individually and as a population. A healthy habitat will support healthy productive deer which in turn will produce healthy fawns that have a higher probability of survival.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA)(16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary.

The Refuge Recreation Act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this Act, the Secretary is required to determine that funds are available for the development, operation, and maintenance of these permitted forms of recreation.

In accordance with the NWRSAA and the Refuge Recreation Act, the Secretary has determined that the hunting and fishing openings described below will be compatible and consistent with the primary purposes for which each of the refuges listed was established, and that funds are available to adminsiter these programs. The hunting and fishing programs will be within State and Federal (migratory game bird) regulatory frameworks. A discussion of the compatibility of the hunting and fishing programs with the purpose(s) for which each refuge was established and the availability of funding for each program, as discussed in the proposed rule, follows:

Atchafalaya NWR was established in 1984 by Pub. L. 98–548 to "(1) provide for conservation and management of all fish and wildlife within the refuge, (2) fulfill the international treaty obligations of the U.S. with respect to fish and wildlife and (3) provide opportunities for scientific research, environmental education, and fish and wildlife oriented recreation, including hunting." It is proposed to open the refuge to migratory game bird (geese, ducks, coots, snipe, woodcock), upland game (squirrel, rabbit, raccoon, opossum) and big game (deer, turkey) hunting. Except for an area designated as a sanctuary for waterfowl, the rest of the refuge will be open to hunting. Present numbers of migratory and resident game species are large enough to support hunting, with deer currently exceeding the carrying capacity of the refuge. Under a cooperative agreement with the State of Louisiana, the management and enforcement of the hunts will be the responsibility of the Louisiana Department of Wildlife and Fisheries (LDWF). A section 7 evaluation under the Endangered Species Act concludes that the proposed program, with currently planned management, enforcement and regulations, "will not affect" the refuge population of American alligators listed as threatened by similarity of appearance. Opening the refuge to hunting would fulfill its recreational purpose, would be compatible with the other purposes for which the refuge was established and would be in compliance with the NWRSAA. Since LDWF will be administering and funding the hunting program, adequate funds are available for opening Atchafalaya NWR to migratory game bird, upland game and big game hunting within the requirements of the Refuge Recreation Act.

Barnegat NWR was established in 1967 by authority of the Migratory Bird Conservation Act to provide resting, feeding and wintering areas for migratory waterfowl, especially black ducks and Atlantic brants. In 1984, the refuge was combined with the Brigantine NWR and renamed Edwin B. Forsythe NWR. Barnegat is now managed as a Division of the Edwin B. Forsythe NWR. It is proposed to open Barnegat to sport fishing, an activity historically utilized by local residents since the mid 1700s. High public demand has prompted this process for opening Barnegat to sport fishing. Heaviest usage by anglers occurs during the summer months, a time when large concentrations of waterfowl will not be found on the area. Destruction of habitat for wintering waterfowl will be minimized by restricting anglers to boat usage and foot access at a limited number of boardwalks. Foot access sites will be fewer in number than a presently found, thus resulting in an overall increase in habitat preservation. To avoid disturbance of nesting colonial waterbirds, no public use will be permitted on any Service controlled bay islands. A section 7 evaluation concludes that the proposed sport fishing program "will not affect" the peregrine falcons nesting area, as a large buffer zone aorund the nesting towers is closed to all public entry and use. Therefore, opening the Barnegat Division to sport fishing would be compatible with the purpose for which it was established and would be in compliance with the NWRSAA. The estimated annual cost to administer the program would be approximately $5,000. Within the annual refuge budget of approximately $150,000, the necessary funds are available to administer this program. Therefore, opening the Barnegat Division to sport fishing would be in compliance with the Refuge Recreation Act.

Kirtland's Warbler Wildlife Management Area (WMA) was established in 1981 by authority of the Endangered Species Act to preserve, restore and enhance the endangered Kirtlands's warbler. Under a cooperative agreement with the State of Michigan, actual land management of the WMA is carried out by the State's Department of Natural Resources (MDNR). It is proposed to open Kirtland's Warbler WMA to migratory game bird, upland game and big game hunting. Enforcement and regulation of the hunting program will be the responsibility of the State of Michigan. The areas actually occupied by nesting Kirtland's warblers will be closed, posted and patrolled against all public entry between May 1 and August 15. Since most hunting will take place when the warblers are not present and, historically, hunting in the area has not disturbed or altered the habitat, a section 7 evaluation concludes that the proposed hunting program "will not affect" the continued existence of the endangered Kirtland's warbler. Opening Kirtland's Warbler WMA to hunting would therefore be compatible with the purpose for which the area was established, and would be in compliance with the NWRSAA. Since all funding for the proposed hunting program would be provided by the MDNR, adequate funds are available for opening Kirtland's Warbler WMA to migratory game bird, upland game and big game hunting within the requirements of the Refuge Recreation Act.

Optima NWR was established in 1975 by authority of the Fish and Wildlife Act of 1956 to provide migration and wintering habitat for Canada geese and mallards. In 1982 Optima became a satellite refuge of Washita NWR, which now administers and manages Optima NWR. It is proposed to open Optima NWR to big game (deer, turkey) hunting.

To provide habitat for mirgrating waterfowl, future plans for the refuge include raising Optima Lake to levels high enough to inundate the refuge. However, presently most of the refuge is dry and the lack of water has prevented any extensive waterfowl use of the refuge. So long as this situation continues, opening the refuge to big game hunting would not appreciably impact waterfowl populations. The hunting program will be reevaluated when Optima Lake water levels are raised sufficiently to flood the refuge. To prevent damage to existing habitat during the proposed hunt, motor vehicles and open fires will not be allowed on the refuge. There is presently only a minimal use of the refuge by the endangered bald eagle. Should there be greater use in the future due to inundation of the refuge, the hunting program will be reevaluated. A section 7 evaluation concludes that, at the present time, the proposed hunting program "will not affect" the continued existence of the bald eagle. Big game hunting will not currently interfere with or detract from the purpose for which the refuge was established and therefore would be in compliance with the NWRSAA. The annual cost to administer the hunting program would be approximately $5,000. Within the annual Washita Refuge Complex budget of approximately $316,500, the necessary funds are available for administration of the proposed hunting program. Therefore, opening Optima NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Parker River NWR was established in 1942 by authority of the Migratory Bird Conservation Act to protect and preserve migratory waterfowl, especially black ducks and Canada geese. It is proposed to open the refuge to big game (deer) hunting. The deer population on the refuge is well beyond the carrying capacity of the refuge and severely degrading the habitat through overbrowsing. The proposed hunt will have only minor impacts on waterfowl use as the hunt will be limited to the upland portion of the refuge, the hunt will be highly regulated and all hunters will be required to attend an orientation session on the refuge and its hunting program. Peregrine falcons and bald eagles pass over the refuge during spring and fall migration. Piping plovers nest on the refuge beaches during spring and summer. No conflict is expected with the seasonal use of the refuge by these species as the hunt will take place during the first week of December. A section 7 evaluation concludes that the proposed hunting program "will not affect" the listed species or their critical habitat.

Therefore, opening the refuge to the proposed, highly regulated big game hunting program is compatible with the purpose of the refuge and would be in compliance with NWRSAA. The annual cost of the hunting program is estimated at $5,550. Within the annual refuge budget of approximately $450,700, the necessary funds are available to administer the proposed hunting program. Therefore, opening Parker River NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Squaw Creek NWR was established in 1935 by Executive Order 7156 as a refuge and breeding ground for migratory birds. It is proposed to open the refuge to big game (deer) hunting. Burgeoning deer populations are exceeding the carrying capacity of the refuge and competing directly with waterfowl for grain and winter wheat browse. If deer damage to refuge crops exceeds the refuge share of those crops under terms of permitted farming, it could lead to termination of some or all of the cooperative farming agreements the refuge depends upon to raise crops as food for waterfowl. Hunting would take place in January when most, if not all, waterfowl and bald eagles have left the refuge. Furthermore, the proposed hunting area excludes the southern portion of the refuge normally used by the eagles. A section 7 evaluation concludes that the proposed hunting program "will not affect" the continued existence of the bald eagle or its habitat. Opening Squaw Creek NWR to big game hunting is therefore supportive of and compatible with the purpose for which the refuge was established and would be in compliance with NWRSAA. The estimated annual cost of the hunting program would be approximately $2,500. Within an annual refuge budget of approximately $157,000 the necessary funds are available to administer the hunting program. Therefore, opening Squaw Creek NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that opening these refuges to hunting and fishing will generate approximately 22,810 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, and the 1986 Economic Report of the President (Consumer Price Index), total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately $691,425, or substantially less than $100 million. In addition, since these estimated receipts will be spread over six States, the implementation of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule would have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. These openings will provide recreational opportunities and generate economic benefits that may not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal Government of law enforcement, posting, etc., needed to implement activities under this rule would be considerably less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

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

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), environmental

assessments have been prepared for these openings. Section 7 evaluations have been prepared pursuant to the Endangered Species Act. These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, or by mail, addressing the Director at the above address.

Nancy A. Marx, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, Parts 32 and 33 of Chapter I of Title 50 of the Code of Federal Regulations are amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.11 is amended by revising Sea Rim NWR, TX and adding Atchafalaya NWR, LA, Susquehanna NWR, MD, Kirtland's Warbler Wildlife Management Area, MI, and McFaddin and Texas Point NWRs, TX alphabetically by State as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Louisiana

Atchafalaya National Wildlife Refuge

* * * * *

Maryland

Susquehanna National Wildlife Refuge

* * * * *

Michigan

* * * * *

Kirtland's Warbler Wildlife Management Area

* * * * *

Texas

* * * * *

McFaddin National Wildlife Refuge

* * * * *

Texas Point National Wildlife Refuge

* * * * *

3. Section 32.21 is amended by adding Atchafalaya NWR, LA and Kirtland's Warbler Wildlife Management Area, MI alphabetically by State as follows:

§ 32.21 List of open areas; upland game.

* * * * *

Louisiana

Atchafalaya National Wildlife Refuge

* * * * *

Michigan

* * * * *

Kirtland's Warbler Wildlife Management Area

* * * * *

4. Section 32.31 is amended by adding Atchafalaya NWR, LA, Parker River NWR, MA, Kirtland's Warbler Wildlife Management Area, MI, Squaw Creek NWR, MO, and Optima NWR, OK alphabetically by State as follows:

§ 32.31 List of open areas; big game.

* * * * *

Louisiana

Atchafalaya National Wildlife Refuge

* * * * *

Massachusetts

* * * * *

Parker River National Wildlife Refuge

Michigan

* * * * *

Kirtland's Warbler Wildlife Management Area

* * * * *

Missouri

* * * * *

Squaw Creek National Wildlife Refuge

* * * * *

Oklahoma

Optima National Wildlife Refuge

* * * * *

PART 33—[AMENDED]

1. The authority citation for Part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 715i.

2. Section 33.4 is amended by adding Edwin B. Forsythe NWR (Barnegat Division), NJ alphabetically as follows:

§ 33.4 List of open areas; sport fishing.

* * * * *

New Jersey

* * * * *

Edwin B. Forsythe National Wildlife Refuge (Barnegat Division)

* * * * *

Dated: July 1, 1987.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-16780 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-55

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 604 and 652

[Docket No. 70617-7148]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement conservation and management measures prescribed in Amendment 7 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). The intent of the rule is to allocate fairly among fishermen the limited Atlantic surf clam resource.

EFFECTIVE DATE: August 31, 1987.

ADDRESS: Copies of Amendment 7, the environmental assessment, and the final regulatory impact review/regulatory flexibility analysis are available from Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 200 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, (617) 281-3600, ext. 232.

SUPPLEMENTARY INFORMATION: Amendment 7 was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England Fishery Management Council. The amendment, which has been approved by the Secretary of Commerce, revises management measures for Atlantic surf clams.

The amendment (1) changes the quarterly quota allocation for the Georges Bank Area from 10 percent-40 percent-40 percent-10 percent to 25 percent for each quarter; (2) removes, for all areas, the 5,000 bushel threshold for transfer of unharvested quota from one quarter to the next; (3) adds the provision that any unharvested quota from the Nantucket Shoals and Georges Bank areas be distributed proportionately among the remaining quarters in the year; (4) removes the 10 percent limit on carryover of unharvested quota from one year to the next, but provides that any such carryover in the Nantucket Shoals and Georges Bank areas be distributed proportionately each quarter; and (5) provides for annual renewal of vessel permits. A proposed rule to amend the regulations implementing the FMP to implement the amendment and to facilitate enforcement and prosecution for infractions of the regulations was

published on May 5, 1987 (52 FR 16419). The background and reasons for the amendment and the proposed changes in the regulations are discussed in the proposed rule and are not repeated here.

No comments were received from the general public. This final rule is substantively identical to the proposed rule except for one change made in response to a comment from the NMFS office responsible for issuing permits. That office asked that the regulations require applications for annual permit renewals to be submitted at least 30 days before the desired effective date to allow sufficient time for timely issuance of the permits. That change has been made with the consent of the Council.

This final rule also amends Part 604—OMB Control Numbers for NOAA Information Collection Requirements to display the OMB control number previously assigned to the information collection requirements of § 652.22(a).

Classification

The Secretary of Commerce has determined that the amendment this rule would implement is necessary for the conservation and management of the Atlantic surf clam and ocean quahog fisheries and is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Council prepared an environmental assessment (EA) for this amendment which analyzes the consequences of its action. The NOAA Assistant Administrator for Fisheries concluded that there will be no significant impact on the environment as a result of this rule.

The Administrator of NOAA determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities.

This rule contains collection of information requirements subject to the Paperwork Reduction Act which have been approved by the Office of Management and Budget under OMB Control Number 0648–0097.

The Council determined that this rule will be implemented in a manner consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Virginia concurred with the Council's evaluation. Maine, Rhode Island, and Maryland made no response.

List of Subjects in 50 CFR Parts 604 and 652

Fisheries, Reporting and recordkeeping requirements.

Dated: July 21, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 604 and 652 are amended as follows:

PART 604—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 604 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

2. In the table in § 604.1, the following entry is added in numerical order by section number:

§ 604.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

50 CFR part or section where the information collection requirement is located	Current OMB control No. (all numbers begin 0648–)
* * * * *	
§ 652.22(a)	0097
* * * * *	

* * * * *

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

3. The authority citation for Part 652 continues to read as follows:

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

4. In § 652.1, the existing text is designated as paragraph (a); in newly designated paragraph (a) the words "fishery conservation zone" are removed and the initials "EEZ" are added in their place; and a new paragraph (b) is added, to read as follows:

§ 652.1 Purpose.

* * * * *

(b) These regulations implement the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries.

5. In § 652.2, the definition for *Fishery Conservation Zone (FCZ)* is removed and new definitions for *Areas of custody* and *Exclusive Economic Zone (EEZ)* are added in alphabetical order, to read as follows:

§ 652.2 Definitions.

* * * * *

Areas of custody mean any vessels, buildings, vehicles, piers, or dock facilities where surf clams or ocean quahogs may be found.

* * * * *

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

* * * * *

6. In § 652.4, in paragraph (c), the introductory text is revised; in paragraph (h), the introductory text is revised, paragraph (h)(2) is redesignated as (h)(3); and a new paragraph (h)(2) is added, to read as follows:

§ 652.4 Permits.

* * * * *

(c) *Application.* The owner or operator must submit a permit application on an appropriate form obtained from the Regional Director before November 1 of each year or at least 30 days before the date the applicant desires to have the permit be effective. The application will contain at least the following information.

* * * * *

(h) *Expiration.* Except as provided in paragraph (h)(3) of this section, a permit will expire:

* * * * *

(2) On December 31 of each year, or

* * * * *

7. In § 652.7, in paragraph (a), the introductory text, and paragraph (f)(1) are revised; paragraphs (m) and (n) are redesignated as (n) and (o); and a new paragraph (m) is added, to read as follows:

§ 652.7 Prohibitions.

(a) No permit holder may fish for any surf clams or ocean quahogs:

* * * * *

(f) * * *

(1) Refuse to permit an authorized officer to board a fishing vessel subject

to such person's control no matter where that vessel may be located, or to enter areas of custody subject to such a person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, these regulations, or any other regulations issued under the Magnuson Act;

* * * * *

(m) No dealer, vessel owner, operator, or other person may knowingly submit false information in records and reports required to be kept and filed under § 652.5.

* * * * *

8. In § 652.21, paragraphs (a)(3), (b)(3), (c)(2), and (c)(3) are revised, to read as follows:

§ 652.21 Catch quotas.

(a) * * *

* * * * *

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls short of the specified quarterly quota, the Regional Director will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quotas. The amount from the last calendar quarter will be carried over to the first calendar quarter of the next year.

(b) * * *

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls short of a quarterly quota, the Regional Director will add the amount of the shortfall proportionately to the remaining quarterly quotas of the year. If the actual catch of surf clams exceeds a quarterly quota, the Regional Director will subtract the amount of the excess proportionately from the succeeding quarterly quotas for the year. The amount from the last calendar quarter will be carried over proportionately to the four quarterly periods of the next year.

(c) * * *

(2) *Quarterly quotas.* This annual quota will be divided into four equal quarterly quotas. Each fishing quarter will begin on the first Sunday of the calendar quarter, beginning January 1, April 1, July 1, and October 1.

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls short of a quarterly quota, the Regional Director will add the amount of the shortfall proportionately to the remaining quarterly quotas of the year. If the actual catch of surf clams exceeds a quarterly quota, the Regional Director will subtract the amount of the excess proportionately from the succeeding quarterly quotas for the year. The amount from the last quarterly quota in a calendar year will be carried over and added proportionately to the four quarterly quotas of the next year.

* * * * *

7. In § 652.22, paragraphs (a)(4) and (f)(1) are revised, to read as follows:

§ 652.22 Effort restrictions.

(a) * * *

* * * * *

(4) *Make-up periods.* For each authorized fishing period, during the fishing weeks commencing at 0001 hours on the first Sunday of November and ending at 1800 hours on the last Thursday of April, the owner or operator of a vessel may claim a make-up period if, in his opinion, weather or sea conditions would prevent effective fishing or endanger the vessel or crew.

* * * * *

(f) *Presumption.* (1) The presence of surf clams or ocean quahogs aboard any vessel engaged in the surf clam or ocean quahog fishery, or the presence of any part of a vessel's gear in the water, more than 12 hours after a closure occurs under this section, will be *prima facie* evidence that such vessel was fishing for surf clams or ocean quahogs in violation of these regulations.

* * * * *

§§ 652.2, 652.4, 652.10, 652.22 [Amended]

8. In addition to the amendments set forth above, the initials "FCZ" are removed and the initials "EEZ" are added in their place in the following places:

§ 652.2, in the definitions for Mid-Atlantic Area and New England Area;
§ 652.4(a)(1) (i) and (ii);
§ 652.10; and
§ 652.22(f)(2).

[FR Doc. 87-16896 Filed 7-23-87; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA announces the closure of the commercial fishery for coho salmon in the exclusive economic zone (EEZ) from Point Delgada, California, to the U.S.-Mexico border, at midnight, July 21, 1987, to ensure that the subarea coho salmon quota is not exceeded. The commercial salmon fishery in the same area continues for all salmon species except coho salmon. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Pacific Fishery Management Council (Council), the NMFS Southwest Regional Director, and the Deputy Director of the California Department of Fish and Game (CDFG), that the commercial fishery catch quota of 26,800 coho salmon for the subarea will be reached by that time. The closure is necessary to conform to the preseason announcement of 1987 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the EEZ from Point Delgada, California, to the U.S.-Mexico border, to commercial fishing for coho salmon is effective at 2400 hours local time, July 21, 1987. Comments on this closure will be received until August 4, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150, or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The 1987 commercial fishery for all salmon species from Point Delgada, California, to the U.S.-Mexico border, was established as June 1 through the earlier of either September

30 or attainment of the coho quota. The subarea coho catch quota is 26,800 fish. If the coho quota is met prior to September 30, the commercial fishery begins, and continues until September 30, for all salmon except coho salmon.

Based on the best available information, the commercial fishery catch in the subarea is projected to reach the subarea coho catch quota by midnight, July 21, 1987.

Therefore, NOAA issues this notice to close the commercial fishery for all salmon species in the EEZ from Point Delgada, California, to the U.S.-Mexico border, effective midnight, July 21, 1987. The commercial fishery for all salmon species except coho begins in the same area at 0001 hours local time, July 22, 1987. This notice does not apply to other fisheries which may be operating in this or other areas.

The Regional Director consulted with the Chairman of the Council, the NMFS Southwest Regional Director, and a representative of CDFG regarding a closure of the commercial fishery for all salmon species between Point Delgada, California, and the U.S.-Mexico border. The CDFG representative confirmed that California will close the commercial fishery for all salmon species and immediately reopen the commercial fishery for all salmon except coho salmon in state waters adjacent to this subarea of the EEZ effective midnight, July 21, 1987.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-16894 Filed 7-21-87; 4:18 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restrictions and request for comments.

SUMMARY: NOAA issues this notice modifying restrictions on fishing for the *Sebastes* complex of rockfish caught north of Coos Bay, Oregon, and seeks public comment on this action. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and supersedes those provisions published on January 9, 1987, (52 FR 790) for yellowtail rockfish, a component of the *Sebastes* complex. The intended effect is to lower fishing rates on yellowtail rockfish, reduce the amount by which the 1987 acceptable biological catch for this species will be exceeded, and reduce the likelihood of biological stress.

DATES: Effective 0001 hours Pacific Daylight Time (PDT), July 22, 1987, until modified, superseded, or rescinded. Comments will be accepted through August 10, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150, or E. Charles Fullerton, 213-514-6196.

SUPPLEMENTARY INFORMATION: The implementing regulations for the Pacific Coast Groundfish Fishery Management Plan (FMP) at §§ 663.22 and 663.23 provide for inseason adjustments of fishing levels by notice published in the **Federal Register.** The Pacific Fishery Management Council (Council) reviewed the progress of the groundfish fishery at its July 8-10, 1987, meeting and recommended decreasing the trip limit for the yellowtail rockfish component of the multispecies *Sebastes* complex of rockfish caught north of Coos Bay, Oregon. This action supersedes provisions effective January 1, 1987 (52 FR 790, January 9, 1987), which limited landings of the yellowtail rockfish component of the *Sebastes* complex.

The Council's recommendations and the action taken by the Secretary of Commerce (Secretary) on those recommendations are presented below.

Council Recommendation: The Council recommended the trip limit for the yellowtail rockfish component of the *Sebastes* complex caught north of Coos Bay, Oregon, should be decreased; the weekly trip limit for the *Sebastes* complex as a whole will remain at 25,000 pounds. The weekly trip limit for yellowtail rockfish caught north of Coos Bay should change from 10,000 to 7,500 pounds. The biweekly trip limit option would be adjusted so that 50,000 pounds of the *Sebastes* complex, containing no more than 15,000 pounds of yellowtail rockfish, may be landed once in a two-week period. The twice-weekly trip limit option would be adjusted so that 12,500 pounds of the *Sebastes* complex, containing no more than 3,750 pounds of yellowtail rockfish, may be landed twice in a one-week period. As at the present, there are no restrictions on landings of the *Sebastes* complex under 3,000 pounds.

Rationale: The fishery for the *Sebastes* complex of rockfish north of Coos Bay, Oregon, is managed by trip limits designed to produce landings close to the 1987 annual harvest guideline of 10,200 metric tons. The harvest guideline has not been designated as a quota. Data presented at the July Council meeting indicate 1987 landings through June 6 are above 1986 levels for the same time of year by 28 percent for the *Sebastes* complex and by 48 percent for yellowtail rockfish. Under current trip limits, landings of the *Sebastes* complex in 1987 are projected to reach the 10,200 mt harvest guideline by November 3 and to exceed the harvest guideline by about 13 percent by the end of the year. Furthermore, landings of yellowtail rockfish are projected to reach the 1987 annual ABC of 3,600 mt for this species (north of Coos Bay) by August 23 and to exceed this ABC by about 59 percent by the end of the year.

Yellowtail rockfish, a dominant component of the *Sebastes* complex in the Vancouver and Columbia areas, was documented as biologically stressed in March 1983 (48 FR 8283, February 28, 1983). Trip limits have been imposed since then to reduce the harvest of this species which had been landed at rates exceeding the annual ABC estimates for the previous five years. Because yellowtail rockfish frequently are caught with other species in the multispecies *Sebastes* complex, limits were placed on the complex as a whole. It is clear from historical data that unrestricted landings would exceed ABC significantly, thereby increasing the likelihood of biological stress on yellowtail rockfish.

The Council considered the most recent data available in its recommendation to further reduce landings of yellowtail rockfish thereby preventing an excessive overage of the 3,600 mt ABC for this species. Accordingly, the trip limit for the yellowtail rockfish component of the *Sebastes* complex is reduced by 25 percent, with proportional decreases in the biweekly and twice-weekly trip limit options. The Council did not consider the projected overage of the 10,200 mt harvest guideline for the *Sebastes* complex as a whole to be significant;

therefore, the trip limit for the *Sebastes* complex is not modified.

Secretarial Action: The Secretary concurs with the Council's recommendations and, therefore, adjusts the trip limit provisions published in the Federal Register on January 9, 1987 (52 FR 790) by decreasing the poundage limits for the yellowtail rockfish component of the *Sebastes* complex in paragraphs (3)(a) (weekly trip limit), (3)(b) (biweekly trip limit), and (3)(c) (twice-weekly trip limit). All other provisions for the *Sebastes* complex remain unchanged except for the change to the definition of the fishing week from Sunday–Saturday to Wednesday–Tuesday effective May 3, 1987 (52 FR 15726, April 30, 1987).

Because the vast majority of groundfish caught off Washington, Oregon, and California are taken from the exclusive economic zone (EEZ) 3–200 nautical miles offshore, all groundfish taken in ocean waters off Washington, Oregon, and California and retained, possessed, or landed in violation of these restrictions will be treated as though they were taken in the EEZ.

For the convenience of the public, the text of the January 9, 1987, notice is repeated here and updated as noted above.

(1) *Definitions.*

(a) *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and *Sebastolobus* spp. (idiot) rockfish.

(b) "One-week period" means seven consecutive days beginning 0001 hours Wednesday and ending 2400 hours Tuesday, local time.

(c) "Two-week period" means 14 consecutive days beginning at 0001 hours Wednesday and ending 2400 hours Tuesday, local time.

(d) All weights are round weights of the whole fish.

(2) *General.*

(a) These restrictions apply to all fish in the *Sebastes* complex taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California. All fish in the *Sebastes* complex possessed 0–200 nautical miles offshore of, or landed in, Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

(b) There is no limit on the number of landings under 3,000 pounds of the *Sebastes* complex allowed per week.

(c) Coos Bay means 43°21'34" N. latitude, which is the latitude of the north jetty at Coos Bay, Oregon.

(d) It is unlawful to take and retain, possess, or land fish in excess of the 1987 trip limits after December 31, 1986, even if those fish were possessed legally in 1986.

(3) Restrictions on the *Sebastes* Complex Caught North of Coos Bay.

(a) *Weekly trip limit.* Except for the biweekly and twice-weekly trip limits provided in paragraphs (3)(b) and (3)(c), no more than 25,000 pounds of the *Sebastes* complex, including no more than 7,500 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a one-week period north of Coos Bay. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that one-week period.

(b) Biweekly trip limit. If the state where the fish will be landed is notified as required by this paragraph, up to 50,000 pounds of the *Sebastes* complex, including no more than 15,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a two-week period north of Coos Bay. After notification is given, and while it remains in effect, only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in each two-week period.

The state where the fish will be landed (Washington, Oregon, or California) must receive a written notice declaring intent to use the biweekly limits before the first day of the first two-week period in which such landings are to occur. The notice is binding for subsequent consecutive two-week periods until revoked in writing, addressed to the appropriate state agency, prior to the two-week period in which the rescission is to occur.

Notifications must be submitted to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 98365 telephone 503–867–4741; P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515; 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462; or to the Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, telephone 206–753–6623; or to the California Department of Fish and Game, Branch Office, 619 Second Street, Eureka, CA 95501, telephone 707–445–6499.

(c) *Twice-weekly trip limit.* If the state where the fish will be landed is notified as required by this paragraph, up to 12,500 pounds of the *Sebastes* complex, including no more than 3,750 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip north of Coos Bay. After notification is given, and while it remains in effect, only two landings of the *Sebastes* complex above 3,000 pounds may be made per vessel in a one-week period.

The state where the fish will be landed (Washington, Oregon, or California) must receive a written notice declaring intent to use the twice-weekly limits before the first day of the first one-week period in which such landings are to occur; the notice is binding for subsequent consecutive one-week periods until revoked in writing, addressed to the appropriate state agency, prior to the week in which the rescission is to occur. Notifications must be submitted to the same addresses given in paragraph (3)(b) of this section for biweekly trip limits.

(4) Restrictions on the *Sebastes* Complex Caught South of Coos Bay.

No more than 40,000 pounds of the *Sebastes* complex may be taken and retained, possesed, or landed, per vessel per fishing trip south of Coos Bay. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Coos Bay.

(5) Operating both North and South of Coos Bay on a Fishing Trip.

(a) Unless the owner or operator of the fishing vessel has notified the State of Oregon as required by paragraph (5)(b), no person fishing for any groundfish species during a single fishing trip may fish both north and south of Coos Bay, or fish in one area and possess or land fish in the other area, if more than 3,000 pounds of the *Sebastes* complex is landed from that fishing trip. If fishing is conducted both north and south of Coos Bay, or if fish are caught north of Coos Bay and possessed or landed south of Coos Bay during the fishing trip, then the restictions on the *Sebastes* complex caught north of Coos Bay apply. If fishing is conducted south of Coos Bay only, and fish are possessed or landed north of Coos Bay, then the restrictions on the *Sebastes* complex caught south of Coos Bay apply.

(b) Except as provided in paragraph (5)(c), notification must be submitted to one of the following offices of the Oregon Department of Fish and Wildlife, by telephone or in writing, prior to leaving port on a fishing trip: Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; or P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515, between 8:00 a.m. and 4:30 p.m., and other times at 503–269–5000 or

503–269–5999; or 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462.

(c) A vessel owner or operator at sea who has not made notification under this paragraph and who wishes to do so, or who wants to change the notification for the current fishing trip, may do so by radiotelephone. (This radiotelephone message must be confirmed in writing by the vessel owner or operator to the address in subparagraph (b) above immediately on return to port; corrections and confirmations must be sent to the same address as the original message.) In this event, the provisions in paragraph (3) for the *Sebastes* complex caught north of Coos Bay will apply to all of the *Sebastes* complex taken in that trip, no matter where the fish are caught.

Classification

The determination to impose these fishing restictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see ADDRESSES) during business hours until the end of the comment period.

This action is being taken under the authority of §§ 663.22 and 663.23, and is in compliance with Executive Order 12291. The action is covered by the regulatory flexibility analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice in the **Federal Register** in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. If current fishing rates continue, the 1987 ABC for yellowtail rockfish will be significantly exceeded by the end of the year. Prompt action to decrease these fishing rates is necessary to decrease the likelihood of biological stress on yellowtail rockfish. Consequently, further delay of this action is impracticable and contrary to the public interest, and this action is taken in final form effective 0001 hours PDT on July 22, 1987, the earliest date possible at the beginning of a fishing week.

The public has had opportunity to comment on this action. The public participated at meetings of the Council and its advisory bodies on July 7–10, 1987, near San Francisco, California, and the Council's Groundfish Management Team on June 11–12, 1987, in Seattle, Washington. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: July 21, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–16895 Filed 7–21–87; 4:34 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 142
Friday, July 24, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Informal Hearing Procedures for Materials Licensing Adjudications

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 29, 1987 (52 FR 20089), the NRC published for public comment a proposed rule to provide procedures for the conduct of informal adjudicatory hearings in materials licensing procedures. The comment period for this proposed rule is to expire on July 28, 1987. The law firm of Shaw, Pittman, Potts & Trowbridge, on behalf of several of its clients, has requested a thirty-one day extension of the comment period. The request is granted. The extended comment period now expires on August 28, 1987.

DATES: The comment period has been extended and now expires August 28, 1987. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Bollwerk, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 634–3224.

Dated at Washington, DC, this 20th day of July, 1987.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 87–16890 Filed 7–23–87; 8:45 am]
BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 015CE, Special Conditions No. 23–ACE–14A]

Special Conditions to Incorporate ADI System Provisions; Petersen Aviation, Inc., Modified Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions; Amendment to Special Conditions No. 23–ACE–14.

SUMMARY: This notice proposes to amend special conditions No. 23–ACE–14, for Petersen Aviation, Inc., modified Beech Model 55 Series, Model 58 Series, and Model 95( )55 Series Airplanes, to incorporate ADI system provisions. One special condition paragraph, on the ADI fluid quantity indicator, was inadvertently omitted when these special conditions were originally proposed and adopted. This notice presents the omitted paragraph for public comment prior to adoption into final special conditions.

DATE: Comments must be received by August 24, 1987.

ADDRESS: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 015CE, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 015CE. Comments may be inspected in the Docket File between 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office, ACE–110, Federal Aviation Administration, Room 1656, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed based on comments received. All comments submitted will be available both before and after closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The certification basis (TC 3A16) for the Beech Aircraft Corporation Model 95( )55 Series, Model 55 Series, and Model 58 Series Airplanes is Part 3 of the Civil Air Regulations as amended to May 15, 1956, and § 23.1385(c), 23.1387(a) and 23.1387(e) of Federal Aviation Regulations, Part 23, dated February 1, 1965, as amended by Amendment 23–12; Equivalent Safety Findings: CAR sections 3.663 and 3.757 for Models 95–B55 and 95–B55A (S/N TC–2003 and up), Models E55 and E55A (S/N TE–1084 and up), Models 58 and 58A (S/N TH–773 and up); CAR section 3.387 for Models 95–B55 and 95–B55A (all serials); Models E55 and E55A (all serials), and Models 58 and 58A (all serials), and Part 36 through Amendment 36–10 of the Federal Aviation Regulations for Models 95–B55 (S/N TC–2285 and after), for Models E55 (S/N TEI–1171 and after), and for Model 58 (S/N TH–1090 and after), special conditions No. 23–ACE–14, and any additional special conditions that may result from this proposal.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with §§ 21.16 and

21.101(b)(2) and become part of the type certification basis in accordance with § 21.17(a).

Background

On August 1, 1985, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for Supplemental Type Certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Model 95( )55 Series Airplanes. This installation incorporates ADI tanks, pumps, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas).

Special conditions for the certification of this ADI system were proposed in Notice No. 23–ACE–14, published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986. No comments were received. The special conditions were adopted as proposed on August 8, 1986, and published in the **Federal Register** on August 25, 1986 (51 FR 30206) to be effective September 24, 1986.

Subsequent certification activity revealed that one special condition paragraph previously coordinated between the FAA and the applicant had inadvertently been omitted from the special conditions package. The purpose of this proposal is to correct that omission.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft air transportation, and Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following amendment to Special Conditions No. 23–ACE–14 to be a part of the type certification basis for Beech Model 95 ( )55 Series, Model 55 Series, and Model 58 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) system.

Special Condition 2 is proposed to be amended by adding a new paragraph (k) to read as follows:

(k) In § 23.1337(b), for ADI systems, replace the lead-in paragraph with "There must be means to indicate the quantity of ADI fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition—"

Issued in Kansas City, Missouri, on July 13, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87–16863 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–13

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14 CFR Part 39

[Docket No. 87–NM–71–AD]

Airworthiness Directives; Airbus A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to all Airbus A300 series airplanes, that would require a one-time only visual inspection and repair, if necessary, of the rear pressure bulkhead. This proposal is prompted by reports of corrosion being detected in the area around the lower rim of the rear pressure bulkhead. This condition, if not corrected, could eventually lead to failure of the bulkhead.

DATE: Comments must be received no later than September 7, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–71–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM–120S; telephone (206) 431–1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–71–AD, 179000 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Direction General de L'Aviation Civile—France (DGAC) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of corrosion detected in the area around the lower rim of the rear pressure bulkhead on Airbus A300 airplanes. The corrosion is attributed to the leaking of fluids from the toilet. Corrosion in this area, if not detected and corrected, could lead to failure of the bulkhead.

Airbus Industrie has issued Service Bulletin A300–53–213, dated November 18, 1986, which describes an inspection procedure to detect and repair corrosion around the rear pressure bulkhead. The DGAC has classified this service bulletin as mandatory.

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

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection of the rear pressure bulkhead, and repair, if necessary, in accordance

with the service bulletin previously mentioned.

It is estimated that 52 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $16,640.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($320). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to my by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A300 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect corrosion in the area of the real pressure bulkhead, accomplish the following:

A. Perform a visual inspection for corrosion in the lower rim area of the rear pressure bulkhead, and repair, if necessary, prior to further flight, in accordance with Airbus Industrie Service Bulletin A300–53–213, dated November 18, 1986, as follows:

1. On airplanes with less than 4.5 years since the first flight as of the effective date of this AD: inspect within 6 months after the airplane has reached 4.5 years since the first flight.

2. On airplanes with 4.5 years or more, but less than 6 years since the first flight: inspect within the next 6 months after the effective date of this AD.

3. On airplanes with 6 years years or more since the first flight: inspect within the next 3 months after the effective date of this AD.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 8, 1987.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–16865 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–79–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –40, and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10 series airplanes, which currently requires installation of a fuel hose shield for the Number 2 engine. This action would expand the applicability of the AD to require installation of a fuel hose shield for the Number 2 engine on all other DC–10 airplanes. This proposal is prompted by reports of fan blade failures on engines installed in other DC–10 series airplanes in which the fuel line was damaged. This condition, if not corrected, could lead to fire resulting from penetration of the fuel line by uncontained fan blade failures.

DATE: Comments must be received no later than September 10, 1987.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–79–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–79–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

On October 15, 1974, FAA issued AD 74–18–17, Amendment 39–1985, to require installation of a fuel hose shield for the Number 2 engine on certain McDonnell Douglas DC–10 series airplanes equipped with General Electric CF6 turbine engines with gun-drilled fan blades, in accordance with McDonnell Douglas DC–10 Service Bulletin No. 71–57, dated September 3, 1974, or later FAA–approved revision (39 FR 36322; October 9, 1974). The shield was intended to protect the fuel line from damage caused by blade fragments released in the event of a fan blade failure. Damage to the fuel line could cause fuel leakage and increase the potential for fire.

Since issuance of that AD, two fan blade failures occurred in engines with fan blades that were not gun-drilled. In each case, the Number 2 engine fuel line was damaged by fan blade fragments exiting the bellmouth area and striking the fuel line. In view of these recent failures, the FAA has determined that any fan blades in the engines installed in the Number 2 position of McDonnell Douglas Model DC–10 series airplanes may create an unsafe situation in the event of fan blade failure.

The FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin No. 71–141, dated June 24, 1986, which describes the installation of a fuel hose shield for the Number 2 engine on all Model DC–10 airplanes equipped with engines having other than gun-drilled blades.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would expand the applicability of AD 74–18–17 to require installation of a fuel hose shield for the Number 2 engine on all McDonnell Douglas DC–10 airplanes, regardless of engine type.

It is estimated that 22 DC–10–40 airplanes and 79 additional DC–10 airplanes of U.S. registry would be affected by this AD. It would take approximately 8.6 manhours per DC–10–40 and 4 manhours per other DC10 airplanes to accomplish the required actions, and the average labor cost would be $40 per manhour. The estimated cost of parts is $1,770 per DC–10–40 and $1,168 per other DC–10 airplanes. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $151,500.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–10 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By revising AD 74–18–17, Amendment 39–1985, as follows:

McDonnell Douglas: Applies to DC–10–10, —15, —30, —40, and KC–10A (Military) series airplanes, certificated in any category.

Compliance required as indicated, unless previously accomplished.

To provide additional fire protection for the Number 2 engine position in the event of fan blade fragmentation, accomplish the following:

A. For airplanes equipped with General Electric CF6 engines with one or more gun-drilled fan blades: Prior to further flight, install a fuel hose shield on the Number 2 engine in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 71–57, dated September 3, 1974, or later FAA-approved revisions.

B. For all other airplanes: Within the next 12 months after the effective date of this AD, install a fuel hose shield on the Number 2 engine position in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin No. 71–141, dated June 24, 1986, or later FAA-approved revisions.

C. For all airplanes: Prior to the installation of any engine in the Number 2 position, install a fuel hose shield in accordance with the service bulletin referred to above, as applicable.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

E. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on July 13, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–16861 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–3–M

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14 CFR Part 71

[Airspace Docket No. 87–ACE–05]

Proposed Designation of Control Zone; Fort Leavenworth, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice propose to designate a part-time control zone at the Sherman Army Airfield, Fort Leavenworth, Kansas, based on a request from the Department of the Army. The effective dates and times of the control zone, when established, will be published in the Airport/Facility Directory.

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

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, 601 East 12th Street, Kansas City Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th

Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposed contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart F, § 71.171 of the Federal Aviation Regulations [14 CFR 71.171] by designating a control zone at Fort Leavenworth, Kansas. The Department of the Army has requested that a part-time control zone be established for the Sherman Army Airfield, Fort Leavenworth, Kansas. This control zone, when established, will be effective during the specific dates and times established in advance by a Notice to Airman and will be continuously published in the Airport/Facility Directory. Control zones are designed to contain IFR operations in controlled airspace to the surface around airports within a specifield radius and along the final approach course to the IAP. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 110334; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Fort Leavenworth, Sherman Army Airfield, Kansas

Within a five mile radius of Sherman Army Airfield (latitude 39°22'06" N, longitude 95°54'52" W), excluding that portion which overlies the Kansas City, Missouri International Airport Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter the continuously published in the airport/facility directory.

Issued in Kansas City, Missouri, on July 15, 1987.

Paul E. Marchbanks,

Acting Manager, Air Traffic Division.

[FR Doc. 87–16864 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 86–AWP–28]

Proposed Alteration of Restricted Area R–4813; Carson Sink, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 86–AWP–28, which was published in the **Federal Register** on December 31, 1986. That NPRM proposed to alter the description of Restricted Area R–4813 located near Carson Sink, NV.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9254.

History

On December 31, 1986, a Notice of Proposed Rulemaking was published in the **Federal Register** to alter the description of Restricted Area R–4813 located near Carson Sink, NV. After reviewing their overall operational requirements the Department of Navy has decided to cancel their request for the expansion if R–4813. Accordingly, the FAA is withdrawing the NPRM proposing that action. The proposal, if adopted, would have given the Department of Navy additional restricted airspace to fulfill their training and operational requirements.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 86–AWP–28, as published in the **Federal Register** on December 31, 1986 (51 FR 47259) is hereby withdrawn.

(Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69)

Issued in Washington, DC, on July 16, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–16791 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 807

Publications Sales

AGENCY: Department of the Air Force, Defense.

ACTION: Proposed rule.

SUMMARY: This regulation provides Air Force procedures for issuing publications and forms to private citizens, organizations and commercial activities. This proposed rule has been revised to clarify procedures on the availability and sale of publications of the public.

DATE: Comments must be received by August 24, 1987.

ADDRESS: SAF/AADPD, Bolling AFB, DC 20332–6468.

FOR FURTHER INFORMATION CONTACT: Walter S. Frazer, SAF/AADPD, Bolling AFB, DC 20332–6468, telephone (202) 767–6077.

SUPPLEMENTARY INFORMATION: The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 32 CFR Part 807

Government contracts, Government procurement.

Therefore, 32 CFR Part 807 is revised to read as follows:

PART 807—PUBLICATION SALES

Sec.

807.1 General requirements.
807.2 Charges
807.3 Requests for classified material, For Official Use Only (FOUO) material, accountable forms, storage safeguard forms, Limited (L) distribution items, and items with restrictive distribution caveats.
807.4 Availability and non-availability of stock.
807.5 Processing requests.
807.6 Depositing payments.

Authority: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012.

§ 807.1 General requirements.

(a) Unaltered Air Force publications and forms in this distribution system will be made available to the public with or without charge subject to the requirements of this part. Base Chiefs of Administration will establish procedures to accommodate these requirements and will make available Master Publications Libraries for public use in accordance with AFR 5–31. Requesters will be advised of the availability of these libraries since in many instances this will satisfy their requirements and reduce workloads involved in processing sales requests. If the item is on sale by the Superintendent of Documents, Government Printing Office, refer the request to that outlet.

(b) These unaltered publications and forms are not considered records within the meaning of the Freedom of Information Act (FOIA) as outlined in 5 U.S.C. 552 and implemented by Part 806 of this chapter. Requests which invoke the FOIA will be referred to the Chief, Base Administration for processing.

(c) Requests under the Foreign Military Sales Program (FMS) will be processed in accordance with AFR 7–1, Chapter 11.

(d) Requests from foreign governments, their representatives, or international commands are answered only by offices holding delegation of disclosure authority letters, as described in AFR 200–9. Such requests must be sent to the foreign disclosure policy office within a command, and at HQ USAF to HQ USAF/CVAI. Copies of such requests should also be sent to the base public affairs office for their information. Commands will supplement this requirement to include policies pertaining to those items which they have authority to release.

(e) Requests for non-Air Force items will be returned to the requester for submission to appropriate agency.

§ 807.2 Charges.

(a) Air Force policy provides that charges will be applied to all requests unless specifically excluded.

(b) Charges will be applied in accordance with Part 813 of this chapter. Additional guidance is in Part 812, including specific exclusions from charges as listed in § 812.5. As indicated, the list of exclusions is not all inclusive and recommendations for additional exclusions will be forwarded to the OPR for Part 812 of this chapter.

(c) Publications and forms required for contract performance will be furnished without charge to the contractor when these requirements are approved by the Government contracting officer.

§ 807.3 Requests for classified material, For Official Use Only (FOUO) material, accountable forms, storage safeguard forms, Limited (L) distribution items, and items with restrictive distribution caveats.

(a) *Classified material.* Answer these requests by telling the requesters that the material is not authorized for release because it is currently and properly classified in the interest of national security as authorized by Executive Order, and must be protected from unauthorized disclosure.

(b) *FOUO material.* Requests will be reviewed by the Office of Primary Responsibility for the material to determine its releasibility.

(c) *Accountable forms.* These requests will be returned to the requester stating that the forms are stringently controlled and cannot be released to unauthorized personnel since their misuse could jeopardize Department of Defense security or could result in fraudulent financial gain or claims against the government.

(d) *Storage safeguard forms.* These requests will be returned to the requesters stating that the forms are specially controlled and are not releasable outside the Department of Defense since they could be put to unauthorized or fraudulent use.

(e) *Limited (L) distribution items.* These items are not releasable outside the Department of Defense without special review in accordance with AFR 700–6. Requests will be referred to the SIS Manager shown in the index or on the cover of the publications. Advise the requesters of the referral.

(f) *Items with restrictive distribution caveats.* Some publications have restrictive distribution caveats on the cover. Follow the instructions stated and advise the requesters of the referral.

§ 807.4 Availability and non-availability of stock.

(a) It is Air Force policy to limit quantities furnished so that stock levels required for operational Air Force support are not jeopardized.

(b) If the item is not available from PDO stock, obtain it from the Air Force Publishing Distribution Center (AFPDC).

(1) If the item is not stocked by the AFPDC, check the appropriate index to see if it is available from another source and refer the request to that source. Advise the requester of the referral.

(2) If the item is under revision, advise the requester that it is being revised and no stock is available.

(c) If stock is not available and the item is being reprinted, advise the requester that stock is expected to be available in 90 days and to resubmit at that time.

§ 807.5 Processing requests.

(a) Payment will be required before shipping the requested material. Payment must be by check or money order.

(1) When the request is received, determine the cost involved and advise the requester to ensure that he/she is willing to pay.

(2) If the requester agrees to pay the cost involved, take action to obtain the material.

(3) When the item is received advise the requester to remit the required payment and forward the material after payment is received.

(4) If the material cannot be obtained, advise the requester of the reason.

§ 807.6 Depositing payments.

Obtain instructions from the local Accounting and Finance Office regarding how checks or money orders must be prepared and required procedures for depositing them.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-16809 Filed 7-23-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 201

Grants to States for Public Assistance Programs; Treatment of Replacement Checks

AGENCY: Family Support Administration, HHS.

ACTION: Proposed rules.

SUMMARY: The Family Support Administration is proposing regulations to specify when States administering the Aid to Families with Dependent Children (AFDC) program under title IV-A of the Social Security Act (the Act) and the Adult Assistance programs under titles I, X, XIV, and XVI (AABD) of the Act may claim Federal financial participation (FFP) for a replacement check that is issued to replace an earlier check. The proposed regulations provide that a State may not claim FFP for a replacement check, except under the following circumstances: (1) When the State makes no claim for FFP on the earlier check; (2) when the State cancels the earlier check and refunds the Federal share; or (3) when the earlier check is cashed by someone other than the payee, and the State refunds the Federal share. A study conducted by the Office of Family Assistance (OFA) found that some States claim FFP for both the replacement check and the earlier check. The proposed regulations are intended to ensure that FFP is not claimed for a replacement check unless the FFP for the earlier check has been refunded to the Federal government.

The proposed regulations amend 45 CFR 201.5(a)(3) and establish a new section (§ 201.70).

DATE: Consideration will be given to written comments received on or before September 22, 1987.

ADDRESS: Comments should be submitted in writing to the Administrator, Family Support Administration, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, DC, 20201, Room 5600.

FOR FURTHER INFORMATION CONTACT: H. Gary Mounts, Deputy Associate Administrator, Office of Grants Management, Office of Financial Management, Family Support Administration, Room 2222, Switzer Building, 330 C Street, SW., Washington, DC 20201, telephone (202) 245-9657.

SUPPLEMENTARY INFORMATION: Section 403(a) of the Social Security Act provides that States, (including Puerto Rico, the Virgin Islands, and Guam) are entitled to Federal matching for expenditures made as Aid to Families with Dependent Children (AFDC). Sections 3(a), 1003(a), 1403(a), and 1603(a) of the Act provide for Federal matching of expenditures made by Puerto Rico, the Virgin Islands, and Guam (hereafter referred to as States) as Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, and Aid to the Aged, Blind and Disabled (AABD), respectively. It is inherent in these sections of the Act that Federal matching is available for only one check per payment to families eligible for the assistance programs under these titles. Where a replacement check is issued, a State is entitled to claim FFP for it but only if the FFP for the earlier check, issued for the same payment, is returned to the Federal government.

A replacement check results when a check issued by a State to replace an earlier check issued to a recipient in payment of the same grant. This may occur when a State issues a replacement check to a recipient who alleges nonreceipt of the earlier check, or who alleges that the earlier check was lost or stolen.

In 1981, OFA conducted a study of AFDC payments at the request of the Subcommittee on Intergovernmental Relations and Human Resources of the House of Representatives. The findings, which were based on Fiscal Year 1979 data, indicated that in some States the following unacceptable practices existed or could exist:

—Claiming FFP for both the replacement and the earlier check;

—Issuing a replacement check without securing an affidavit of nonreceipt of the earlier check from the recipient; and

—Issuing the replacement check before initiating a stop payment on the earlier check.

In these regulations, we are addressing the first finding of the study, i.e., the erroneous practice of claiming FFP for both the replacement and earlier checks for purposes of the AFDC program. These regulations will not only apply to the AFDC program under title IV-A but also to the Adult Assistance programs under titles I, X, XIV and XVI (AABD) because payments under all these programs are made in a similar manner.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order (EO) 12291 and do not meet the criteria for a major regulation. These regulatory changes will result in a reduction of approximately $2.5 million per year in claims against the Federal government. Since these changes will not have a $100 million effect on the national economy, they are not a major rule within the definition of EO 12291.

Regulatory Flexibility Act—We certify that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it affects only the transfer of Federal funds to the States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—States use the Quarterly Statement of Expenditures (SSA-41) to refund the Federal share of original checks or replacement checks, depending upon the circumstances. OMB approved the present format of this report (OMB Number 0960-0294). This form contains the appropriate lines for reporting the Federal share of decreasing adjustments necessary to correct amounts claimed in prior or current quarters. Accordingly, these regulations impose no additional reporting requirements on the States.

The OFA study recommended that a regulation be considered which would prevent a State from claiming FFP for issuance of replacement checks unless the Federal share of the earlier check was refunded. We agree with this recommendation and are proposing regulations in 45 CFR 201.70(c) that would not allow a State agency to claim FFP for a replacement check unless the State had returned the FFP for the earlier check.

In particular, § 201.70(c)(1) allows a State to claim FFP for a replacement check when it makes no claim for FFP on the earlier check. Section 201.70(c)(2)

permits a State to claim FFP for a replacement check after the State cancels (voids) the earlier check and refunds the Federal share as required by § 201.67. Section 201.70(c)(3) permits a State to claim FFP for a replacement check when the earlier check has been cashed by someone other than the recipient and the State refunds the FFP claimed for the earlier check. Section 201.70(c)(3) clarifies how to handle situations where an earlier check, alleged to be not received, or lost or stolen, is subsequently cashed by an unauthorized third party.

The regulations also provide that a State must report the refund of the Federal share of the earlier check on its Quarterly Statement of Expenditures (SSA–41). When the earlier check was issued in a prior quarter, the refund is reported as the Federal share of decreasing adjustments necessary to correct an amount claimed in a prior quarter. When the earlier check was issued in the current quarter, the refund is reported as a decreasing adjustment to total expenditures computable for Federal funding and to the Federal share of that amount for the current quarter.

Because the requirements proposed by these regulations are part of the grants process to States, we are amending 45 CFR 201.5(a)(3) to add a cross reference to 45 CFR 201.70, the new section where the requirements will be set out. In addition, we are restoring to 45 CFR 201.5(a)(3) a cross reference to 45 CFR 201.67 (Treatment of uncashed or cancelled checks). This section was inadvertently omitted when it was amended to require that a State report on its Quarterly Statement of Expenditures Report the Federal share of child support collections that it makes (51 FR 13511, April 21, 1986).

It should be noted what these regulations do not do. While it is true that for the first time a formal requirement would be established in the regulations for States to return to the Federal government the FFP that it received for an earlier check in order to claim FFP for a replacement check, these regulations do not set forth new requirements. They are being implemented in order to clarify existing requirements of the Social Security Act. Thus, a State will not be relieved of its past responsibility for ensuring that FFP is returned to the Federal government when it has been claimed for more than one payment of the same grant.

While these regulations impose no specific recordkeeping requirements, the practical result is to impose on the States a general requirement that they have adequate records to assure that they do not claim Federal matching for a replacement check unless Federal matching for the earlier check has been returned. Although these regulations may be technically exempt from the Paperwork Reduction Act of 1980, we have, nevertheless, submitted a copy of these proposed rules to the Office of Management and Budget (OMB) for its review.

(Catalog of Federal Domestic Assistance Program No. 13.808 Public Assistance—Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 201

Aid to Families with Dependent Children, Family Assistance Office, Grant programs—Social programs, Guam, Public Assistance programs, Puerto Rico, Virgin Islands.

Dated: March 25, 1987.

Wayne A. Stanton,

Administrator, Family Support Administration.

Approved: June 19, 1987.

Otis B. Bowen,

Secretary of Health and Human Services.

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

Part 201 of Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 201 is revised to read as follows:

Authority: Sections 3, 403, 1003, 1102, 1403, 1603 and the Social Security Act, as amended; 49 Stat. 621, as amended; 49 Stat. 628, as amended; 49 Stat. 646, as amended; 49 Stat. 647, as amended; 64 Stat. 556, as amended; 76 Stat. 200, as amended; 42 U.S.C. 303, 603, 1203, 1302, 1353, and 1383 (note).

2. Section 201.5 is amended by revising paragraph (a)(3) to read as follows:

§ 201.5 Grants.

* * * * *

(a) *Form and manner of submittal.*

* * * * *

(3) The State agency must also submit a quarterly statement of expenditures for each of the public assistance programs under the Act. This is an accounting statement of the disposition of the Federal funds granted for past periods and provides the basis for making the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended in that quarter. The statement of expenditures also shows the share of the Federal Government in any recoupment, from whatever source, including for title IV–A the appropriate share of child support collections made by the State, of expenditures claimed in a prior period, and also in expenditures not properly subject to Federal financial participation which are acknowledged by the State agency, including the share of the Federal Government for uncashed and cancelled checks as described at 45 CFR 201.67 and replacement checks as described at 45 CFR 201.70 in this part, or which have been revealed in the course of an audit.

3. A new § 201.70 is added to read as follows:

§ 201.70 Treatment of replacement checks.

(a) *Purpose.* This section provides the rules to ensure that States do not claim Federal financial participation (FFP) for replacement checks under titles I, IV–A, X, XIV and XVI (AABD) except under the circumstances specified in paragraph (c) of this section.

(b) *Definitions.* As used in this section—"Check" means a check or warrant that the State or local agency uses to make a payment.

"Replacement check" means a check issued by the State or local agency to replace an earlier check.

(c) *Claiming of FFP for replacement checks.* The State agency may not claim FFP for the amount of a replacement check unless:

(1) It makes no claim for FFP for the earlier check;

(2) The earlier check has been cancelled (voided) and FFP refunded, were claimed, pursuant to 45 CFR 201.67; or

(3) The earlier check has been cashed by someone other than the authorized payee and FFP has been refunded.

The State agency shall report the amount of the refund of FFP for the earlier check on the Quarterly Statement of Expenditures for the quarter no later than the quarter in which the replacement check is issued.

[FR Doc. 87–16151 Filed 7–23–87; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge-Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to amend certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland

game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified, deleted or added to. Changing environmental conditions, State and Federal regulatons, and other factors affecting wildlife populations and habitats may warrant modifications to ensure the continued continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with State regulations.

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

ADDRESS: Address comments to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Room 3252, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Nancy A. Marx, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Room 2343, Washington, DC 20240; Telephone (202) 343–3922.

SUPPLEMENTARY INFORMATION: 50 CFR Part 32 contains provisions governing hunting on national wildlife refuges. Hunting is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations may be issued only after a wildlife refuge is opened to migratory game bird, upland game, or big game hunting through publication in the **Federal Register.** These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are contained in 50 CFR 32.12, 32.22 and 32.32 respectively. Many of the proposed amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations. Again this year, regulations for nontoxic shot are required on more refuges and consequently new regulations are being added.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding these proposed amendments. Accordingly, interested persons may submit written comments to the Assistant Director, Refuges and Wildlife (address above) by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that such uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act authorizes the Secretray to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act. Hunting plans are developed for each refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge was established. Initial compliance with the NWRSAA and Refuge Recreation Act is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; or a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific hunting regulations would make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local government, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this proposed rule is not a "major rule" within the meaning of E.O. 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB under #1018–0014 Economic and Public Use Permits. These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act of 1973 (16 US.C. 1531–1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes proposed in this rulemaking would not substatially alter the existing uses of the refuges involved. Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters or

can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina and Puerto Rico.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; Telephone (404) 221–3538.

Region 5—Connecticut, Delware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965–9222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telphone (303) 236–8145.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State regulations. There are no refuge-specific hunting regulations for these refuges.

Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3538.

Nancy A. Marx, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

Accordingly, it is proposed to amend Part 32 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 would continue to read as follows:

Authority: 5 U.S.C. 301, 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.12 would be amended by adding (b)(8); revising (d)(1) introductory text; redesignating (d)(1)(vi) as (d)(1)(vii); and adding (d)(1)(vi); adding (e) (1)(ix) and (3)(ix); revising (f)(1) introductory text anf (f)(1)(ii); revising (f) (2), (3), (4) introductory text and (5) introductory text, (f)(5) (iii) and (iv), (f)(6) introductory text, (f)(6) (ii), (iii) and (vi), and (f)(7) introductory text; adding (f)(7)(v); revising (f)(8) introductory text, (f)(8)(iv), (f)(9) introductory text, (f)(9)(v) and (f)(10) introductory text; adding (f)(10) (iii) and (iv); removing (f)(11)(iii) and redesignating (f)(11) (iv), (v) and (vi) as (f)(11) (iii), (iv) and (v); revising (f)(12) introductory text and (f)(12)(iv); redesignating (f)(12)(ii) as (f)(12)(iii) and (f)(12)(iii) as (f)(12)(ii); revising newly redesignated (f)(12)(iii); revising (f)(13)(ii); adding (f)(13)(v); revising (f)(14) and (f)(15) introductory text, (f)(15) (ii), (iv) and (vii), (g)(1) and (3), (h)(1)(viii) and (2)(vii), and (i)(1)(ii); adding (i)(1)(v); removing (i)(2)(iv); redesignating (i)(2) (v) through (vii) as (i)(2) (iv) through (vi); revising newly redesignated (i)(2)(vi); (i)(3)(iv), (4) (ii) and (iii), (j)(3) and (k)(2); removing (k)(3)(iii); and redesignating (k)(3) (iv) and (v) as (k)(3) (iii) and (iv); adding (l)(1)(iv); revising (l)(2) (i), (ii) and (iii), (m)(1) (ii) and (iii) and (o)(2); redesignating (q)(1) through (7) as (q)(2) through (8); adding (q)(1), (2)(v) and (3) (iv) and (v); removing (q)(4)(ii); redesignating (q)(4) (iii) through (v) as (q)(4) (ii) through (iv); adding (q)(4)(v); revising (q)(5)(v), (6)(iv), (7) (i), (ii) and (iii) and (8)(ii); adding (q)(8) (iv), (v) and (vi); revising (s)(1) and (2)(ii); adding (s)(2)(v); revising (t)(1) introductory text, (t)(2)(ii) and (u)(1)(iii), (u)(2) introductory text, and (u)(2)(iv); adding (u)(2)(v), revising (u)(3) introductory text and (u)(3)(iii); adding (v)(1)(iv); revising (v)(5)(iii), (w) (1)(ii) and (2)(ii), (z)(1) introductory text and (z)(2), (aa) introductory text and (aa)(1); adding (aa)(7); revising (bb)(1) introductory text, (bb) (1)(i), (2)(iii) and (3)(ii); adding (bb)(3) (iii), (iv), and (v); revising (bb)(4)(ii), (cc)(1)(iv), (cc)(2)(iii) and (dd)(1); revising (dd) (2)(i), (3)(v) and (5)(i) and (ee) (1) and (2); revising (ff) introductory text, (ff)(2), (gg)(2), (hh) (1)(iv), (3)(iii); removing (hh)(5)(i); redesignating (hh)(5) (ii) and (iii) as (hh)(5) (i) and (ii); revising newly redesignated (hh)(5)(i); revising (hh) (8)(i), (13)(iv) and (ii)(2); adding (ll)(1)(iv); revising (ll) (2)(iv), (3)(iv) and (4)(ii), (mm) (2)(i), (3)(i), (5)(iv), (6)(iii) and (7)(iii), (nn)(1)(ii), (nn)(2) and (3), (oo)(7), (qq)(5)(iii), (qq)(6), (rr) (1)(iii), (2)(ii) and (3)(ii), and (ss) (1) and (2).

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(b) *Alabama and Georgia—Eufaula National Wildlife Refuge.* * * *

(8) Hunters may not possess or use more than 25 shells per day when waterfowl hunting.

* * * * *

(d) *Arizona and California—(1) Cibola National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and mourning and white-winged doves is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(vi) Waterfowl hunting will cease at 3:00 p.m. each day.

* * * * *

(e) *Arkansas—(1) Felsenthal National Wildlife Refuge.* * * *

(ix) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(3) *Overflow National Wildlife Refuge.* * * *

(ix) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(f) *California—(1) Clear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Colusa National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(3) *Delevan National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to

the following condition: Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(4) *Kern National Wildlife Refuge.* Hunting of geese, ducks, coots and moorhens is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(5) *Kesterson National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iii) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(iv) Hunters may not possess more than 25 shells while in the field.

(6) *Lower Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) Shooting hours end at 1:00 p.m. daily on all California portions of the refuge.

(iii) Only unloaded firearms may be taken through posted retrieving zones when traveling to and from the hunting areas.

* * * * *

(vi) Waterfowl, coot and moorhen hunters shall possess and use, while in the filed, only nontoxic shot.

(7) *Merced National Wildlife Refuge.* Hunting of geese, ducks, coots and moorhens is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(v) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(8) *Modoc National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iv) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(9) *Sacramento National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(v) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(10) *Salton Sea National Wildlife Refuge.* Hunting of geese, ducks, coots, and moorhens is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iii) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(iv) Hunters may not possess more than 25 shells while in the field.

* * * * *

(12) *San Luis National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iii) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(iv) Hunters may not possess more than 25 shells while in the field.

(13) *San Pablo Bay National Wildlife Refuge.* * * *

(ii) Hunters may use only portable blinds and temporary or floating blinds constructed of biodegradable materials.

* * * * *

(v) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(14) *Sutter National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(15) *Tule Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) Hunting is permitted until 1:00 p.m. each day.

* * * * *

(iv) Only unloaded firearms may be taken through posted retrieving zones when traveling to and from the hunting areas.

* * * * *

(vii) Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(g) *Colorado—(1) Alamosa National Wildlife Refuge.* Hunting of geese, ducks, coots, snipe and mourning doves is permitted on designated areas of the refuge subject to the following condition: Snipe and dove hunting are permitted only during the waterfowl hunting season.

* * * * *

(3) *Monte Vista National Wildlife Refuge.* Hunting of geese, ducks, coots, snipe and mourning doves is permitted on designated areas of the refuge subject to the following condition: Snipe and dove hunting are permitted only during the waterfowl hunting season.

(h) *Delaware—(1) Bombay Hook National Refuge.* * * *

(viii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(2) *Prime Hook National Wildlife Refuge.* * * *

(vii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(i) *Florida—(1) Chassahowitzka National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(v) Hunting is permitted only on Wednesdays, Saturdays and Sundays.

(2) *Lower Suwannee National Wildlife Refuge.* * * *

(vi) Hunters shall possess and use, while in the field, only nontoxic shot.

(3) *Loxahatchee National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(4) *Merritt Island National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Thursdays, Fridays and Saturdays from one-half hour before sunrise until 1:00 p.m. and on Sundays from one-half hour before sunrise until sunset.

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.* * * *

(3) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(k) *Idaho—** * *

(2) *Camas National Wildlife Refuge.* Hunting of geese, ducks, coots and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(l) *Illinois—(1) Chautauqua National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Crab Orchard National Wildlife Refuge.* * * *

(i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville and Greenbriar land areas, plus Orchard, Turkey, Sawmill and Grassy Islands, from sunrise to 12:00 noon each day during the goose season. Goose hunting on these areas, including lake shorelines, is permitted only from existing refuge blinds. Only selected hunters are allowed on these islands or are allowed to occupy any existing refuge blinds during the goose season. The controlled blind hunters may use or possess only fifteen shells per hunter.

(ii) No more than three people may occupy a blind during the goose hunting season.

(iii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(m) *Iowa—(1) Desoto National Wildlife Refuge.* * * *

(ii) Hunting is permitted until noon each day from November 1 through the end of the second weekend in December, or until the end of the State waterfowl season, whichever comes first.

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(o) *Iowa, Illinois, Minnesota and Wisconsin—Upper Mississippi River Wildlife and Fish Refuge.* * * *

(2) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(q) *Louisiana—(1) Atchafalya National Wildlife Refuge.* Hunting of geese, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Hunting shall be in accordance with State regulations which apply to the adjacent Sherburne Wildlife Management Area.

(2) *Bogue Chitto National Wildlife Refuge.* * * *

(v) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(3) *D'Arbonne National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(v) Firearms must be unloaded while being transported in a vehicle or boat.

(4) *Delta National Wildlife Refuge.* * * *

(v) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(5) *Lacassine National Wildlife Refuge.* * * *

(v) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(6) *Sabine National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(7) *Tensas River National Wildlife Refuge.* * * *

(i) Only portable blinds may be used and blinds and decoys must be removed from the refuge after each day's hunt.

(ii) Hunting of ducks and coots is permitted only on Tuesdays, Thursdays, Saturdays and Sundays until noon each day during the regular State season.

(iii) Hunting is not permitted during the special teal season and the refuge gun deer hunts.

(8) *Upper Ouachita National Wildlife Refuge.* * * *

(ii) Boats, decoys and blinds must be removed from the refuge following each day's hunt.

* * * * *

(iv) Hunting is not permitted during the special teal season.

(v) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(vi) Firearms must be unloaded while being transported in a vehicle or boat.

* * * * *

(s) *Massachusetts—(1) Oxbow National Wildlife Refuge.* Hunting of woodcock and snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Use or possession of alcoholic beverages while hunting are prohibited.

(ii) Vehicles are restricted to the designated parking area that is accessible from the Still River Depot Road. Entry by routes other than Still River Depot Road is prohibited.

(2) *Parker River National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(v) Use or possession of alcoholic beverages while hunting are prohibited.

(t) *Michigan—(1) Seney National Wildlife Refuge.* Hunting of woodcock and snipe is permitted on designated areas of the refuge.

(2) *Shiawassee National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

(u) *Minnesota—(1) Minnesota Valley National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Sherburne National Wildlife Refuge.* Hunting of geese, ducks, coots, rails, woodcock, and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(v) Entry to hunting areas is not allowed earlier than one and one-half hours before legal shooting hours.

(3) *Tamarac National Wildlife Refuge.* Hunting of geese, ducks, coots, rails, woodcock and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(v) *Mississippi—(1) Bogue Chitto National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(5) *Noxubee National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(w) *Missouri—(1) Mingo National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Swan Lake National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(z) *Nevada—(1) Pahranagat National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens, mourning doves and snipe is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(2) *Ruby Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, moorhens and snipe is permitted on designated areas of the refuge subject to the following condition: Waterfowl, coot and moorhen hunters shall possess and use, while in the field, only nontoxic shot.

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* Hunting of waterfowl, coots, moorhens and rails is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(7) Use or possession of alcoholic beverages while hunting are prohibited.

(bb) *New Mexico—(1) Bitter Lake National Wildlife Refuge.* Hunting of

geese, ducks, coots, mourning doves and sandhill cranes is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(2) *Bosque del Apache National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

(3) *Las Vegas National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

(iii) Hunters age 17 and under must hunt under the supervision of an adult age 21 or older.

(iv) Hunters or dogs may not enter closed areas to retrieve birds.

(v) Hunting is permitted only on designated days of the week. Notice will be given as provided in 50 CFR 25.31.

(4) *Sevilleta National Wildlife Refuge.* * * *

(ii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(cc) *New York—(1) Iroquois National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(2) *Montezuma National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(dd) *North Carolina—(1) Alligator River National Wildlife Refuge.* Hunting of swans, geese, ducks, coots, snipe, mourning doves and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) The use of hunting dogs is permitted only on designated areas of the refuge.

(ii) Hunters are permitted access to the refuge one and one-half hours before sunrise until one hour after sunset.

(iii) Firearms must be unloaded while being transported in a vehicle or boat.

(iv) Only portable blinds are permitted and must be removed from the refuge following each day's hunt.

(2) *Cedar Island National Wildlife Refuge.* * * *

(i) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(3) *Mattamuskeet National Wildlife Refuge.* * * *

(v) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(5) *Swanquarter National Wildlife Refuge.* * * *

(i) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(ee) *North Dakota—(1) J. Clark Salyer National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge.

(2) *Lake Alice National Wildlife Refuge.* Hunting of geese, ducks, coots and mourning doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Possession of firearms in retrieving zones is prohibited.

(ii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(ff) *Ohio—Ottawa National Wildlife Refuge.* Hunting of geese and ducks is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(2) Hunters shall possess and use, while in the field, only nontoxic shot.

(gg) *Oklahoma—* * * *

(2) *Sequoyah National Wildlife Refuge.* Hunting of waterfowl and doves is permitted on designated areas of the refuge subject to the following condition: Waterfowl hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(hh) *Oregon—(1) Ankeny National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(3) *Baskett Slough National Wildlife Refuge.* * * *

(iii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(5) *Deer Flat National Wildlife Refuge.* * * *

(i) Only portable blinds and temporary blinds constructed of natural materials are permitted.

* * * * *

(8) *Lower Klamath National Wildlife Refuge.* * * *

(i) Only unloaded firearms may be taken through posted retrieving zones when traveling to and from the hunting areas.

* * * * *

(13) *William L. Finley National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(ii) *Pennsylvania—Erie National Wildlife Refuge.* * * *

(2) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(ll) *Tennessee—(1) Chickasaw National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Cross Creeks National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

(3) *Hatchie National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

(4) *Lower Hatchie National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(mm) *Texas—* * * *

(2) *Big Boggy National Wildlife Refuge.* * * *

(i) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(3) *Brazoria National Wildlife Refuge.* * * *

(i) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(5) *McFaddin National Wildlife Refuge.* * * *

(iv) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(6) *San Bernard National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(7) *Texas Point National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(nn) *Utah—(1) Bear River Migratory Bird Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Fish Springs National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge.

(3) *Ouray National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge.

(oo) Vermont— * * *

(7) Hunters shall possess and use, while in the field, only nontoxic shot.
* * * * *

(qq) *Washington*— * * *

(5) *Ridgefield National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.
* * * * *

(6) *Toppenish National Wildlife Refuge.* Hunting of geese, ducks, coots and snipe is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only within 50 feet of the numbered post assigned to each hunter.
* * * * *

(rr) *Wisconsin—(1) Horicon National Wildlife Refuge.* * * *

(iii) Hunters shall possess and use, while in the field, only nontoxic shot.

(2) *Necedah National Wildlife Refuge.* * * *

(ii) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

(3) *Trempealeau National Wildlife Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

(ss) *Wyoming—(1) Pathfinder National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge.

(2) *Seedskadee National Wildlife Refuge.* Hunting of geese, ducks, coots and mourning doves is permitted on designated areas of the refuge.

3. Section 32.22 would be amended by revising (a)(1), (a)(4) introductory text, and (a)(4)(iv); adding (a)(4) (vi) and (vii); revising (b)(1); adding (d)(1)(iii); revising (d)(2) (iii) and (iv); adding (d)(2)(vii); revising (d)(4)(iii); adding (d)(4)(vii); revising (d)(5) (ii) and (iii), (e) (4)(ii) and (10)(ii); adding (h)(1)(iii); revising (h)(2)(ii); adding (h)(2)(v); revising (h)(3) (ii) and (iii), adding (h)(4); revising (l) (2) and (3) and (n); redesignating (q)(1) through (6) as (q)(2) through (7); adding (q)(1); revising (q)(4) (i) and (iii), (6) (i) and (ii); removing (q)(6) (iii) and (iv); revising (q)(7) (i) and (iii); adding (s)(3); revising (u)(1), (x)(6), (aa)(1) introductory text and (aa)(1)(ii); adding (aa)(1)(iv); revising (cc)(1); removing (cc)(2); redesignating (cc)(3) as (cc)(2); revising (dd)(1),(4) introductory text and (6) introductory text, (dd)(6)(ii), (ff)(6), (jj)(2)(ii), (jj)(3) and (ll)1)(ii).

§ 32.22 Refuge-specific regulations; upland game.

(a) *Alabama*—(1) *Blowing Wind Cave National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Sauty Creek Wildlife Management Area regulations apply.
* * * * *

(4) *Wheeler National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, opossum, coyote and groundhog is permitted on designated areas of the refuge subject to the following conditions:
* * * * *

(iv) Hunting of rabbits is permitted only during the last 10 days of the State season.
* * * * *

(vi) Coyotes and groundhogs may be taken from sunrise to sunset during any refuge hunt with weapons legal for those hunts.

(vii) The use of mules and horses is prohibited on all refuge hunts.
* * * * *

(b) *Arizona*—(1) *Buenos Aires National Wildlife Refuge.* Hunting of cottontail rabbit, jackrabbit, coyote, fox and bobcat is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted from September 1 through March 31.

(ii) Quail hunting is prohibited.
* * * * *

(d) *Arkansas*—(1) *Big Lake National Wildlife Refuge.* * * *

(iii) Hunting of raccoon and opossum is permitted for three consecutive weekends (Fri–Sun) beginning on the last Friday in October.

(2) *Felsenthal National Wildlife Refuge.* * * *

(iii) Hunting of raccoon and opossum is permitted only December 1–31 from sunset to sunrise. Bag limit is 3 raccoons per hunter per night.

(iv) Beaver and nutria may be taken only from sunrise to sunset during any refuge hunt.
* * * * *

(vii) Lead shot is permitted only on designated portions of the refuge.
* * * * *

(4) *Overflow National Wildlife Refuge.* * * *

(iii) Hunting of raccoon and opossum is permitted only December 1–31 from sunset to sunrise. Bag limit is 3 raccoons per hunter per night.
* * * * *

(vii) Hunters shall possess and use, while in the field, only nontoxic shot.
* * * * *

(5) *Wapanocca National Wildlife Refuge.* * * *

(ii) Hunting of squirrel and beaver is permitted from October 1 through November 15. Rabbit may be taken when the State rabbit season coincides with the above dates.

(iii) Hunting of raccoon and opossum is permitted from November 1 through November 15.
* * * * *

(e) *California*— * * *

(4) *Lower Klamath National Wildlife Refuge.* * * *

(ii) Only unloaded firearms may be taken through posted retrieving zones when traveling to and from the hunting areas.

(10) *Tule Lake National Wildlife Refuge.* * * *

(ii) Only unloaded firearms may be taken through posted retrieving zones when traveling to and from the hunting areas.
* * * * *

(h) *Florida*—(1) *Chassahowitzka National Wildlife Refuge.* * * *

(iii) Hunting on the Hernando County portion of the refuge will be in accordance with the State regulations for the Chassahowitzka Wildlife Management Area.

(2) *Lower Suwanee National Wildlife Refuge.* * * *

(ii) Hunting of squirrel, quail, rabbit and armadillo is permitted only on the Levy County portion of the refuge from the day after State general deer gun season ends through the last day of the State squirrel season, and during the refuge archery hunt.
* * * * *

(v) Hunters must use and possess only .22 rimfire rifles or shotguns.

(3) *St. Marks National Wildlife Refuge.* * * *

(ii) Hunting is permitted beginning the second Friday in December through the third Sunday in January.

(iii) State regulations for the Aucilla Wildlife Management Area apply to a portion of the refuge.

(4) *St. Vincent National Wildlife Refuge.* Hunting of raccoon is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Raccoons may be taken only during scheduled deer hunts in December and January.
* * * * *

(l) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* * * *

(2) Hunting of squirrel is permitted on the Keithsburg Division from the opening of the State season until the start of the Illinois waterfowl hunting season. Squirrel hunting is permitted on the Bear Creek Unit of the Gardner Division. On the remainder of the Gardner Division squirrel hunting is permitted only through September 30.

(3) Dogs may not be used when squirrel hunting.

* * * * *

(n) *Indiana—Muscatatuck National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition:

(1) No discharge of firearms is permitted within 100 yards of an occupied dwelling.

(2) Hunting is permitted only from sunrise to sunset.

(3) Hunting is prohibited from the beginning of the second State muzzleloader deer season through the end of the year.

* * * * *

(q) *Louisiana—(1) Atchafalaya National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, opossum, nutria, muskrat, mink, fox, bobcat, beaver and otter is permitted on designated areas of the refuge subject to the following conditions:

(i) Seasons, bag limits, methods and all associated activities shall be in accordance with State regulations which apply to the adjacent Sherburne Wildlife Management Area, except that dogs may not be used to hunt rabbits.

* * * * *

(4) *D'Arbonne National Wildlife Refuge.* * * *

(i) Hunting of raccoon and opossum is permitted only during January and December of odd numbered years.

* * * * *

(iii) Firearms must be unloaded while being transported in a vehicle or boat.

* * * * *

(6) *Tensas River National Wildlife Refuge.* * * *

(i) The use of mules and horses is prohibited on all refuge hunts.

(ii) Only .22 rimfire rifles and pistols or shotguns.

(7) *Uppper Ouachita National Wildlife Refuge.* * * *

(i) Hunting of raccoon and opossum is permitted only during December and January of odd numbered years.

* * * * *

(iii) Firearms must be unloaded while being transported in a vehicle or boat.

* * * * *

(s) *Massachusetts—Oxbow National Wildlife Refuge.* * * *

(3) Use or possession of alcoholic beverages while hunting are prohibited.

* * * * *

(u) *Minnesota—(1) Big Stone National Wildlife Refuge.* Hunting of partridge, pheasant, gray and fox squirrel, cottontail rabbit, jackrabbit, and red and gray fox is permitted on designated area of the refuge.

* * * * *

(x) *Montana—** * *

(6) *Medicine Lake National Wildlife Refuge.* Hunting of pheasant, partridge, and sharp-tailed grouse is permitted on designated areas of the refuge.

(aa) *New Mexico—(1) Bitter Lake National Wildlife Refuge.* Hunting of pheasant, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) Hunters shall possess and use, while in the South Unit (Area C) during the waterfowl season, only nontoxic shot.

* * * * *

(iv) Quail hunting is prohibited.

* * * * *

(cc) *North Carolina—(1) Alligator River National Wildlife Refuge.* Hunting of squirrel, rabbit, quail, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) The use of hunting dogs is permitted on designated areas of the refuge.

(ii) Firearms must be unloaded while being transported in a vehicle or boat.

* * * * *

(dd) *North Dakota—(1) Arrowwood National Wildlife Refuge.* Hunting of pheasant, grouse, partridge, rabbit and fox is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the State deer gun season through the regular State late upland game season.

* * * * *

(4) *Lostwood National Wildlife Refuge.* Hunting of partridge and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(6) *Upper Souris National Wildlife Refuge.* Hunting of partridge and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) Hunter orange vest and cap are required during the deer gun season.

* * * * *

(ff) *Oregon—** * *

(6) *Lower Klamath National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas to the refuge subject to the following condition: Only unloaded firearms may be taken through posted retrieving zones when traveling to and from hunting areas.

* * * * *

(hh) *South Carolina—* * * *

(4) *Savannah National Wildlife Refuge.* * * *

(iii) Hunters must wear a minimum of 500 square inches of hunter orange material above the waistline.

(jj) *Tennessee—* * * *

(2) *Cross Creek National Wildlife Reguge.* * * *

(ii) Hunting is permitted from the opening of the State season through October 12.

* * * * *

(3) *Hatchie National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Upland game hunting is not permitted during the refuge deer archery and gun hunting seasons.

* * * * *

(ll) *Utah—(1) Bear River Migratory Bird Refuge.* * * *

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

4. Section 32.32 would be amended by revising (a)(3) (ii), (iii) and (iv), and (b)(1); removing (c)(1)(ii) and redesignating (c)(1)(iii) as (c)(1)(ii); revising (d)(2) (ii), (vi) and (vii); adding (d)(2)(ix); revising (d)(4) (ii) and (iv); adding (d)(4) (v) and (vi); revising (h)(1), (2)(v) and (3) (ii), (iv) and (v); adding (h)(2) (vi) and (vii); removing (h)(4); redesignating (h)(5) and (6) as (h)(4) and (5); revising (h)(4) (ii), (v) and (viii) and (h)(5) (iv), (v), (vi) and (viii); revising (i)(1) (ii), (iii) and (v), (i)(3) (iv) and (vii) and (i)(4)(ii); removing (i)(4)(iii) and (v); redesignating (i)(4) (iv), (vi) and (vii) as (i)(4) (iii), (iv) and (v); revising (i)(6) (iv) and (v); adding (i)(6)(vii); revising (j)(4) and (5); removing (l)(4); revising (n)(1), (2) and (3); adding (o)(4); revising (q)(1); redesignating (r)(1) through (7) as (r)(2) through (8); adding (r)(1), (3)(vii), (4)(iv), (7)(vi) and (vii) and (8)(iv); revising (r)(4) (ii) and (iii), (r)(7) (i), (iii) and (iv) and (r)(8)(iii); revising (t)(1); adding (t)(2)(iii), (u) (1)(iv) and (2)(v); redesignating (v) through (tt) as (w) through (uu) (the rest of the paragraphs reflect the newly redesignated lettering); adding (v); revising (z)(1)(i); redesignating (z)(2) as (z)(3); adding (z)(2); revising (z)(3)(ii); removing (aa)(2)(ii) and redesignating (aa)(2)(iii) as (aa)(2)(ii); revising (bb)(2)(ii); adding (dd) (3) and (4); revising (ff)(1) and (gg)(1); adding (gg)(2)(iv); revising (gg)(4)(iii); redesignating (ii) (1) through (3) as (ii) (2) through (4); adding (ii)(1) and (kk)(3);

revising (ll)(2)(vii); adding (ll)(2) (viii) and (ix); revising (ll)(3) (iv), (vi) and (vii), (ll)(4)(vi), (oo)(1)(v) and (vi), (oo)(3) (iv) and (v) and (qq); and removing (ss)(4)(iv).

§ 32.32 Refuge-specific regulations; big game.

(a) *Alabama—* * * *

(3) *Wheeler National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted November 2 through January 30.

(iii) Hunting with flintlock firearms is permitted beginning January 18 through January 30.

(iv) Hunters are required to wear an outergarment containing no less than 144 square inches of hunter orange material visible from any angle during any refuge deer gun hunt.

(b) *Arizona—(1) Buenos Aires National Wildlife Refuge.* Hunting of mule and white-tailed deer, javelina and feral hogs is permitted on designated area of the refuge.

* * * * *

(d) *Arkansas—* * * *

(2) *Felsenthal National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted beginning October 1 through December 31, except during quota deer hunts when hunting is permitted only by a special permit.

* * * * *

(vi) Feral hogs may be taken from sunrise to sunset during any refuge hunt with weapons legal for that hunt through December 31.

(vii) Possession of a deer without a valid quota deer hunt permit during the modern gun and muzzleloader hunts is prohibited.

* * * * *

(ix) Lead shot is permitted only on designated portions of the refuge.

* * * * *

(4) *Overflow National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted beginning October 1 through December 31, except during quota gun deer hunts when hunting is permitted only by a special permit.

* * * * *

(iv) Feral hogs may be taken from sunrise to sunset during any refuge hunt with weapons legal for that hunt through December 31.

(v) Muzzleloader hunting is permitted during the third consecutive Friday and Saturday in October.

(vi) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(h) *Florida—(1) Chassahowitzka National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting on the Hernando County portion of the refuge will be in accordance with the State regulations for the Chassahowitzka Wildlife Management Area.

(2) *Lake Woodruff National Wildlife Refuge.* * * *

(v) Hunters must wear a visible outer garment of hunter orange material above the waistline.

(3) *Lower Suwannee National Wildlife Refuge.* * * *

(ii) Archery and muzzleloader gun hunting of deer (either sex) and feral hogs are permitted on the Levy County portion of the refuge in accordance with State seasons.

* * * * *

(iv) Hunters must wear a visible outer garment of 500 square inches of hunter orange material above the waistline during modern and muzzleloading gun hunts.

(v) Modern gun deer (buck only) and feral hog hunting on the Levy County portion of the refuge are permitted beginning the opening day of the State's general gun deer season for five consecutive days.

(vi) Two, 2-day modern gun deer (either sex) and feral hog hunts are permitted on the Levy County portion of the refuge only, beginning the first Thursday and Friday and the first Saturday and Sunday following the opening weekend of the State's general gun deer season.

(vii) In Levy County, hunters must check all antlerless deer at the refuge check station during the muzzleloading and modern gun deer (either sex) hunts.

(4) *St. Marks National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted for deer (either sex), turkey (either sex) and hogs for 12 consecutive days beginning the last Friday in October.

* * * * *

(v) State regulations for the Aucilla Wildlife Management Area apply to a portion of the refuge.

* * * * *

(viii) Hunters must wear a visible outer garment of hunter orange material above the waistline.

(5) *St. Vincent National Wildlife Refuge.* Hunting of white-tailed and sambar deer, turkey and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(iv) Primitive weapon hunting is permitted for one day on the first Saturday of the regular State deer gun season and for three consecutive days beginning on the first Thursday in January.

(v) Two white-tailed deer (either sex) and one turkey (either sex) may be taken during each three day hunt.

(vi) One sambar deer (either sex) may be taken during the one day primitive weapon hunt.

* * * * *

(viii) Hunters must wear a visible outer garment of hunter orange material above the waistline during the primitive weapons hunt.

(i) *Georgia—(1) Blackbeard Island National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted for three consecutive days beginning the fourth Friday in October and for three consecutive days beginning the first Friday in December.

(iii) Two deer (either sex) may be taken.

* * * * *

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset.

* * * * *

(3) *Harris Neck National Wildlife Refuge.* * * *

(iv) Two deer (either sex) may be taken.

* * * * * * *

(vii) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset.

(4) *Okefenokee National Wildlife Refuge.* * * *

(ii) Archery hunting is permitted on Thursday, Friday and Saturday on the Pocket Unit during the State season and during the entire State archery season on the Cowhouse Unit.

* * * * *

(6) *Wassaw National Wildlife Refuge.* * * *

(iv) Two deer (either sex) may be taken.

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset.

* * * * *

(vii) A special feral hog hunt is permitted on October 9, 10 and 11. Permits are required and there is no hog limit. Firearms must be unloaded and cased while being transported in a boat on the refuge. Hunting hours are from one-half hour before sunrise to one-half hour after sunset. Camping is not permitted. Hunters may enter the refuge

one and one-half hours before sunrise and leave the refuge by one and one-half hours after sunset.

* * * * *

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.*

* * *

(4) Hunters must wear a minimum of 500 square inches of hunter orange material above the waistline.

(5) Two deer (either sex) may be taken.

* * * * *

(n) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Permits are required.

(2) Firearms hunting is permitted on the Bear Creek Unit of the Gardner Division. Firearms hunting is permitted on the remainder of the Gardner Division only during part of the November firearms season, from one-half hour before sunrise to 3:00 p.m.

(3) Archery hunting is permitted on the Bear Creek Unit of the Gardner Division. Archery hunting is permitted on the remainder of the Gardner Division during part of the Illinois archery season.

(o) *Indiana—Muscatatuck National Wildlife Refuge.* * * *

(4) No discharge of firearms is permitted within 100 yards of an occupied dwelling.

* * * * *

(q) *Kansas—(1) Flint Hills National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following condition: Only shotguns are permitted.

* * * * *

(r) *Louisiana—(1) Atchafalaya National Wildlife Refuge.* Hunting of deer and turkey is permitted on designated areas of the refuge subject to the following condition: Seasons, bag limits, methods and all associated activities shall be in accordance with the Sherburne Wildlife Management Area regulations.

(3) *Catahoula National Wildlife Refuge.* * * *

(vii) Archery hunting is permitted during the State archery season.

(4) *D'Arbonne National Wildlife Refuge.* * * *

(ii) Either-sex deer hunting is permitted the first Friday and Saturday following Thanksgiving.

(iii) Feral hogs may be taken during any refuge hunt.

(iv) Firearms must be unloaded while being transported in a vehicle or boat.

* * * * *

(7) *Tensas River National Wildlife Refuge.* * * *

(i) Permits are required for the gun deer hunts.

* * * * *

(iii) One deer (either sex) may be taken per day for all gun hunts.

(iv) Hunters under 16 years old must possess proof, while hunting on the refuge, of completing a State approved hunter safety course.

* * * * *

(vi) All vehicles are restricted to graveled roads and all ATV trails are closed during the turkey season.

(vii) Only still or stalk hunting are permitted.

(8) *Upper Ouachita National Wildlife Refuge.* * * *

(iii) Feral hogs may be taken during any refuge hunt.

(iv) Firearms must be unloaded whiled being transported in a vehicle or boat.

* * * * *

(t) *Maine—(1) Moosehorn National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(2) *Rachel Carson National Wildlife Refuge.* * * *

(iii) Hunters, during the State shotgun deer season, must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(u) *Maryland—(1) Blackwater National Wildlife Refuge.* * * *

(iv) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(2) *Eastern Neck National Wildlife Refuge.* * * *

(v) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(v) *Massachusettes—Parker River National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) A refuge permit is required.

(2) Hunting is permitted from one-half hour before sunrise until 12 noon.

(3) Only shotguns, 20 gauge or larger, loaded with slugs are permitted.

(4) Attendance at a refuge orientation is mandatory.

(5) Hunting is permitted Monday, Tuesday, Friday and Saturday of the State shotgun deer season.

(6) All deer harvested must be brought to the refuge check station whole (undressed).

* * * * *

(z) *Missouri—(1) Mingo National Wildlife Refuge.* * * *

(i) Only archery and historic weapons hunting are permitted.

* * * * *

(2) *Squaw Creek National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only historic weapons hunting is permitted.

(iii) Hunters are required to check in and out of the refuge.

(iv) Stands must be removed from the refuge each day.

(v) Hunting is permitted only during the special hunt season established by the State for the refuge.

(3) *Swan Lake National Wildlife Refuge.* * * *

(ii) Only historic weapons hunting is permitted.

* * * * *

(bb) *Nebraska—** * *

(2) *DeSoto National Wildlife Refuge.*

* * *

(ii) Only archery hunting is permitted on the area west of the Missouri River.

(dd) *New Jersey—Great Swamp National Wildlife Refuge.* * * *

(3) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(4) Use or possession of alcoholic beverages while hunting is prohibited.

* * * * *

(ff) *New York—(1) Iroquois National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition:

(i) Hunters, during the State shotgun deer season, must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

* * * * *

(gg) *North Carolina—(1) Alligator River National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The use of hunting dogs is permitted only on designated areas of the refuge.

(ii) Firearms must be unloaded while being transported in a vehicle or boat.

(iii) Only portable stands are permitted and must be removed from the refuge after each day's hunt.

(2) *Great Dismal Swamp National Wildlife Refuge.* * * *

(iv) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

* * * * *

(4) *Pee Dee National Wildlife Refuge.* * * *

(iii) One deer (either sex) may be taken during each gun hunt.

* * * * *

(ii) *Oklahoma—(1) Optima National Wildlife Refuge. Hunting of mule and white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:*

(i) Permits are required.

(ii) Only fall turkey hunting is permitted.

* * * * *

(kk) *Pennsylvania—Erie National Wildlife Refuge.* * * *

(3) Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

(ll) *South Carolina—* * *

(2) *Carolina Sandhills National Wildlife Refuge.* * * *

(vii) Hunters must wear a visible outer garment made of hunter orange material above the waistline.

(viii) Firearms must be unloaded while being transported in a vehicle.

(ix) Hunting from a right-of-way is prohibited.

(3) *Pinckney Island National Wildlife Refuge.* * * *

(iv) Two deer (either sex) may be taken.

* * * * *

(vi) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset.

(vii) Hunters must wear a minimum of 500 square inches of hunter orange material above the waistline.

(4) *Santee National Wildlife Refuge.* * * *

(vi) Hunters must wear a visible outergarment made of hunter orange material during the gun hunts.

* * * * *

(oo) *Texas—(1) Aransas National Wildlife Refuge.* * * *

(v) The firearm hunt bag limit is two deer per hunter

(i) Hunters must wear hunter orange caps and vests.

* * * * *

(3) *Laguna Atascosa National Wildlife Refuge.* * * *

(iv) The firearms hunt bag limit is two deer per hunter.

(v) Hunters must wear hunter orange caps and vests.

* * * * *

(qq) *Vermont—Missiquoi National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Only shotguns may be used on that part of the refuge east of the Missiquoi River during the State regular season.

(2) Hunters, during the State shotgun deer season, must wear in a conspicuous manner of head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

Date: July 1, 1987.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-16781 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 70752-7152]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 1 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) adopted by the Western Pacific Fishery Management Council (Council) at its 57th meeting in Honolulu, Hawaii on June 41-5, 1987. Amendment 1 permits the Council to consider limited access for American Samoa and Guam, and changes the due date for the annual bottomfish report from March 31 to June 30. The intent of this action is to amend the FMP so that the Council can act quickly to protect the bottomfish resources in American Samoa and Guam when necessary.

DATE: Written comments must be received on or before September 3, 1987.

ADDRESS: Send comments to E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. A copy of the amendment may be obtained from the Regional Director.

FOR FURTHER INFORMATION CONTACT: Doyle E. Gates, Administrator, Western Pacific Program Office, 2570 Dole Street, Room 106, Honolulu, HI 96822-2396, 808-955-8831.

SUPPLEMENTARY INFORMATION: The FMP for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region was prepared by the Council to establish a framework for managing the bottomfish fisheries within the U.S. exclusive economic zone (EEZ) around Hawaii, American Samoa, and Guam, and the seamount groundfish fisheries in the EEZ around Hancock Seamounts northwest of the Northwestern Hawaiian Islands (NWHI). The FMP was implemented on July 31, 1986, at 50 CFR Part 683 (51 FR 27414). The FMP describes the processes by which the fishery will be managed and establishes the limits and controls within which regulatory adjustments may be made. A set of heavily-fished bottomfish species is routinely monitored by a Plan Monitoring Team appointed by the Council and a set of indicators provides the basis for further investigation or recommendations for action on the part of the Regional Director through notice in the **Federal Register.**

The types of action that could occur include establishing catch limits, size limits, area/season closures, fishing effort limitations, fishing gear restrictions, permit and/or catch reporting requirements, and access limitation. The Council is presently focusing most of its attention on an access limitation program for the NWHI. In response to concerns of American Samoa and Guam representatives regarding maintaining the stability of the bottomfish resources in their respective areas, the Council approved the development of limited access proposals for these areas at its June meeting. The original FMP reserves limited entry management proposals only for the NWHI.

In addition, regulations presently in effect require the Bottomfish Monitoring Team to prepare an annual report on the fishery by March 31 of each year containing information on the previous year covering the bottomfish fisheries operating in the Northwestern Hawaiian Islands, the main Hawaiian Islands, American Samoa and Guam. It has not been possible for the monitoring team to prepare an annual report by the March 31 deadline because a large portion of

the fishery data is not available by March 31. The data availability problem can be solved by extending the due date of the annual report from March 31 to June 30 of each year.

Public hearings on this amendment were held on May 11, 1987 in Pago Pago, American Samoa; May 18, 1987 in Honolulu, Hawaii, and on May 20, 1987 in Agana, Guam.

Language is added to the proposed regulations at § 683.24(d) to reflect the intent of the amendment to permit the Coucil to consider limited access for Samoa and Guam as well as the NWHI.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Pub. L. 99–659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a council within 15 days of receipt of any amendment to an FMP. At this time the Secretary has not determined that the FMP amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The present action will not have cumulative effects on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investments, productivity, innovation, or competitiveness of U.S. based enterprises are anticipated. This rule will have no economic effects because it only amends the FMP to allow possible future action and takes no action at this time.

This proposed rule is exempt from the review procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 99–659, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of that order.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small businesses because no management measures are proposed at this time. As a result, a regulatory flexibility analysis was not prepared.

This rule contains no collection of information requirements subject to the Paperwork Reduction Act.

The Council has determined that the measures established in Amendment 1 are consistent to the maximum extent practicable with the approved coastal zone management program in American Samoa and Guam. Letters requesting concurrence with this determination were forwarded on June 30, 1986.

List of Subjects in 50 CFR Part 683

Fisheries, Reporting requirements.

Dated: July 20, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 683 is proposed to be amended as follows:

PART 683—[AMENDED]

1. The authority citation of 50 CFR Part 683 continues to read as follows:

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

2. In § 683.24, the introductory text of paragraph (a) is revised, paragraphs (d) (1) and (2) are designated as (d) (2) and (3), and a new paragraph (d)(1) is added, to read as follows:

§ 683.24 Framework for regulatory adjustments.

(a) *Annual reports.* By June 30 of each year a Council-appointed bottomfish monitoring team will prepare an annual report of the fishery by area covering the following topics:

* * * * *

(d) * * *

(1) Access limitation may be adopted only for the NWHI, American Samoa, and Guam.

* * * * *

[FR Doc. 87–16752 Filed 7–21–87; 9:44 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 52, No. 142
Friday, July 24, 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 COMMERCE

Minority Business Development Agency

Minority Business Development Center Program Applications; Georgia

July 16, 1987.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$317,118* for the project performance of *01/01/88 to 12/31/88*. The MBDC will operate in the *Atlanta, Georgia* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$270,400* in Federal funds and a minimum of *$47,718* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88001–01* for the *Atlanta, Georgia SMSA*.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is *August 28, 1987*. Applications must be postmarked on or before *August 28, 1987*.

ADDRESS: Atlanta Regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1317 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Friday, August 14, 1987, at 9:00 a.m.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

July 20, 1987.

[FR Doc. 87–16784 Filed 7–23–87; 8:45 am]

BILLING CODE 3510–21–M

Minority Business Development Center Program Applications; Kentucky

July 16, 1987.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first *12* months is estimated at *$194,118* for the project performance of *01/01/88 to 12/31/88*. The MBDC will operate in the *Louisville, Kentucky* Standard Metropolitan Statistical Area (SMSA). The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The Project Number is *04–10–88002–01* for the *Louisville, Kentucky SMSA*.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance, the firm's proposed approach to performing the work requirements included the application; and the firm's estimated cost for

providing such assistance. It is advisable that applications have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for applications is *August 28, 1987.* Applications must be postmarked on or before *August 28, 1987.*

ADDRESS: Atlanta regional Office, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309, (404) 347–4091.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director, Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia, Friday, August 14, 1987, at 9:00 a.m.

(11.800 Minority Business Development, Catalog of Federal Domestic Assistance)

Date: July 20,1987.

Calton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 87–16785 Filed 7–23–87; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to Procurement List 1987 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 24, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On May 1, and May 22, 1987, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (52 FR 15974 and 19376) of additions to and deletions from Procurement List 1987, November 3, 1986 (51 FR 39945).

Due to the lack of information on the annual sales of the current contractor for the map covers, the Committee staff notified the firm by letter of the proposal. The firm was requested to provide information on its annual sales if it decided to submit comments.

The current contractor, in commenting on the proposal, indicated that it employed nine full-time employees on its contract and that it had invested in computerized machinery which was necessary to produce the item. It indicated that the loss of future contracts for the map covers would result in the loss of employment for the persons involved. In addition, the investment for machinery and tooling would be another loss that would put the firm in financial jeopardy. The firm declined to provide data on its annual sales on the basis that the data was privileged information.

The Committee staff, in a follow-up letter to the firm, requested that the annual sales data be provided and indicated that it would treat the information as "commercial or financial information which is privileged or confidential" under the Freedom of Information Act and would limit its dissemination to the Committee members and the staff only.

The firm was informed that if it did not submit the requested data, the Committee would assume that the impact, as the result of the addition of the map covers to the Procurement List, would not be severe. The staff did not receive a reply to the second letter.

This proposal, if approved will provide employment for about two severely handicapped employees working at less than 100% productivity. Thus, the claim that the addition of this item to the Procurement List, with a value to the current contractor of about $100,000, would result in nine employees of the firm losing their jobs is highly questionable.

This firm did not receive a contract for the map cover in the prior year.

Based on the information available, the addition of this map cover to the Procurement List would not have a serious adverse impact on the current contractor.

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity and services listed.

c. The action will result in authorizing small entities to provide the commodity and services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1987.

Commodity

COVER, MAP
8460–00–287–2137
8460–00–287–2140

Services

Commissary Warehouse Service, Robins Air Force Base, Georgia
Janitorial/Custodial, Brickell Plaza Federal Building, Miami, Florida
Janitorial/Custodial, Officer's Open Mess, Building 542 and NCO Open Mess, Building 956, Robins Air Force Base, Georgia
Operations of the Postal Service Center, Maxwell Air Force Base and Gunter Air Force Station, Alabama

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 87–16837 Filed 7–23–87; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1987; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1987 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

Comments Must be Received on or Before: August 24, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite

1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodities

Belt, Aircraft Safety
1680–00–407–5335

Pallet, Material Handling
3990–00–892–4394
(Requirements for Tracy, California, and Ogden, Utah DLA Depots, and Fort Carson, Colorado)

Card Set, Guide File
7530–00–249–5969
7530–00–261–3801
7530–00–261–3804
7530–00–261–3813
7530–00–261–3818
7530–00–261–3819
7530–00–574–7172
7530–00–861–1263
7530–00–861–1272
7530–00–861–1275

Services

Commissary Warehouse Service, Shaw Air Force Base, South Carolina.

Janitorial/Custodial, Pueblo Army Depot Activity, Pueblo, Colorado.

E.R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 87–16838 Filed 7–23–87; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

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: 26–27 August 1987.

Times of Meeting: 0930–1700 hours, 26 August 1987; 0800–1530 hours, 27 August 1987.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet to review near term systems and technologies and determine which must be applied to Competitive Strategies Initiatives. Briefings will be presented by SARD, AMC and LABCOM. Representantives from industry will attend and present proprietary information regarding promising technologies to support these initiatives. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d).

The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–16810 Filed 7–23–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84. 133B]

Reopening of Closing Date for Transmittal of Applications for New Awards Under the National Institute on Disability and Rehabilitation Research Program of Rehabilitation Research and Training Centers

Purpose: On May 7, 1987 the National Institute on Disability and Rehabilitation Research (NIDRR) published a notice in the **Federal Register** (52 FR 17378) inviting applications for new Rehabilitation Research and Training Centers (RRTC's). The closing date was July 7, 1987. Because the proposed Center on Management of Behavior Disorders in Individuals with Developmental Disabilities announced in this competition requires a complex organization at three participating sites, the Government believes that potential applicants should be given additional time to complete the arrangements necessary for applications for that particular Center. Potential applicants must base their applications on the proposed priority published in the May 7, 1987 issue of the **Federal Register** at 52 FR 17375. Potential applicants should assume that there will be no changes to the final priority. Applicants should also assume that the proposed amendments to the regulations that govern this program will be adopted as published in the **Federal Register** of May 7, 1987 at 52 FR 17368. If there are significant differences in the final priority or regulations, applicants will be given an opportunity to amend or resubmit their applications. Applicants who submitted applications for the original deadline have the option of withdrawing those applications and submitting revised applications, submitting amendments to their applications, or leaving the original applications in the competition.

Deadline for Transmittal of Applications: The deadline for submission of amendments, new, or revised applications is August 12, 1987.

Applications Available: July 10, 1987.

Available Funds: $900,000.

Estimated Range of Awards: $900,000.

Estimated Average Award: $900,000.

Project Period: 60 months.

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Parts 350 and 352, (c) the final funding priorities for this program when they become effective, and (d) the proposed regulations governing NIDRR when they become effective.

For Applications or Information Contract: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732–1207; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program Authority: 29 U.S.C. 760–762 and Pub. L. 99–506.

Dated: July 21, 1987.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 87–16860 Filed 7–23–87; 8:45 am]

BILLING CODE 4000–01–M

Office of Educational Research and Improvement

Library Services and Construction Act; Intent To Repay Funds Recovered as a Result of a Final Audit Determination to the Louisiana State Library

AGENCY: Department of Education.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Pursuant to section 456 of the General Education Provisions Act, as amended (GEPA) (20 U.S.C. 1234e), the Secretary intends to repay to the Louisiana State Library Agency (State Agency), under a grantback arrangement, an amount equal to 75 percent of funds recently recovered by the Department of Education (Department). The recovery of funds followed an audit debt settlement reached between the Department and the State Agency wherein the State Agency refunded a total of $50,000 to the Department. The audit debt originally arose as a result of a final audit determination issued by the Assistant Secretary for Educational Research and Improvement (Assistant Secretary) on December 8, 1983, regarding the use of $72,499 in Federal funds awarded under Title I of the Library Services and Construction Act, as amended (LSCA) (20 U.S.C. 351 *et seq.*). This notice describes the State Agency's plans for the use of the funds which the Secretary intends to repay and the terms and conditions under which the Secretary intends to make these funds available to the State Agency.

DATE: All written comments should be received by ED on or before August 24, 1987.

ADDRESS: All written comments should be submitted to Mr. Robert Klassen, Director, Public Library Support Staff, U.S. Department of Education, 555 New Jersey Avenue, NW. (Suite 404) Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Klassen at (202) 357–6303.

SUPPLEMENTARY INFORMATION:

A. Background

In an audit report dated June 21, 1983, the Office of Inspector General of the U.S. Department of Education issued the results of a special audit of the State Agency's use of LSCA Title I funds for administrative expenses. The audit covered the period between October 1, 1978 and September 30, 1982. The limited purpose of the audit was to determine the extent of unallowable expenses related to five administrative positions within the Louisiana Department of Culture, Recreation and Tourism and its subunit, the Office of Management and Finance. In its audit report, the Office of the Inspector General found that the State Agency had erroneously claimed as direct costs against the LSCA program the salaries for five positions that had been transferred to the Office of Management and Finance and the Office of Tourism. The auditors found that the five positions had been funded directly out of LSCA funds in fiscal years 1978, 1980, 1981 and 1982. However, the State Agency was unable to demonstrate that the person filling these positions were performing work related to the LSCA program. In settlement of this audit, the State Agency has remitted a check in the amount of $50,000 to the Department.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the State Agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that:

(1) The practices and procedures of the State Agency that resulted in the audit determination have been corrected, and that the State agency, is, in all other respects, in compliance with requirements of the applicable program;

(2) The State agency has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of funds to be awarded under the grantback arrangement in accordance with the State Agency's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, in its June 18, 1986 request for a grantback the State Agency submitted a plan for the proposed use of the requested funds. The State proposes to use the grantback funds to extend public library services to populations in the State with access to less than adequate public library services, through a project which would—

(1) Expand the public library clientele's access to the total of Louisiana public library resources by enhancing existing resource sharing systems;

(2) Implement a new interlibrary loan system which will increase the speed and effectiveness with which library materials may be borrowed among public libraries—and thus by individuals—by converting a portion of the State's current public library resource sharing systems (the Louisiana Numerical; Register and the State Library's microfiche catalog) into laser disc form;

(3) Conduct a pilot project for one year serving nine public libraries selected for participation on the basis of density of population, current size of library book collection, previous interlibrary loan activity, and availability of staff for training and implementation of the new system.

D. The Secretary's Determination

The Secretary has carefully reviewed the State Agency's request for the repayment of funds, the State Agency's plan, and other information submitted by the State Agency. Based upon that review, the Secretary has determined that the conditions contained in section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate adminsitrative action.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days prior to entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Louisiana State Library under a grantback arrangement, as authorized by section 456. The grantback award will be in the amount of $37,500. This amount is 75 percent—the maximum percentage authorized by section 456—of the amount of funds recovered by the Department. The Secretary's intent to award the maximum amount of grantback funds possible under section 456 is based upon the determination outlined in section E of this notice.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will be Made

Section 456(b) of GEPA provides that any payments under a grantback arrangement shall be subject to terms and conditions which the Secretary deems necessary to accomplish the purposes of the affected programs, including the submission of periodic reports on the use of the repaid funds

and evidence that the State Agency has consulted with parents or representatives of the population that benefits from the grantback award.

The State Agency agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(1) The funds awarded under the grantback will be spent in accordance with—

(a) All applicable statutory and regulatory requirements, including those related to the sole purposes for which LSCA Title I funds may be used, i.e., for the sole benefit of public libraries and public library clientele; and

(b) The plan that was submitted inconjunction with the June 18, 1986 request for grantback and any amendments to that plan that have been approved in advance by the Secretary.

(2) Pursuant to section 456(c) of GEPA, all funds received under this grantback arrangements must be obligated not later than September 30, 1989, which is three fiscal years following the fiscal year in which the Settlement Agreement was entered into between the Department and the State Agency.

(3) The State Agency must, not later than January 1, 1990, submit a report to the Secretary which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated;

(c) Describes the results and effectiveness of the project for which the funds were spent; and

(d) Decribes the consulation with parents or representatives of the population that will benefit from the grantback payments.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of federal Domestic Asssitance Number 84.034)

Dated: July 21, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-16859 Filed 7-23-87; 8:45 am]

BILLING CODE 4000-01-M

Office of Vocational and Adult Education

Grantback Funds; Intent To Repay to the South Dakota Department of Education and Cultural Affairs Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), (20 U.S.C. 1234e), the Secretary of Education (Secretary) intends to repay to the South Dakota Department of Education and Cultural Affairs (SEA) under a grantback arrangement an amount equal to 75 percent of funds recovered by the Department of Education as a result of a final audit determination. This notice describes the SEA's plans for the use of funds which the Secretary intends to repay, the terms and conditions under which the Secretary intends to make these funds available, and invites comments on the proposed grantback.

DATE: All written comments should be received on or before August 24, 1987.

ADDRESS: All written comments should be submitted to Dr. Thomas L. Johns, Acting Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education, (Room 620, Reporters Building), 400 Maryland Avenue SW., Washington, DC. 20202-5609.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas L. Johns, (202) 732-2237.

SUPPLEMENTARY INFORMATION:

A. Background

In May, 1985 and February, 1986, the Department of Education recovered $301 and $208,850, respectively, from the SEA in satisfaction of an audit covering the period from July 1, 1978 through June 30, 1982. The purpose of the audit was to evaluate the State agency's policies, procedures, and practices implemented to administer funds under the Vocational Education Act of 1963 (VEA), as amended, 20 U.S.C. 2301 *et seq.* (1976).

In its audit report dated September 8, 1982, the Office of Inspector General issued the following two findings:

(1) Disadvantaged set-aside funds were used for general purpose activities and not for excess costs of special services for disadvantaged students as required by 34 CFR 400.303(b)(1) (1982). The expenditures were used for the administration of student financial aid offices, the conduct of a basic communications course, and the operation of guidance and counseling centers offered as part of the regular vocational education program.

(2) The SEA awarded Federal Fiscal Year 1982 funds to a local educational agency (LEA) which had failed to meet the maintenance of effort requirement under 34 CFR 400.325 (1982).

B. Authority for Awarding a Grantback

Section 456(a) of GEPA provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA that resulted in the audit determination have been corrected, and that the SEA, in all other respects, is in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Agreement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $156,638 and has submitted a plan to use the grantabck funds consistently with section 201 of the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2301 *et seq.* (1984) Supp.). The audit findings against the SEA resulted from improper expenditures of VEA funds. However, since the Perkins Act has superseded the VEA, the SEA's proposal reflects the requirements of the Perkins Act, which—like the VEA—provides for special services to disadvantaged individuals.

The SEA proposes to use grantback funds to establish a Special Needs Division and to hire a Special Needs Supervisor for each of the four institutions where disadvantaged set-aside funds were misexpended. The duties of each supervisor will include planning, designing, and delivering special needs programs, procedures, and budgets. The SEA's plan is available on request from the Department of Education contact person listed above.

D. The Secretary's Determination

The Secretary has carefully reviewed the request for the repayment of funds, the plan, and other information submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which payment will be made.

In accordance with the requirement of section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the South Dakota Department of Education and Cultural Affairs under a grantback arrangement. The grantback would be in the amount of $156,638, which is 75 percent of the $208,850 recovered by the Department as a result of finding number one of the audit. The SEA has informed the Department that it does not intend to apply for any grantback funds under the second finding.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The SEA agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements; and

(b) The plan that was submitted in conjunction with the grantback request dated March 5, 1986, as amended on January 21, 1987, and any other amendments to that plan that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be expended not later than September 30, 1989, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA must, not later than December 30, 1989, submit a report to the Secretary which—

(a) Indicates how the funds awarded undear the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated; and

(c) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Dated: July 21, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education)

[FR Doc. 87-16856 Filed 7-23-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER87-533-000 et al.]

Electric Rate and Corporate Regulation Filings; Arizona Public Service Co. et al.

July 20, 1987.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER87-533-000]

Take notice that on July 13, 1987, Arizona Public Service Company (APS) tendered for filing an interim letter agreement (Agreement) for "Transmission Service to the Town of Wickenburg" which was executed June 23, 1987.

This Agreement provides for APS to wheel Wickenburg's scheduled preference power allocations from the Arizona Power Authority to Wickenburg with delivery to be made at a distribution voltage level of 12kV. This is intended as an interim agreement to provide for the basic term and conditions to allow for service to continue until a more comprehensive agreement is finalized, which is expected in the near future.

The rate level for this service was arrived at through arms-length negotiations and is similar to other currently effective rates for wheeling service, however, it includes an incremental component for recovery of the fixed cost of distribution facilities in consideration of the fact that service under this proposed rate schedule requires additional levels of transformation in order to allow delivery at a distribution voltage level of 12kV.

APS, with the concurrence of Wickenburg, requests a waiver of the Commission's Notice Requirements so that service under this Agreement can be made effective on June 1, 1987 when Wickenburg's allocation of preference power began.

Copies of this filing have been sent to Wickenburg, their attorney, and the Arizona Corporation Commission.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Power and Light Company

[Docket No. EC87-17-000]

Take notice that on July 16, 1987, Wisconsin Power and Light Company (the Company) tendered for filing an application with the Commission seeking approval under section 203 of the Federal Power Act of a proposed corporate restructuring. Under the proposed restructuring, WPL Holdings, Inc., will become the parent holding company of the Company and all outstanding shares of common stock of the Company will be converted on a share-for-share basis into shares of common stock of WPL Holdings, Inc. with the result that the owners of the common stock of the Company will become owners of the common stock of WPL Holdings, Inc. The Company seeks approval while reserving its right to challenge the Commission's jurisdiction as asserted in *Central Vermont Public Service Corporation,* Docket No. EL87-10-000 on the ground that the Commission erred in that decision and on the further ground that because the SEC has concurrent jurisdiction FERC should not assert jurisdiction.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER87-479-000]

Take notice that on July 13, 1987, Duke Power Company tendered for filing as a supplement to its Service Schedule C Sale of Power and Energy to its Interconnection Agreement, filed with the Commission on June 9, 1987, a Certificate of Concurrence by Yadkin, Inc.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Gulf Power Company

[Docket No. ER87-535-000]

Take notice that on July 14, 1987, Gulf Power Company (Gulf) tendered for filing revised sheets to its FERC Electric Tariffs providing for a change that

allows the Company to adjust base rate bills to reflect the change in the Federal Income tax rates from 46% to 34%, effective July 1, 1987. These tariff revisions are proposed to be effective for service on July 1, 1987; Gulf, therefore, requests waiver of the Commission's notice requirements to allow such effective dates.

Each of the affected wholesale customers has consented to the proposed tariff change as evidenced by the executed letters of consent submitted with the filing.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa Public Service Company

[Docket No. ER87-373-000]

Take notice that on July 13, 1987 Iowa Public Service Company (IPS) tendered for filing its Second Amendment containing additional documentation for an executed Firm Power Interchange Service Agreement dated November 15, 1985 and the First Amendment to Firm Power Interchange Service Agreement dated November 21, 1986, whereby Iowa Public Service Company will supply the LaPorte City Municipal Utilities, LaPorte City, Iowa with firm electric capacity, commencing December 31, 1985 and continuing through December 31, 2000. Iowa also filed an executed Agreement for LaPorte City Connection dated December 19, 1985 by which Iowa Electric Light and Power Company will provide transmission service to implement the Firm Power Agreement.

IPS requests an effective date of December 23, 1985, and therefore requests a waiver of the Commission's notice requirements.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER87-534-000]

Take notice that on July 13, 1987, Public Service Company of New Mexico (PNM) submitted for filing an Energy Exchange Agreement between PNM and Salt River Project Agricultural Improvement and Power District (SRP), dated May 26, 1987, pursuant to which PNM and SRP may exchange energy and/or capacity at mutually agreeable points of interconnection.

Copies of the filing have been served upon SRP and the New Mexico Public Service Commission.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Pugent Sound Power & Light Company

[Docket No. ER87-512-000]

Take notice that on July 13, 1987, Puget Sound Power and Light Company tendered for filing an Agreement for membership in Western System Power Pool.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Western Massachusetts Electric Company

[Docket No. ER85-707-006]

Take notice that on July 9, 1987, Western Massachusetts Electric Company (WMECO) tendered for filing pursuant to the Commission's letter dated June 2, 1987, a refund compliance report. WMECO states that on June 26, 1987 it made refunds to Fletcher Electric Company with interest accrued through that date for the difference between the Company's originally filed rates and the approved settlement rates.

This report includes the following:

Attachment A—Monthly billing determinants and revenues under prior, present and settlement rates for the period April 23, 1986 through May 28, 1987.

Attachment B—Computation of the monthly refunds, including interest, for the monthly billings for the period April, 1986 through May 1987.

Copies of this filing have been sent to the affected wholesale customer and to the Connecticut Department of Public Utility Control.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16804 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ID-2302-000 et al.]

Interlocking Directorate Applications; Keith R. Marvin et al.

July 20, 1987.

Take notice that the following filings have been made with the Commission:

1. Keith R. Marvin

[Docket No. ID-2302-000]

Take notice that on July 10, 1987, Keith R. Marvin, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Position	Name of corporation	Classification
Vice President—Purchasing and Materials Management.	The Connecticut Light and Power Co.	Public utility.
Do	Western Massachusetts Electric Co.	Do.
Do	Holyoke Water Power Co.	Do.
Do	Holyoke Power and Electric Co.	Do.
Do	Northeast Nuclear Energy Co.	Do.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. John W. Noyes

[Docket No. ID-2301-000]

Take notice that on July 10, 1987, John W. Noes, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Position	Name of corporation	Classification
Vice President—Regulatory Relations.	The Connecticut Light and Power Co.	Public utility.
Do	Western Massachusetts Electric Co.	Do.
Do	Holyoke Water Power Co.	Do.
Do	Holyoke Power and Electric Co.	Do.
Vice President	Connecticut Yankee Power Co.	Do.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Robert E. Busch

[Docket No. ID-2303-000]

Take notice that on July 10, 1987, Robert E. Bush, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Position	Name of corporation	Classification
Senior Vice President.	Northeast utilities	Public utility.
Senior Vice President and Director.	The Connecticut Light and Power Co.	Do.
Do	Western Massachusetts Electric Co.	Do.
Do	Holyoke Water Power Co.	Do.
Do	Holyoke Power and Electric Co.	Do.
Do	Northeast Nuclear Energy Co.	Do.
Senior Vice President.	Connecticut Yankee Atomic Power Co.	Do.

Comment date: August 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16805 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9860-001]

Surrender of Preliminary Permit; Kennebec Water Power Company and the East Outlet Hydroelectric Limited Partnership

July 21, 1987.

Take notice that the Kennebec Water Power Company and the East Outlet Hydroelectric Limited Partnership, permittees for the East Outlet Water Power Project No. 9860 located on the East Outlet of Moosehead Lake on the Kennebec River in Somerset and Piscataquis Counties, Maine has requested that their preliminary permit be terminated. The preliminary permit was issued on July 11, 1986, and would have expired on June 30, 1989. The permittees states that analysis of the East Outlet Water Power Project did not indicate feasibility for development.

The permittee filed the request on July 1, 1987, and the preliminary permit for Project No. 9860 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16846 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-764-000]

Application; BHP Gas Marketing Co.

July 21, 1987.

Take notice that on July 13, 1987, BHP Gas Marketing Company (BHP), 5847 San Felipe, Suite 3600, Houston, Texas 77057, filed in this proceeding an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, requesting certificate authorization for purchases and sales of natural gas in interstate commerce, and for pre-granted abandonment of all sales for which certificate authority is sought herein.

BHP states that the purpose of its application is to enable BHP to make sales of gas to all customers who have the ability to buy gas in the spot market. Under the authority requested, BHP will be enabled to trade in natural gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order No. 451, and other natural gas subject to the Commission's NGA jurisdiction which is not presently required by certificate to be delivered to another purchaser.

As the duration of the sales transactions for which certificate authority is sought will be coterminous with the abandonment authority granted to producers in separate proceedings, including expedited proceedings pursuant to the Commission's expedited abandonment procedures set forth in Order No. 436, BHP is also requesting the Commission to authorize pre-granted abandonment of such sales.

Furthermore, BHP is requesting waiver of Commission regulations under Parts 154 and 271 in order to facilitate implementation of the authorized sales. BHP states that it is not affiliated with any interstate natural gas pipeline company.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before August 4, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any conference or hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16847 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-30-007]

Proposed Change in Tariff in Compliance With Commission Order and Motion To Place Sales Tariff Sheets Into Effect; Colorado Interstate Gas Co.

July 21, 1987.

Take notice that on July 14, 1987, Colorado Interstate Gas Company (CIG) tendered for filing substitute Twenty-Ninth Revised Sheet No. 7 and Substitute Thirtieth Revised Sheet No. 8 to its FERC Gas Tariff, Original Volume No. 1, in compliance with Ordering Paragraph (E) of the Commission's order that issued February 13, 1987. This filing modified CIG's June 12, 1987, compliance filing to reflect the elimination of facilities not in service as of June 30, 1987.

CIG simultaneously moved that the tendered sales tariff sheets be made effective July 14, 1987, the end of the suspension period established in the February 13, 1987 order of the Commission. CIG has not moved to place into effect revised transportation rates and states that it will continue to

collect the transportation rates presently in effect subject to refund.

CIG states it believes it has fully complied with the February 13, 1987 order, except insofar as compliance with Ordering Paragraph (D)(1). In this regard, CIG states that the Commission issued a Notice Of Extension Of Time on February 27, 1987 in Docket No. RP87–30–000, wherein it granted CIG an extension of time to comply (to and including ten days after the Commission acts on CIG's rehearing application).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–16848 Filed 7–23–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–759–000]

Application for Certificate of Public Convenience and Necessity for Pre-Granted Abandonment; Eastex Hydrocarbons, Inc. and Mesa-Eastex Gas Marketers

July 21, 1987.

Take notice that on July 10, 1987, Eastex Hydrocarbons, Inc. ("Eastex") and Mesa-Eastex Gas Marketers ("Mesa-Eastex") (hereinafter "Applicants"), pursuant to sections 4 and 7 of the Natural Gas Act ("NGA"), 15 U.S.C. 717 (c) and (f), and the provisions of 18 CFR Part 157, filed an application for a blanket certificate of public convenience and necessity and for pre-granted abandonment to permit the sale, with pre-granted abandonment, of natural gas which remains subject to the Federal Energy Regulatory Commission's ("FERC" or "Commission") jurisdiction under the Natural Gas Act.

Applicants are seeking authority to purchase and resell, with pregranted abandonment, natural gas subject to the jurisdiction of the Commission under the NGA. Such authority will allow Applicants to trade in natural gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order No. 451 (section 270.201 of the Commission's regulations), and other natural gas subject to the Commission's NGA jurisdiction which is not presently required by certificate to be delivered to another purchaser, including contractually uncommitted gas from the OCS that qualifies under ¶ 102(d) of the Natural Gas Policy Act. The authority is requested for a term of five years.

Applicants state that they are aware of the terms and conditions imposed by the Commission's orders in *Citizens Energy Corp. et al.*, Docket No. CI86–56–001 *et al.*, issued May 1, 1987, and in *EnTrade Corp. et al.*, Docket No. CI87–89–000 *et al.*, issued March 31, 1987, 38 FERC ¶ 61,344, and propose to operate their purchase and sales program in accordance with the generally applicable conditions imposed on marketing companies in those orders. Applicants have requested that should the Commission remove any of the restrictive terms and conditions imposed in the above-referenced orders, that those same conditions be deemed removed from the certificate authority granted Applicants. Applicants state that neither Eastex nor Mesa is affiliated with any interstate natural gas pipeline. Applicants have requested that the Commission waive the regulations under Parts 154 and 271 of its regulations concerning maintenance of rate schedules in order to permit Applicants to implement sales without filing and changing rate schedules and blanket affidavits to conform to the conditions of each individual sale, such as the waivers in the orders issued to *Citizens Energy Corp. et al., supra* and *EnTrade Corp. et al., supra.*

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–16849 Filed 7–23–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–767–000]

Application for Blanket Limited-Term Abandonment and Blanket Limited-Term Certificate of Public Convenience and Necessity With Pre-Granted Abandonment; Ensource Inc.

July 21, 1987.

Take notice that on July 14, 1987, Ensource, Inc. pursuant to sections 4 and 7 of the Natural Gas Act ("NGA") 15 U.S.C. 717c and 717f, and parts 154 and 157 of the regulations of the Federal Energy Regulatory Commission ("Commission"), 18 CFR Parts 154 and 157 (1986), applied for blanket limited-term abandonment and blanket sale for resale certificate authority with pre-granted abandonment as more fully described in the Application which is on file with the Commission and open for public inspection. Applicant requested expedited approval of this Application pursuant to the procedures of § 2.77 of the Commission's regulation. 18 CFR 2.77.

Any person desiring to be heard or to make any protest with reference to said Application should on or before August 4, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the Commission's rules of practice and procedure (18 CFR 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–16850 Filed 7–23–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86-113-004]

Compliance Filing; Gas Transport, Inc.

July 21, 1987.

Take notice on July 7, 1987, Gas Transport, Inc. (Gas Transport) tendered for filing certain tariff sheets pursuant to the Commission's letter order dated June 4, 1987. However, after discussion with the Commission's staff, Gas Transport realized that additional changes to those tariff sheets were necessary. So on July 15, 1987, Gas Transport withdrew its previous filing of July 7, 1987 and filed the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Third Revised Sheet No. 5
Second Third Revised Sheet No. 20
Second Third Revised Sheet No. 21
Second Third Revised Sheet No. 25
Second Third Revised Sheet No. 26
Second Third Revised Sheet No. 66
Second Third Revised Sheet No. 74
Second Third Revised Sheet No. 76
Second Third Revised Sheet No. 77

In addition, Gas Transport requests the Commission waive its rules to the extent necessary to accept this compliance filing out-of-time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before July 28, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16851 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-98-004 et al.]

Filing of Pipeline Refund Reports; K N Energy, Inc., et al.

July 21, 1987.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before August 3, 1987. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing Date	Company	Docket No.
Apr. 6, 1987	K N Energy, Inc.	RP85-98-004.
Jun. 16, 1987	Granite State Gas Transmission Inc.	RP86-99-004.
Jun. 19, 1987	Columbia Gas Transmission Corp.	TA87-4-21-005.
Jun. 22, 1987	Alabama-Tennessee Natural Gas Co.	RP85-117-009.
Jun. 29, 1987	Texas Eastern Transmission Corp.	RP74-41-042.
Jul. 15, 1987	Trunkline Gas Co.	RP85-77-006.
Jul. 15, 1987	Panhandle Eastern Pipe Line Co.	RP85-96-006.
Jul. 16, 1987	Transcontinental Gas Pipe Line Corp.	TA85-1-29-011.

[FR Doc. 87-16852 Filed 7-23-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3237-8]

Denial of Petition for Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: On May 20, 1987, EPA denied petitions to commence rulemaking previously filed by the Motor Vehicle Manufacturers Association (MVMA), General Motors Corporation (GM) and Automobile Importers of America, Inc. (AIA). The petitions requested EPA to adopt regulations relating to EPA's evaporative hydrocarbon emission in-use testing.

ADDRESSES: EPA's denial of the petitions, as well as other materials relevant to this action, are available in Public Docket No. EN-85-12. The docket is located in the Central Docket Section, U.S. Environmental Protection Agency, Room 4, South Conference Center (LE-131), Waterside Mall, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 3:00 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Anthony Tesoriero, U.S. Environmental Protection Agency, Manufacturers Operations Division (EN-340F), 401 M Street SW., Washington, DC 20460. Telephone: (202) 382-2487.

SUPPLEMENTARY INFORMATION: On August 26, 1985, MVMA petitioned the EPA to commence rulemaking to modify and formalize the evaporative emission test practices utilized in EPA's recall testing program. GM and AIA later adopted MVMA's petition by reference.

MVMA's petition requested EPA to adopt regulations which would address the following issues as they apply to EPA's evaporative hydrocarbon emission in-use testing: (1) Test vehicle selection (2) vehicle handling (3) vehicle stabilization and (4) "background" evaporative emissions. These proposed rules would have supplemented the existing regulations which define the Federal Test Procedure.

After review of EPA's existing in-use (recall) evaporative emission test practices, and in light of the various data provided by the industry, as well as other relevant information, EPA concluded that no changes in the test procedure regulations were necessary or appropriate and the petitions were denied. EPA did decide, however, to make a number of non-regulatory modifications to its in-use evaporative test practices and to continue to follow certain recently implemented modifications. The modifications involve the use of fuel tank thermocouples, laboratory vehicle handling procedures, vehicle preconditioning and vehicle pressure checks.

Since this final Agency action has national applicability, any petition for review under section 307(b) of the Clean Air Act must be filed in the United States Court of Appeals for the District of Columbia within sixty days from the date this notice appears in the **Federal Register.**

Dated: July 20, 1987.

Don R. Clay,

Acting Assistant Administrator of Air and Radiation.

[FR Doc. 87-16897 Filed 7-23-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59244A; FRL-3237-9]

Certain Chemical; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-87-18. The test marketing conditions are described below.

EFFECTIVE DATE: July 16, 1987.

FOR FURTHER INFORMATION CONTACT: Roy Seidenstein, Premanufacturer Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-613, 401 M Street SW., Washington, DC 20460 (202-475-8994).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-18. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-87-18. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-87-18

Date of receipt: June 2, 1987.

Notice of receipt: June 23, 1987 (52 FR 23596).

Applicant: Uniroyal Chemical Company, Inc.

Chemical: (G) An isocyanate terminated polyurethane prepolymer.

Use: (G) Open use.

Production volume: 45,000 kg/yr.

Number of customers: Ten companies.

Worker exposure: Eighty workers.

Test marketing period: Six months from commencement of manufacture.

Risk assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test market substance activities will not present any unreasonable risk of injury to health or the environment.

Dated: July 16, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-16898 Filed 7-23-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3237-6]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed July 13, 1987 Through July 17, 1987 Pursuant to 40 CFR 1506.9

EIS No. 870241, Final, BIA, CA, Hoppa Valley Indiana Reservation, Anadromous Fish Commerical Harvesting, Fishing Regulations Modification, Humboldt and Del Norte Counties, Due: Review Period Waived, Contact: Maurice Babby (916) 978-4691.

EIS No. 870245, Draft, FHW, NY, Lockpart Expressway/I-990 Extension, North French Road to Millersport Highway/NY-263 to Transit Road, Erie County, Due: September 8, 1987, Contact: Victor Taylor (518) 472-3616.

EIS No. 870246, Final, FHW, TN, TN-34 Bypass Construction, TN-34 Southwest of Johnson City to TN-137 Northwest of Johnson City Washington County, Due: August 24, 1987, Contact: Thomas Ptak (615) 736-5394.

EIS No. 870247, Final, FHW, CA, I-680/CA-24 Interchange Reconstruction and Freeway Improvements, Rudgear Road in Walnut Creek to Willow Pass Road in Pleasant Hill/Concord, Contra Costa County, Due: August 24, 1987, Contact: David Eyres (916) 551-1314.

EIS No. 870248, Final, BLM, ID, Monument Planning Area, Wildeness Study Areas, Wilderness Recommendations, Due: August 24, 1987, Contact: Jon Idso (208) 886-2206.

EIS No. 870249, FSuppl, NRC, PA, Three Mile Island Nuclear Power Station, Unit 2, Decontamination and Disposal of Radioactive Wastes Resulting from March 28, 1979 Accident, Disposal of Accident Generated Water, Dauphin County, Due: August 24, 1987, Contact: Michael Masnik (301) 492-4523.

Amended notice

EIS No. 870235, Draft, BIA, WA, Swinomish Marine and Associated Facilities Development, Lease Approval, Swinomish Channel, Skagit County, Due: September 15, 1987, Published FR 7-17-87—Review period extended.

Dated: July 21, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-16891 Filed 7-23-87; 8:45 am]

IBILLING CODE 6560-50-M

[ER-FRL-3237-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 6, 1987 through July 10, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to

draft environmental impact statements (EISs) was published in the **Federal Register** dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. DR–AFS–L67015–AK, Rating EC2, Quartz Hill Molybdenum Project Mine Development, Construction, Operation, and Post-Mining Abandonment, Sect. 10 and 404 Permit, Special Use Permit and Leases, Tongass Nat'l Forest, AK. *Summary:* EPA's major environmental concern was related to the discharge location for the mine tailings. As the draft EIS indicates, EPA and the Forest Service have identified different preferred alternatives for the tailings disposal site and will, together, discuss the selection of a single preferred alternative for the final EIS. EPA also indicated concern over the lack of modeling data for a direct discharge to the middle basin Boca de Quadra and the need for more information about the cumulative effects from a transmission line Intertie project. EPA recommends that the final EIS discuss how the Intertie project could affect the decision on where to discharge the tailings.

ERP No. D–MMS–A02221–00, Rating E01, 1988 Central, Western, and Eastern Gulf of Mexico OCS Oil and Gas Sale Nos. 113, 115, and 116, Lease Offerings, Offshore AL, FL, LA, MS, and TX. *Summary:* EPA noted that the proposed action (unrestricted leasing) for all three planning areas could result in significant environmental impacts to topographic highs and live bottoms that provide important marine habitat in the Gulf. EPA recommended that sensitive areas be deferred, or that protective stipulations be adopted for all three lease sales.

ERP No. D–MMS–K67007–00, Rating EC2, Hawaiian Archipelago and Johnston Island Exclusive Economic Zones, Marine (Non-Oil and Gas) Mineral Sale, Leasing (Possible 404 Permit), HI and Pacific. *Summary:* EPA expressed environmental concerns due to: (1) Project impacts on the marine environment from discharges; (2) air quality impacts from onshore processing operations; and (3) mitigation measures to reduce adverse impacts to air quality, marine water quality, and marine ecosystems such as tuna fisheries and coral reefs. EPA also requested that the final EIS more fully discuss such issues as future site-specific EISs, endangered species consultation waste water discharge permit requirements, and marine mining regulatory requirements.

ERP No. D–SFW–L64037–AK, Rating LO, Innoko Nat'l Wildlife Refuge, Comprehensive Conservation Mgmt. Plan, Wilderness Review, AK. *Summary:* EPA concurs with the selection of Alternative A (no action) as the proposed action, since it allows for adequate protection of refuge resources and proper management to minimize potential adverse impacts.

Final EISs

ERP No. F–NOA–L64020–WA, Grays Harbor Estuary Mgmt. Plan, Washington State Coastal Zone Mgmt. Program, Amendment No. 3 Approval, Section 10 and 404 Permit, WA. *Summary:* EPA made no formal comments. EPA reviewed the final EIS and found the project to be satisfactory.

ERP No. F–SCS–H36099–NB, Middle Big Nemaha Watershed Protection and Flood Prevention Plan, NB. *Summary:* EPA has no objections to the recommended action as described in the final EIS.

ERP No. F–USN–K09803–CA, Navy Geothermal Development Program, Power Plant Construction and Operation, Coso Known Geothermal Resource Area, CA. *Summary:* EPA's review found that the final EIS adequately addressed the underground injection control (UIC) and ground water pollution concerns previously raised.

Dated: July 21, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–16892 Filed 7–23–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Training and Fire Programs Directorate, Board of Visitors for the Emergency Management Institute; Opening 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: Board of Visitors (BOV) for the Emergency Management Institute (EMI).

Dates of Meeting: August 24–26, 1987.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, MD 21727.

Time:

August 24—7:00 p.m. to 9:00 p.m.
August 25—8:30 a.m. to 5:00 p.m.
August 26—8:30 a.m. to Agenda Completion

Proposed Agenda: New Business; Oath of Office for New Member; Subcommittee Reports.

The meeting will be open to the public with approximately ten seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Training and Fire Programs Directorate, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301–447–1251) on or before August 10, 1987.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Deputy Associate Director's Office, Training and Fire Programs Directorate, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: July 15, 1987.

William Neville,

Superintendent of the Fire Academy.

[FR Doc. 87–16807 Filed 7–23–87; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

[87–790]

Approval of Application for Unlisted Trading Privileges; Boston Stock Exchange

Date: July 20, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On June 16, 1987 the Boston Stock Exchange filed with the Federal Home Loan Bank ("Board") an application ("Application"), pursuant to section 12 (f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 (17 CFR 240.12f–1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange;

Coast Saving and Loan Association, Los Angeles, California (FHLBB No. 7046
Common Stock, No Par Value
Standard Federal Bank, Troy, Michigan (FHLBB No. 0161)
Common Stock, $1.00 Par Value
Columbia Savings and Loan Association, Beverly Hills, California (FHLBB No. 6325)
Common Stock, $1.00 Par Value
Home Federal Savings and Loan Association, San Diego, California (FHLBB No. 3143)
Common Stock, $.01 Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on June 29, 1987, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 87-688 dated June 23, 1987 (52 FR 24218, June 29, 1987). The Board received no comments with respect to the Application. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in these securities on July 15, 1987.

SUPPLEMENTARY INFORMATION:

The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Boston Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system comtemplated by Rule 11Aa3-1 under the Act (17 CFR 240.11Aa3-1). The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Boston Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12 (f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in the above named securities on July 15, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-16904 Filed 7-23-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisitions of Companies Engaged in Permissible Nonbanking Activities; First NH Banks, Inc., et al.

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 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 August 14, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First NH Banks, Inc.*, Manchester, New Hampshire; to acquire CreditAmerica, Inc., New Hyde Park, New York, and thereby engage in the leasing of equipment valued between $5,000 and $250,000 pursuant to § 225.25(b)(5) of the Board's Regulations Y.

B. **Ferderal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Merchants National Corporation*, Indianapolis, Indiana; to acquire North Madison Insurance Agency, Inc., Madison, Indiana, and Insurance Department of Madison Bank and Trust Company, Madison, Indiana, and thereby indirectly engage in the business of general insurance agency activities, pursuant to Exemption D of the Garn-St Germain Depository Institutions Act of 1982 and § 225.25(b)(8)(iv) of the Board's Regulation Y. Comments on this application must be received by August 7, 1987.

Board of Governors of the Federal Reserve System, July 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16794 Filed 7-23-87; 8:45 am]

BILLING CODE 6210-01-M

Application To Engage de Novo in Permissible Nonbanking Activities; First of America Bank Corp.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such a greater convenience, increased competition, or gains in efficiency, that

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bank Corporation,* Kalamazoo, Michigan; to engage *de novo* through its subsidiary, First of America Computer Services, Inc., Kalamazoo, Michigan, in data processing and data transmission services, facilities, hardware, software, documentation and operating personnel pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16795 Filed 7-23-87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Signal Bank, Inc., et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817 (j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817 (j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 7, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Signal Bank, Inc. Stock Ownership Plan and Trust and Joan M. Kopp,* West St. Paul, Minnesota; to acquire 10.76 percent of the voting shares of Signal Bancshares, Inc., West St. Paul, Minnesota.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Herbert Claiborne Pell, III,* Paradise Valley, Arizona; to acquire 41.33 percent of the voting shares of First Commerce Bancorp, Phoenix, Arizona, and thereby indirectly acquire First Commerce National Bank, Phoenix, Arizona.

Board of Governors of the Federal Reserve System, July 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16797 Filed 7-23-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87M-0203]

Centocor, Inc.; Premarket Approval of Centocor CA 125 RIA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the premarket approval application by Centocor, Inc., Malvern, PA, for premarket approval under the Medical Device Amendments of 1976, of the firm's Centocor CA 125 RIA. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by August 24, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: S.K. Vadlamudi, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On February 19, 1985, Centocor, Inc., Malvern, PA 19355, submitted to CDRH an application for premarket approval of the Centocor CA 125 RIA. Centocor CA 125 RIA is indicated for the quantitative measurement of Cancer Antigen 125 (CA 125) in serum of women with primary epithelial invasive ovarian cancer, excluding those with cancer of low malignant potential, for use as an aid in the detection of residual ovarian carcinoma in patients who have undergone first-line therapy and would be considered for diagnostic second-look procedures. A level of 35 units per milliliter is predictive of residual disease, provided that alternative causes of an elevated CA 125 value can be excluded (see under limitations of the procedure in the labeling). It is recommended that the assessment and treatment of patients with ovarian cancer and the use of the Centocor CA 125 RIA be under the order of a physician trained and experienced in the management of gynecologic cancers.

On October 31, 1986, the Immunology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 2, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact S. K. Vadlamudi (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the

form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 24, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 12, 1987.

John C. Villforth, *Director, Center for Devices and Radiological Health.*

[FR Doc. 87–16800 Filed 7–23–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87M–0193]

Allergan Optical; Premarket Approval of ULTRAZYME™ Enzymatic Cleaner

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Allergan Optical, Irvine, CA, for premarket approval, under the Medical Device Amendments of 1976, of ULTRAZYME™ Enzymatic Cleaner for use in a 3 percent hydrogen peroxide disinfecting solution to remove protein and reduce its buildup on soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by August 24, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On December 17, 1986, Allergan Optical, Irvine, CA 92715, submitted to CDRH an application for premarket approval of ULTRAZYME™ Enzymatic Cleaner for use in a 3 percent hydrogen peroxide disinfecting solution to remove protein and reduce its buildup on soft (hydrophilic) contact lenses.

On February 27, 1987, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On June 1, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of ULTRAZYME™ Enzymatic Cleaner states that the solution is indicated for use in a 3 percent hydrogen peroxide disinfecting solution to remove protein and reduce its buildup on soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the Federal Register of the approval of a new solution for use with an approved soft contact lens, the manufacturer or PMA holder of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 24, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: July 12, 1987.

John C. Villforth, *Director, Center for Devices and Radiological Health.*

[FR Doc. 87–16801 Filed 7–23–87; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Statement of Organization, Functions and Delegations of Authority; Health Resources and Services Administration

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the

Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 51 FR 46724, December 24, 1986) is amended to reflect the abolishment of the Office of Debt Management, Bureau of Health Professions, and a technical change to delete reference to the Office of Debt Management in the functional statement for the Division of Student Assistance, Bureau of Health Professions.

Under HB–10, Organization and Functions, amend the functional statement for the *Bureau of Health Professions (HBP)* by: (1) Deleting the functional statement for the *Office of Debt Management (HBP14)* in its entirety; and (2) deleting "in consultation with the Office of Debt Management" from function number (8) for the *Division of Student Assistance (HBP5).*

These revisions are effective upon date of signature.

Dated: July 16, 1987.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 87–16826 Filed 7–23–87; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Privacy Act of 1974; Report of Altered System of Records and Technical Revisions

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: Altered system of records and technical revisions.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4)), we are issuing public notice of our intent to make a major alteration and technical revisions to an existing system of records. The system of records presently is entitled "Consultative Physician's File, HHS/SSA/OD, 09–60–0046." The proposed alteration will expand the categories of individuals covered by the system to include consultants of various specialities. State Disability Determination Service (DDS) personnel will use this information in the selection of a consultant when additional medical or vocational evidence is needed to develop disability claims. The technical revisions make the notice of the system accurate and up-to-date. We invite public comments on this publication.

DATES: We filed a report of an altered system of records with the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget on July 10, 1987. The proposed alteration will become effective on September 8, 1987, unless we receive comments on or before that date which would result in a contrary determination. The technical revisions are effective upon publication.

ADDRESS: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room L1140 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address

FOR FURTHER INFORMATION CONTACT: Mr. William Browne, Division of Vocational Rehabilitation and Special Programs, Office of Disability, Social Security Administration, 3–M–25 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (area code 301) 594–8778.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Proposed Expansion of the Categories of Individuals Covered by the Consultative Physician's File

The respective State DDS offices maintain information about consultants that assist them in the selection of the appropriate consultant when additional medical or vocational evidence is needed in the development of claims under title II and title XVI of the Social Security Act or title IV of the Federal Coal Mine Health and Safety Act. (In accordance with the provisions of section 221 of the Social Security Act, State DDS units make determinations of disability when the State notifies the Secretary of HHS in writing that it wishes to make such disability determinations.) The type of information maintained in the system relates to a consultant's speciality, the promptness and thoroughness of his/her reports, fees received, etc., and comments on the consultant's own preferences (such as appointment hours, etc.).

The categories of individuals covered by the Consultative Physician's File system currently is limited to physicians who perform consultative disability examinations on behalf of the DDS. We are proposing to expand the categories of individuals covered by the system to include, in addition to physicians, consultants who can provide additional medical or vocational evidence needed to process Social Security and Black Lung claims. These consultants include, but are not limited to, psychologists, social workers, nurses, audiologists and vocational consultants. This proposed change is reflected in the notice below.

II. Effect of the Proposed Alteration on Individuals' Rights

We are proposing to alter the Consultative Physician's File in accordance with the requirements and principles of the Privacy Act. The DDS's make agreements with consultants solely for the purpose of accomplishing their objectives. Information maintained in this system will be used to determine the appropriate individual when a consultative service is necessary in the development of additional evidence for a disability determination. Consequently, we do not anticipate that the proposed alteration to the system will have an unwarranted adverse effect on the rights of the individuals covered by the system.

III. Technical Revisions to the Consultative Physician's File

In addition to proposing to make the above alteration to the Consultative Physician's File, we are proposing to make the following technical revisions to the notice of the system:

1. Change the system name from "Consultative Physician's File" to "Disability Determination Service Consultant's File." The name change more accurately describes the nature of the system.

2. Revise the language in the "Location" and "Notification" sections to refer to an appendix, accompanying the notice in this publication, which contains current addresses for the DDS's.

3. Revise the language in the "Categories of records covered by the system", "Purpose", "Retrievability", "Safeguards", "Retention and disposal" and "Record source categories" sections for clarity and to reflect the proposed alteration discussed in item I. above.

4. Revise the "Authority for maintenance of the system" section by deleting reference to section 1634 of the Social Security Act as this section is no longer applicable to the system.

5. Revise the "System manager" section to reflect the current system manager's title and office.

6. Revise the "Contesting record procedures" section to reflect additional procedures an individual must follow when contesting the contents of a record pertaining to him/her.

Dated: July 8, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

09–60–0046

SYSTEM NAME:

Disability Determination Service Consultant's File, HHS/SSA/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Offices of the Disability Determination Services (DDS) of each State that may currently maintain this type of file. [*See the appendix which accompanies this notice for the name and address of each DDS.*]

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Physicians who have expressed a willingness to conduct consultative examinations for the DDS and, in some instances, other physicians with whom the DDS has contact. The latter are usually treating physicians. *This file also includes, but is not limited to, psychologists, social workers, nurses, audiologists and vocational consultants who express a willingness to conduct some type of consultative service for the DDS.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relative to a *consultant's speciality, past experience as to the promptness with which reports are submitted, general thoroughness of reports, fees received, etc., and perhaps comments on the consultant's* own preferences (such as appointment hours, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 30 U.S.C. 923(b), and Sections 221 *and* 1633 of the Social Security Act.

PURPOSE(S):

DDS personnel use this information in the selection of a *consultant when additional medical or vocational* evidence is needed for claims under titles II and XVI of the Social Security Act or title IV of the Federal Coal Mine Health and Safety Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To a congressional office in response to an inquiry from the office made at the request of the subject of a record.

2. To the Department of Justice in the event of litigation where the defendant is:

(a) The Department of Health and Human Services (HHS), any component of HHS or any employee of HHS in his or her official capacity;

(b) The United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or

(c) Any HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting the Social Security Administration (SSA) in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

4. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each DDS maintains its own records and the method of storage may vary from State to State. Generally, the information is on a file card maintained in a standard card file cabinet. However, some States may used an automated format.

RETRIEVABILITY:

Records are retrieved by *the consultant's* surname.

SAFEGUARDS:

Only authorized SSA and DDS personnel have access to these records. Personal information other than the name of the consultant is subject to the disclosure restrictions of 5 U.S.C. 552(b)(6), 21 U.S.C. 1175, and 42 U.S.C. 1306.

RETENTION AND DISPOSAL:

Disability Determination Service policy as to retention and disposal varies from State to State, but generally, the file is destroyed upon death, retirement, or relocation of the *consultant.*

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner Office of Disability 6401 Security Boulevard Baltimore, MD 21235

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him or her by providing name and address to the Disability Determination Services Administrator, Disability Determination Services, C/O the State in which he or she resides and/or information is likely to be maintained (*see the appendix accompanying this notice for address information*). These procedures are accordance with HHS Regulations 45 CFR Part 5b.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters also should reasonably specify the record contents being sought. These access procedures are in accordance with HHS Regulations 45 CFR Part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters also should reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification *showing how the record is incomplete, untimely, inaccurate or irrelevant.* These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD SOURCE CATEGORIES:

Information is obtained mostly from the consultant. Observations of DDS personnel about the consultant, such as the individual's general promptness in filing reports, may occasionally be found in a consultant's file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix—State Disability Determination Service Office Addresses (Included Are Addresses for Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands)

Alabama (Decentralized)

Division of Disability Determinations, Clairmont Office Plaza, P.O. Box C–300, 2800 University Boulevard, Birmingham, AL 35233

Division of Disability Determinations, P.O. Box 2371 (36652–2371), 2000 Old Bayfront Drive, Mobile, AL 36615

Alaska

Disability Determinations Unit, 4100 Spenard Road, Suite A, Anchorage, AK 99503–5387

Arizona (Decentralized)

Disability Determination Services Administration, P.O. Box 11980, Phoenix, AZ 85061
Disability Determination Services Administration, P.O. Box 40060, Tucson, AZ 85717

Arkansas

Disability Determinations for the Social Security Administration, 701 Pulaski Street, Little Rock, AR 72201

California (Decentralized)

Fresno

Division of Disability Evaluation, P.O. Box 1072, Fresno, CA 93714

Los Angeles

Division of Disability Evaluation, P.O. Box 3819, Terminal Annex, Los Angeles, CA 90051
Division of Disability Evaluation, P.O. Box 60999, Terminal Annex, Los Angeles, CA 90060

Sacramento

Division of Disability Evaluation, 744 "P" Street, Room 1827, Sacramento, CA 95809

San Diego

Division of Disability Evaluation, P.O. Box 85326, 6160 Mission Gorge Road, San Diego, CA 92120

Oakland

Division of Disability Evaluation, P.O. Box 24225, Oakland, CA 94623

Colorado

Disability Determination Services, P.O. Box 22336, Denver, CO 80222
Disability Determination Services, 2121 South Oneida Street, Denver, CO 80224

Connecticut

Bureau of Disability Determinations, 600 Asylum Avenue, Hartford, CT 06105

Delaware

Disability Determination Services, Elwyn Building, 3rd Floor, 321 East 11th, Wilmington, DE 19801

District of Columbia

Disability Determination Division, Vocational Rehabilitation Administration, Department of Human Resources, 1120 G Street NW., Washington DC 20001

Florida (Decentralized)

Office of Disability Determinations, 2600 Blair Stone Road, Room 350B, Tallahassee, FL 32301
Office of Disability Determinations, 111 Coast Lane Drive, East, Suite 202, Jacksonville, FL 32202
Office of Disability Determinations, 3438 Lawton Road, Room 127, Orlando, FL 32803
Office of Disability Determinations, 7402 North 56th Street, Building 500, Tampa, FL 33617
Office of Disability Determinations, 10300 Sunset Drive, Suite 190, Miami, FL 33173
Office of Disability Determinations, Oakland Office Building, Room 261, 2009 Apalachee Parkway, Tallahassee, FL 32301

Georgia

Disability Adjudication Section, Decatur Building, Suite 300, 200 Swanton Way, Decatur, GA 30089

Guam

Disability Determination Service, Department of Vocational Rehabilitation, 112 Harmond Plaza, Room B–201, Harmond Industrial Plaza, Agana, GU 96911

Hawaii

Disability Determination Branch, Kapiolanc Commercial Center, 1580 Makaloa Street, Suite 660, Honolulu, HI 96814

Idaho

Disability Determination Unit, P.O. Box 4188 (83704), 1505 McKinney, Boise, ID 83704

Illinois

Bureau of Disability Determination Services, P.O. Box 1950 (ZIP Code 62794–9250), 100 North First Street, Springfield, IL 62708

Indiana

Disability Determination Division, P.O. Box 7069, 17 West Market Street, Indianapolis, IN 46207

Iowa

Disability Determination Services, 510 East 12th Street, Des Moines, IA 50319

Kansas

Disability Determination Services, Highland Village Shopping Center, 2049 SE. 29th Street, Topeka, KS 66605–2497

Kentucky (Decentralized)

Division of Disability Determinations, 275 East Main Street, 3rd Floor, P.O. Box 1000, Frankfort, KY 40602
Division of Disability Determinations, 2691 Regency Road, Lexington, KY 40503
Division of Disability Determinations, Civic Plaza P.O. Box 1061, Seventh and Jefferson Streets, Louisville, KY 40201

Louisiana (Decentralized)

Disability Determinations, 530 Lakeland Drive, Baton Rouge, LA 70802
Disability Determinations, P.O. Box 66498, Audubon Station, Baton Rouge, LA 70896
Disability Determinations, 2730 Wooddale Boulevard, Baton Rouge, LA 70805
Disability Determinations, P.O. Box 4446, Centenary Station, 2920 Knight Street, Shreveport, LA 71104
Disability Determinations, P.O. Box 19400, 2025 Canal Street, New Orleans, LA 70119

Maine

Division of Disability Determinations, Arsenal Street Extension, State House Extension #116, Augusta, ME 04333

Maryland

Disability Determination Services, Towson, MD 21204
Disability Determination Services, Division of Vocational Rehabilitation, P.O. Box 17011, Baltimore, MD 21203

Massachusetts (Decentralized)

Disability Determination Services, 110 Chauncy Street, Boston, MA 02111
Disability Determination Services, 22 Front Street, P.O. Box 8009, Worcester, MA 01614

Michigan (Decentralized)

Disability Determination Services, P.O. Box 30011, 608 West Allegan Street, Lansing, MI 48909
Disability Determination Services, P.O. Box 1220, 1020 Hastings Road, Traverse City, MI 49685
Disability Determination Services, P.O. Box 345 (48226), Michigan Plaza Building, 1200 Sixth Street, 10th Floor, Detroit, MI 48224
Disability Determination Services, P.O. Box 4020 (49003), 300 South Burdick Kalamazoo Mall, Kalamazoo, MI 49003

Minnesota

Disability Determination Unit, Metro Square Building, Suite 460, Seventh and Robert Streets, P.O. Box 43709 (ZIP Code 55164), St. Paul, MN 55101

Mississippi

State Disability Determination Services, P.O. Box 1271 (39205), 5977 Highway 18, Jackson, MS 39209

Missouri (Decentralized)

Disability Determination Services, 2401 East McCarty, Jefferson City, MO 65101
Disability Determination Services, 2143 Independence Street, Cape Girardeau, MO 63701
Disability Determination Services, 9140 Ward Parkway, Kansas City, MO 64114
Disability Determination Services, 10042 Gravois Street, St. Louis, MO 63123
Disability Determination Services, 2530 Suite I, South Campbell Street, Springfield, MO 65807
Disability Determination Services, 2728A Plaza Drive, Jefferson City, MO 65101

Montana

Disability Determination Burea, P.O. Box 4189 (59604) 1330 Helena Avenue, Helena, MT 59601

Nebraska (Decentralized)

Disability Determination Services, State Office Building, 6th Floor, 301 Centennial Mall, South, Lincoln, NE 68509
Disability Determination Services, Downtown Education Center, 3rd Floor, 1313 Farnam on the Mall, Omaha, NE 68102

Nevada

Bureau of Disability Adjudication, 505 East King Street, State Capitol Complex, Room 403, Carson City, NV 89710

New Hampshire

Disability Determination Unit, P.O. Box 452, 105 Loudon Road, Building 4, Concord, NH 03331

New Jersey

Division of Disability Determinations, P.O. Box 649 (07101), 1100 Raymond Boulevard, Room 418, Newark, NJ 07102
Division of Disability Determinations, P.O. Box 431, 745 Market Street, Camden, NJ 08101

New Mexico

Disability Determination Unit, P.O. Box 4588 (87196), Sandia Plaza Center, 3301 Juan Tabo, NE., Albuquerque, NM 87111

New York (Decentralized)

Office of Disability Determination, P.O. Box 1993 (11201), 1 Commerce Plaza, 12th Floor, Albany, NY 12260
Office of Disability Determinations, 295 Main Street, P.O. Box 5030 Ellicott Station, Buffalo, NY 14205
Office of Disability Determinations, 110 William Street, New York, NY 10038

North Carolina

Disability Determination Section, P.O. Box 243, Raleigh, NC 27602
Disability Determination Section, 1110 Navajo Drive, Raleigh, NC 27609

North Dakota

Disability Determination Services, 600 South Second Street, Bismarck, ND 58501

Northern Mariana Islands

Disability Insurance—SSA, 238 O'Hara Street, Agana, GU 96910

Ohio (Decentralized)

Bureau of Disability Determinations, Rehabilitation Services Commission, P.O. Box 29700, 1944 West Morse, Columbus, OH 43229
Bureau of Disability Determinations, P.O. Box 42513, 9403 Kenwood Road, Cincinatti, OH 45242

Oklahoma

Disability Determination Unit, P.O. Box 25352, 7801 N. Robinson, Suite J–7, Oklahoma City, OK 73116

Oregon

Disability Determination Services, Vocational Rehabilitation Division, 2045 Silverton Road, NE., Salem, OR 97310

Pennsylvania (Decentralized)

Bureau of Disability Determinations, 7th and Forster Streets, Labor and Industry Building, Room 1306, Harrisburg, PA 17120
Bureau of Disability Determinations, 1314 North Seventh Street, Harrisburg, PA 17120
Bureau of Disability Determinations, P.O. Box R, 38 Courtright Avenue, Wilkes Barre, PA 18702
Bureau of Disability Determinations, 351 Harvey Avenue, P.O. Box 2500, Greensburg, PA 15605
Bureau of Disability Determinations, 351 Harvey Avenue, Greensburg, PA 15605

Puerto Rico

Disability Determination Program, Call Box 71301, GPO, San Juan, PR 00936

Rhode Island

Disability Determination Unit, 40 Fountain Street, Providence, RI 02930

South Carolina (Dencentralized)

Disability Determination Division, P.O. Box 4945, 3600 Forest Drive, Suite 200, Columbia, SC 29240
Disability Determination Division, P.O. Box 3090 (29602), 300 Building, 300 University Ridge, Greenville, SC 29601
Disability Determination Division, Landmark Office Building, 4th Floor, Columbia, SC 29204
Disability Determination Division, 209 Fairfield Court, 1064 Gardner Road, Hwy 7, Clarleston, SC 29407
South Carolina Commissioner for the Blind, 1430 Confederate Avenue, Columbia, SC 29201

South Dakota

Disability Determination Services, P.O. Box 1029, 405 South Third Avenue, Tyler Building, Sioux Falls, SD 57101

Tennessee

Disability Determination Section, 1808 West End Avenue, 9th Floor, P.O. Box 775 (37203), Nashville, TN 37202

Texas

Division of Disability Determinations, P.O. Box 2913 (78769), 118 East Riverside Drive, Austin, TX 78704

Utah

Disability Determination Services, P.O. Box 550, Salt Lake City, UT 84110
Disability Determination Services, 250 East 5th Street, South, Salt Lake City, UT 84111

Vermont

Disability Determination Agency, 103 South Main Street, Waterbury, VT 05676

Virgin Islands

Disability Representative VI, Social Security Administration, Federal Office Building, Room 113, 26 Veterans Drive, St. Thomas, VI 00801

Virginia (Dencentralized)

Disability Determination Services, 5205 Leesburg Pike, Suite 1000, Falls Church, VA 22041
Disability Determination Services, 111 Franklin Road, P.O. Box 250, Roanoke, VA 24011
Disability Determination Services, 4900 Fitzhugh Avenue, Richmond, VA 23230
Disability Determination Services, 2106 N. Hamilton Street, Richmond, VA 23230
Disability Determination Services, P.O. Box 5090, Suite 107, 5700 Thurston Avenue, Virginia Beach, VA 23455

Washington (Dencentralized)

Department of Social and Health Services, Office of Disability Insurance, Building 13, Airdustrial Park, P.O. Box 9303 M.S. LN—11, Olympia, WA 98504

Office of Disability Insurance, 4601 North Monroe Street, B–32–13, Spokane, WA 99205
Office of Disability Insurance, 1119 Southwest Seventh Street, Renton, WA 98055

West Virginia

Disability Determination Section, Second Floor, Mason Building, 1206 Quarrier Street, Charleston, WV 25301
Disability Determination Section, P.O. Box 908, 170 Thompson Drive, Bridgeport, WV 26330

Wisconsin

Bureau of Social Security Disability Insurance, Division of Community Services, P.O. Box 7623 (ZIP Code 53707), 722 Williamson Street, Madison, WI 53703

Wyoming

Disability Determination Services, Barrett Building, 4th Floor, North, 611 West 29th Street, Cheyenne, WY 82002

[FR Doc. 87–16822 Filed 7–23–87; 8:45 am]
BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–87–854; FR–2373]

Delegation of Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Delegation of Authority To Approve Production or Disclosure of HUD Materials or Information in 24 CFR Part 15, Subpart H, and to Waive Policies or Procedures in 24 CFR Part 15, Subpart I.

SUMMARY: This delegation of authority designates the officials who may exercise the Secretary's authority to approve production or disclosure of HUD materials or information in response to subpoenas and other demands under 24 CFR Part 15, Subpart H, and to waive any policy or procedure prescribed by the new regulations in 24 CFR Part 15, Subpart I, which became effective on May 20, 1987, 52 FR 12159.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Carolyn Lieberman, Deputy General Counsel (Operations), Room 10216, (202) 755–7250, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. (This is not a toll-free number.)

Section C of the Delegation of Authority published on June 8, 1971 at 36 FR 11052 is amended by striking paragraphs 1, 2, and 3 and inserting the following:

The Under Secretary and the General Counsel each is authorized (a) to approve the production or disclosure of HUD materials or information by HUD employees in response to subpoenas or demands of courts or other authorities, pursuant to regulations of the Department set forth in 24 CFR Part 15, Subpart H, and (b) to waive any policy or procedure prescribed by the regulations of the Department set forth in 24 CFR Part 15, Subpart I, concerning testimony of HUD employees in legal proceedings.

Authority: Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: July 17, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87–16909 Filed 7–23–87; 8:45 am]
BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Continuation of the Government of the Trust Territory of the Pacific Islands

Notice is hereby given that the Secretary of the Interior has issued Order Number 3119 dated July 10, 1987. The Order will define the extent and nature of the authority of the Government of the Trust Territory of the Pacific Islands, abolish the Office of the High Commissioner and delegate to the Assistant Secretary-Territorial and International Affairs the authority of the Secretary of the Interior pursuant to administration of the Trust Territory.

The Order is published in its entirety below.

Additional information regarding the Order may be obtained from Larry L. Morgan, Director, Legislative and Public Affairs, Office of Territorial and International Affairs, U.S. Department of the Interior, Washington, DC 20240. Telephone number 202–343–3003.

Dated: July 14, 1987.

Richard T. Montoya,

Assistant Secretary of the Interior.

[Order No. 3119]

Subject: Continuation of the Government of the Trust Territory of the Pacific Islands

Sec. 1. *Purpose.* The purpose of this Order is to define the extent and nature of the authority of the Govenrment of the Trust Territory of the Pacific Islands, consistent with the responsibilities of the Secretary under Executive Order 11021, and Presidential Proclamation 5564 of November 3, 1986, until such time as the 1947 Trusteeship Agreement, under which the United States undertook to act as Administering Authority for the Trust Territory of the Pacific Islands, becomes inapplicable in the trust Territory of the Pacific Islands. The President of the United States in Proclamation 5564 declared that the Trusteeship Agreement for the Pacific Islands is no longer in effect as of October 21, 1986, with respect to the Republic of the Marshall Islands, as of November 3, 1986, with respect to the Federated States of Micronesia, and as of November 3, 1986, with respect to the Northern Mariana Islands. Until the future political status of Palau is resolved, the United States will continue to discharge its responsibilities as Administering Authority under the Trusteeship Agreement.

Sec. 2. *Delegation of Authority.* Until the Trusteeship Agreement is no longer applicable to Palau, and subject to the limitations contained in this Order and in existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory of the Pacific Islands, executive, legislative, and judicial functions of the Government of the Trust Territory of the Pacific Islands are, except as otherwise provided herein, hereby delegated to the Govenrment of Palau established pursuant to the Constitution of Palau as approved by the citizens thereof.

Sec. 3. *Government of the Trust Territory of the Pacific Islands.* The Office of the High Commissioner of the Trust Territory of the Pacific Islands is abolished as of the effective date of this Order. Simultaneously with the abolishment of the Office of the High Commissioner, the authority of the Secretary of the Interior as respects the Trust Territory is hereby delegated to the Assistant Secretary-Territorial and International Affairs, who shall assume and exercise the authority of the Office of the High Commissioner, and shall have the authority to redelegate all such authority.

Sec. 4. *Retained Functions.*—a. *Administration.* The Assistant Secretary—Territorial and International Affairs shall continue to exercise all authority necessary to carry out the obligations and responsibilities of the United States under the 1947 Trusteeship Agreement, in order to ensure that no actions are taken that would be inconsistent with the provisions of the Trusteeship Agreement, this Order, and with existing treaties, laws, regulations, and agreements generally applicable in the Trust Territory of the Pacific Islands.

This authority shall include, but not be limited to:

(1) *Budget.* All budget submissions from Palau for appropriations from the Congress of the United States shall be subject to the approval of, and submitted to and through, the Assistant Secretary—Territorial and International Affairs in accordance with rules and regulations in respect thereto. The Assistant Secretary—Territorial and International Affairs shall make grants of financial assistance to Palau in such amounts as may be appropriated and subject to such terms and conditions as may be imposed.

(2) *Auditing and Accounting.* The Assistant Secretary, after audit by the Inspector General, Department of the Interior, or other authorized officials, shall have the authority to require compliance with proper accounting principles and audit recommendations, and may settle accounts as recommended by the Inspector General. Disagreements shall be resolved in accordance with 361 DM 1 and 2.

(3) *Relations with other United States Government Agencies and Foreign Governments.* Communications and relationships of Palau with agencies of the United States Government and with foreign governments and organizations shall be through the Assistant Secretary—Territorial and International Affairs and the Secretary of the Interior except in those specific cases in which a different procedure is approved by the Secretary of the Interior. Communications with foreign governments and international organizations shall be transmitted by the Department of State to the foreign government or international organization concerned.

(4) *Telecommunications.* The Assistant Secretary shall continue to have authority and responsibility for the operation and maintenance of telecommunications within Palau in accordance with treaties, laws, and regulations of the United States applicable to Palau.

(5) *Staffing.* The Assistant Secretary shall have the authority to hire such professional and administrative staff as may be necessary to carry out the duties and responsibilities of the Office of Assistant Secretary and to organize such Office so as to enable it to effectively carry out those duties and responsibilities.

b. *Other.* The Assistant Secretary shall also carry out such other duties as the Secretary of the Interior may from time to time prescribe.

Sec. 5. *Legislation.*—a. All laws of Palau shall be submitted to the Assistant Secretary within ten (10) days after being approved by the President of Palau. If the Assistant Secretary decides to suspend such law, or part thereof, the President of Palau shall be promptly, but no later than twenty (20) days after receipt of such law, notified of the reasons for suspending such law, or part thereof. The Assistant Secretary shall exercise this power only if such law, or part thereof, is inconsistent with the provisions of this Order, the Trusteeship Agreement, with existing treaties, laws, and regulations of the United States generally applicable to Palau. The decisions of the Assistant Secretary in this respect shall be final, subject only to an appeal to the Secretary.

b. No law shall take effect until the period during which the Assistant Secretary may suspend the law has expired unless the Assistant Secretary earlier notifies the President of Palau that the authority to suspend the law will not be exercised. A law or any part thereof so suspended shall be null and of no effect.

Sec. 6. *Judicial.*—a. The Appellate Division of the High Court of the Trust Territory of the Pacific Islands shall retain jurisdiction by *writ of certiorari* to entertain appeals from the Appellate Division of the Supreme Court of Palau with respect to suits against the Trust Territory of the Pacific Islands Government, the High Commissioner, or the Assistant Secretary as regards the administration of the Trust Territory. The ruling of the High Court of the Trust Territory of the Pacific Islands upon all appeals shall be final, binding, and enforceable in accordance with its terms.

b. The High Court of the Trust Territory of the Pacific Islands is hereby given jurisdiction to effect the judicial enforcement of the Occupational Safety and Health Act of 1970 (P.L. 91-596; 84 Stat. 1590) in Palau.

Sec. 7. *Effective Date.* This Order becomes effective at 12:00 midnight on July 10, 1987.

Sec. 8 *Prior Orders.* Except for the limitations on taxing authority contained in Section 2 of Part III of Secretarial Order No. 2918, as amended, Secretarial Orders No. 2918, as amended, No. 3027, and No. 3039, as amended, are superseded on the effective date of this Order.

Date: July 10, 1987.

[FR Doc. 87-16811 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-93-M

Bureau of Land Management

[AK-963-4213-15]

Alaska; Native Primary Place of Residence

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(h)(5) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(5), will be issued to Evan Ignatti, Nastatia Moxie, Ignati Ignati, and Evan Nick. The lands involved are in the vicinity of Sleetmute, Alaska.

Serial No.	*Land description*
Evan Ignatti, AA-9013	T. 9 N., R. 48 W., Seward Meridian, Sec. 20.
Nastatia Moxie, F-19736.	T. 12 N., R. 47 W., Seward Meridian, Sec. 35.
Ignati Ignati, F-19737	T. 9 N., R. 48 W., Seward Meridian, Sec. 20.
Evan Nick, F-19738	T. 12 N., R. 47 W., Seward Meridian, Sec. 25.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until August 24, 1987 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Jenice R. Prutz,

Acting Chief, Branch of Calista Adjudication.

[FR Doc. 16812 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-JA-M

[AA-650-07-4121-02-2410]

Availability of a Case Study of the Impact of Coal Transportation on Western Coal Development and the Federal Coal Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of a Case Study of the Impact of Coal Transportation on Western Coal Development and the Federal Coal Program.

SUMMARY: The Bureau of Land Management has recently completed a case study which addressed the impacts presented by competition for the transportation of coal produced in the Powder River Basin of Wyoming. The study centered on the Powder River Basin because it is the Federal coal region with the greatest total reserves, greatest current production, and the most potential for future leasing of coal. The study focused only on the relationship between the Federal Coal Program and the development of Western coal and rail transportation rates in the Powder River Basin of Wyoming. The study examined the issue of transportation beginning prior to 1984, when only one major transportation carrier was active in the area, and the effect of competition that was introduced when a second major carrier entered the area in 1984. It provides an analysis of transportation supply conditions and the effects on coal producers in that region. This notice makes the study available to the public. Copies can be obtained by writing the address set out below.

DATE: Copies are available as of July 24, 1987.

ADDRESS: Copies of the study may be obtained by writing: Director (130), Bureau of Land Management, Room 5600, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, (202) 343-4537.

Robert F. Burford,

Director.

July 20, 1987.

[FR Doc. 87-16783 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-84-M

[ID-050-07-4332-08; FES 87-30]

Environmental Impact Statement; Monument Planning Area of Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a final Environmental Impact Statement (EIS) for the wilderness proposals on six wilderness study areas in the Monument Planning Area of Idaho.

SUMMARY: The Monument EIS assesses the environmental consequences of managing six wilderness study areas (WSAs) as wildernes or non-wilderness and of managing one of those WSAs as wilderness including 1,751 acres outside the WSA boundary. The alternatives assessed in the Monument EIS include: (1) A "no wilderness" alternative for each WSA; (2) an "all wilderness" alternative for each WSA; and (3) an "enhanced wilderness" alternative for the Sand Butte WSA. The names of the six WSAs considered in the Monument EIS, their total acreage, and the proposed action for each are as follows:

Bear Den Butte—9,700 acres, all non-suitable for wilderness designation.

Little Deer—33,531 acres, all non-suitable for wilderness designation.

Raven's Eye—67,110 acres, all suitable for wilderness designation.

Sand Butte—20,792 acres plus 1,751 acres outside the WSA, all suitable for wilderness designation.

Shale Butte—15,968 acres, all non-suitable for wilderness designation.

Shoshone—6,914 acres, all non-suitable for wilderness designation.

Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of Interior and President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no final decision on these proposals can be made during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of this EIS may be obtained from the District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, Idaho 83352. Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th & C Streets, NW., Washington, DC 20240

Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706

FOR FURTHER INFORMATION CONTACT: Mr. Jon Idsho, District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, Idaho 83352, Telephone (208) 886-2206.

Dated: July 17, 1987.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 87-16719 Filed 7-23-87; 8:45 am]

BILLING CODE 4310-GG-M

[OR-110-07-4212-14;OR910-GP7-249; OR 39812]

Realty Action; Direct Sale of O&C Status Federal Land in Jackson County, OR

The following land is suitable for sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, at no less than the appraised fair market value.

Legal Description, Acreage and Value

T. 38 S., R. 3 E.,
Sec. 31, NE¼SE¼.

Williamette Meridian for 23.4 acres valued at $6,000.00.

Segregation

The above described federal land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statutes.

Direct Sale Procedures

Direct sale procedures to Mr. James C. Miller of Ashland, Oregon are being used because the sale does qualify as a direct sale according to 43 CFR 2711.3-3 Sections (a) (3) and (4). To do so otherwise could cause Mr. Miller to suffer some substantial economic loss to his ranching business. Also, the ownership pattern and access of this area indicates that a direct sale is appropriate. Also, the sale acreage was originally acquired from Mr. Miller's grandparents in 1965 and is no longer required for that purpose.

The sale will be held on Friday September 18, 1987 at the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. This parcel was acquired for a specific purpose and is no longer required for that or any other Federal purpose. No significiant resource values will be affected by the disposal. The consistency of this area's resource values will be maintained even though the sale is to occur.

The prospective purchaser is required to render a minimum deposit of 30% of the purchase price for these 23.4 acres by Friday September 18, 1987 and the balance within 180 days of the above date. If the deposit is not submitted or the full purchase price not rendered within 180 days of the sale date, the preference right is cancelled and the deposit will be forfeited.

For Further Information Contact: Don Kreitner, Klamath Area Realty Specialist of the Medford District at the above listed address with telephone

numbers of (503) 776–3923 and FTS 424–3923.

Conditions, Reservations and Terms of the Sale

1. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, (*with the exception of the oil and gas resources which will be reserved to the United States*) in accordance with section 209 of the Federal Land Policy and Management Act U.S.C. 1719. All qualified bidders must include with their bid deposit a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

2. A condition for the sale to take place is that Mr. Miller shall, at the same time the patent is issued, grant to the United States an exclusive easement for the Bureau of Land Management's Burnt Creek Road #39–3E–21 as described within Medford District's original fee acquisition RE–M–487 (50' C/L by 2100' for 4.2 acres more or less). The pump chance associated with this segment of the Burnt Creek Road and found generally within the limits of this road shall also be a part of this easement.

This procedure will maintain as nearly as possible the original ownership status of the sale parcel prior to the United States original 1965 acquisition of the sale acreage.

3. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

4. Patents will be issued subject to all valid existing rights and reservations of records.

Unsold Parcel

If the parcel identified in this Notice is not sold on September 18, 1987, the parcel will remain available to Mr. Miller at the then current fair market value until it is sold or withdrawn from the market.

Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: July 13, 1987.

Dave Jones,

District Manager.

[FR Doc. 87–16814 Filed 7–23–87; 8:45 am]

BILLING CODE 4310–33–M

[CA–050–4410–08]

District Advisory Council Meeting; Ukiah, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, Ukiah, California, District Advisory Council.

SUMMARY: Pursuant to Pub. L. 94–579 and 43 CFR Part 1780, the Ukiah District Advisory Council will meet in Ukiah, Monday, August 31, 1987. The agenda will include the Draft Arcata Resource Management Plan and an update on activities and programs in the Ukiah District.

DATES: The meeting will begin at 10:00 a.m. and adjourn at 4:00 p.m. Monday, August 31, 1987.

ADDRESS: The meeting will be held at the Discovery Inn, Empire Room, 1340 North State Street, Ukiah, California.

FOR FURTHER INFORMATION CONTACT: Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462–3873.

SUPPLEMENTARY INFORMATION: Public lands included in the Arcata Resource Management Plan are located primarily in Mendocino and Humboldt counties (excluding the King Range National Conservation Area), with small tracts in Del Norte, Trinity, and Sonoma counties. The draft land-use management plan will be available for public review August 1987.

The meeting is open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 1:00 p.m. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: July 17, 1987.

Al Wright,

District Manager.

[FR Doc. 87–16813 Filed 7–23–87; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Endangered and Threatened Species; Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Donald W. Headings, Jr., Skytop, PA, PRT–720056.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd of F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa for the purpose of enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI, PRT–720002.

The applicant requests a permit to purchase and import two pairs of captive born Darwin's rheas (*Pterocnemia pennata*) from Mr. Michel Durand, La Dehesa Centro de Aclimatacion Zoologica, Santiago, Chile, and sell the birds to the Fresno Zoo, Fresno, California, for the purpose of captive propagation and exhibition at the zoo.

Applicant: Cincinnati Zoo, Cincinnati, Ohio, PRT–720022.

The applicant requests a permit to import three male and three female pudus (*Pudu pudu*) from Poland for captive breeding and exhibition.

Dated: July 21, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87–16839 Filed 7–23–87; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[No. MC–F–18414]

Alan Glickman, Mitchell Sussman, and Michael Starr; Continuance In Control Exemption; Princeton Airport Express, Inc., Starr Transit Co., Inc., and A–1 Limousine, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Alan Glickman, Mitchell Sussman, and Michael Starr, noncarrier individuals, have filed a petition under 49 U.S.C. 11343(e) seeking an exemption from the requirement of prior regulatory approval for their continuance in control of Starr Transit Co., Inc. (Starr) (No. MC–111504), A–1 Limousine, Inc.

(Limousine) (No. MC-77751) and Princeton Airport Express, Inc. (Princeton), which has an application for authority pending in No. MC-201125.

Starr holds authority to transport passengers in regular-route service and in special and charter operations. Limousine holds passenger authority for special and charter operations. Princeton seeks authority to transport shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds.

Mssrs. Glickman, Sussman, and Starr are the officers and directors of Princeton and each owns one-third of its issued and outstanding stock. Mr. Glickman and Mr. Sussman each owns less than 5 percent of the issued and outstanding stock of Starr. Mr. Starr owns 100 percent of the issued and outstanding stock of Limousine. Princeton, Star, and Limousine do not hold any shares in each other; there is no common management of the carriers; and they do not control any other carriers.

Messrs. Glickman, Sussman, and Starr state that they are experienced in the common carrier transportation of passengers and property. They intend to draw upon their experience to operate Princeton to meet the needs of the public in a sound, safe and competitive manner in furtherance of the goals of the national transportation policy. They submit that the transaction is of limited scope and that regulation is not necessary to protect shippers from an abuse of market power. They argue that the market shares of Starr and Limousine, separately or combined, or when computed to include the anticipated market share of Princeton, are not significant in terms of the possibility of having any anticompetitive effect, particularly because there are many carriers authorized to provide the service for which Princeton seeks authority.

DATE: Comments must be received by Autust 24, 1987.

ADDRESSES: Send comments (an original and 10 copies), referring to No. MC-F-18414, to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative: Steven Morey Greenberg, Two University Plaza, Hackensack, NJ 07601

FOR FURTHER INFORMATION CONTACT: Thomas J. Barry, (202) 275-7540.

SUPPLEMENTARY INFORMATION: Petitioners seek an exemption under 49 U.S.C. 11343(e) and the Commission's regulations in *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982).

A copy of the petition may be obtained from petitioners' representative, or it may be inspected at the Washington, DC office of the Interstate Commerce Commission during normal business hours.

Decided:

By the Commission.

Noreta R. McGee,

Secretary.

[FR Doc. 87-16824 Filed 7-23-87; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Eagle Industries, Inc., 1406 Hays Street, Houston, Texas 77009.

2. Wholly-owned subsidiaries which will participate on the operations and State(s) of incorporation:

1. Greater Houston Transportation Company, a Texas Corporation.

2. Greater Austin Transportation Company, a Texas Corporation.

3. Greater Charlotte Transportation Company, a North Carolina Corporation.

4. El Past County Transportation Company, a Colorado Corporation.

5. Eagle Paratransit Services, Inc., a Louisiana Corporation.

Noreta R. McGee,

Secretary.

[FR Doc. 87-16825 Filed 7-23-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31066]

Exemption Burlington Northern Railroad Co.; Trackage Rights; Gulf & Mississippi Railroad Corp.

The Gulf & Mississippi Railroad Corporation (GMSR) has agreed to grant overhead trackage rights to Burlington Northern Railroad Company (BN) between Tupelo, MS, and Mobile AL, a distance of approximately 278 miles. The trackage rights became effective on July 17, 1987.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Dated: July 20, 1987.

Noreta R. McGee,

Secretary.

[FR Doc. 87-16899 Filed 7-23-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31072]

The Indiana & Ohio Central Railroad, Inc.; Exemption; Acquisition and Operation; CSX Transportation, Inc.

The Indiana & Ohio Central Railroad, Inc. (IOCR), a noncarrier, has filed a notice of exemption to acquire and operate approximately 43.5 miles of rail line presently owned by CSX Transportation, Inc. (CSX), from CSX's line at milepost 9.1, near Valley Crossing, OH to milepost 52.56 at Logan, OH. Incidental trackage rights will also be granted over the lines of CSX from milepost 9.1 at Valley Crossing, OH to milepost 6.0 at Parsons Yard, near Columbus, OH, solely for purposes of interchange between IOCR and CSX at the latter point.

This transaction is related to Finance Docket No. 31073, published concurrently with this notice, by which Indiana & Ohio Rail Corp. (IORC) seeks exemption from the prior review requirements of 49 U.S.C. 11343, pursuant to 49 CFR 1180.2(d)(2), to continue in control of IOCR.[1]

Any commens must be filed with the Commission and served on Robert L. Calhoun, Sullivan & Worcester, Suite 806, 1025 Connecticut Avenue, NW., Washington, DC. 20036 and David W. Hemphill, CSX Transportation, Inc., 500 Water Street, Jacksonville, Florida 32202.[2]

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[1] IORC controls three rail carries—the Indiana & Ohio Railway Company, the Indiana and Ohio Railroad Company, and Indiana & Ohio Eastern Railroad, Inc.

[2] The Railway Lobor Executives' Association (RLEA) filed an unsupported request for labor protection, claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since this transaction involves an exemption from 49 U.S.C. 10901, only showing of exceptional circumstances will justify the imposition of labor protection conditions. The request is denied because the requiste showing has not been made. *See Class Exemption—Acq. & Oper.*

Continued

The notice if filed under 49 CFR 1150.31. If the notice contians false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

This decision will not significantly affect the quality of the human environment or energy conservation.

Decided: July 21, 1987.

By the Commission, Jane F. Mackall, Director, Office of proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-16992 Filed 7-23-87; 9:11 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31073]

Indiana & Ohio Rail Corp.; Continuance in Control Exemption; Indiana & Ohio Central Railroad Inc.

The Indiana & Ohio Central Railroad, Inc. (IOCR), a noncarrier, has filed a notice of exemption to continue in control of The Indiana & Ohio Central Railroad, Inc. (IOCR), a newly-formed rail carrier.

IORC is the parent corporation of the IOCR and also controls three rail carriers—the Indiana & Ohio Railway Company (IOR), the Indiana and Ohio Railroad Company (IOR), and Indiana & Ohio Eastern Railroad, Inc. (IOER). IOCR is a corporation organized for the purpose of acquiring and operating approximately 43.5 miles of rail line owned and operated by CSX Transportation, Inc. (CSX). The transaction by which IOCR seeks to acquire this line is the subject of a notice of exemption in finance Docket No. 31072, published concurrently with this notice.

IORC states that the lines in question do not connect, with either the IORI, the IOR, or the IOER although they will be managed and operated as one entity. IORC also states that the continuance in control of IOER is not part of a series of anticipated transactions that would lead to a connection between them or any railroad in its corporate family. This is a transaction involving the acquisition or continuance in control of a nonconnecting carrier that is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under sections 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), will be imposed.[2]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not atuomatically stay the transaction.

This decision will not significantly affect the quality of the human environment or energy conservation.

Decided: July 21, 1987.

By the Commission, Jane F. Mackall, Director, Office of proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-16993 Filed 7-23-87; 9:11 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Clean Air Act Enforcement Action; Dow Chemical Co.

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Dow Chemical Company*, Civil Action No. 85-294-A was lodged with the United States District Court for the Middle District of Louisiana on July 10, 1987. The United States filed a complaint herein on July 1, 1983 alleging violations of the NESHAP for vinyl chloride. The proposed decree concerns compliance with the National Emission Standard for Hazardous Air Pollutants (NESHAP) for vinyl chloride at Dow's vinyl chloride facility in Plaquemine, Louisiana. The proposed decree requires the defendant to pay a civil penalty of $87,400. No injunctive relief is required because the Vinyl I plant has been permanently shut down.

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, 352 Florida Street, Baton Rouge, Louisiana 70801 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.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-16815 Filed 7-23-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Cercla; Gary, IN

In accordance with Department polilcy, 28 CFR 50.7, notice is hereby given that on July 13, 1987, a proposed consent decree in *United States* v. *The City of Gary*, Civil Action No. 8-87-421, was lodged with the United States District Court for the Northern District of Indiana. The proposed consent decree resolves a judicial enforcement action brought by the United States against the city of Gary pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA").

The proposed consent decree requires the city of Gary to reimburse to the United States $27,000 of the costs incurred by the United States in response to the release or threat of release of hazardous substances into the environment from the municipal dog pound owned by the city of Gary.

The proposed consent decree may be examined at the office of the United States Attorney, 507 State Street, Hammond, Indiana, and at the Office of Regional Counsel, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section,

of R. Lines under 49 U.S.C. 10901, 1 I.C.C.2d 810 (1985).

[1] The line to be acquired from CSX runs from milepost 9.1, near Valley Crossing, OH, to milepost 52.56 at Logan, OH. IOCR will also acquire incidental trackage rights from CSX from milepost 9.1 to milepost 6.0 at Parsons Yard, near Columbus, OH, solely for purposes of interchange.

[2] The Railway Labor Executives' Association (RLEA) filed a request for labor protection. Since this transaction involves an exemption from 49 U.S.C. 11343, the imposition of the labor protective condition is mandatory and it has been imposed above.

Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 87-16816 Filed 7-23-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Cercla; Rainbow Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 30, 1987, a proposed consent decree in *United States* v. *Rainbow Corporation,* Civil Action No. 85 CV 40341 FL, was lodged with the United States District Court for the Eastern District of Michigan. The proposed consent decree resolves a judicial enforcement action brought by the United States against Rainbow Corporation for violation of the Clean Air Act.

The proposed consent decree requires Rainbow Corporation to pay a civil penalty of $22,000. The proposed decree also permanently enjoins Rainbow Corporation from removing or rendering inoperative any device or element of design of any motor vehicle that is designed to control exhaust emissions from motor vehicles.

The proposed consent decree may be examined at the office of the United States Attorney, 600 Church Street, Flint, Michigan, and at the Office of the Investigation and Enforcement Branch, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC.

Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Envionmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 87-16818 Filed 7-23-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act; York, PA, et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 30, 1987, a proposed consent decree in *United States of America and Commonwealth of Pennsylvania* v. *City of York, et al.,* Civil Action No. CV-85-1891, was lodged with the United States District Court for the Middle District of Pennsylvania.

The proposed consent decree resolves a judicial enforcement action brought by the United States against the City of York and the York City Sewer Authority ("York") for violations of the Clean Water Act. The complaint filed by the United States alleged that the defendants had discharged pollutants from their sewage treatment plant into Codorous Creek, near York, Pennsylvania, in violation of the Clean Water Act.

The proposed consent decree sets forth a schedule whereby York will undertake and complete a program of construction of new wastewater treatment facilities and rehabilitation of existing facilities and requires York to achieve and maintain compliance with the final effluent limitations in their National Pollutant Discharge Elimination System ("NPDES") permit by December 31, 1988. The proposed consent decree contains interim effluent limitations and stipulated penalties for any failure to meet the compliance schedule or other requirements of the decree. The proposed consent decree also requires York to pay a civil penalty of One Hundred Seventy-Five Thousand Dollars ($175,000.00).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of York, et al.,* D.J. Ref. 90-5-1-1-2448.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Pennsylvania, Suite 1146, Federal Building, Third & Walnut Streets, Harrisburg, Pennsylvania 17108, and at the Region III Office of the Environmental Protection Agency, Office of Regional Counsel, attention Renee Sarajian, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. A copy of the proposed consent decree may also 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 may be obtained in person or by mail from the Environmental Enforcement Section, Land & Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.80 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-16817 Filed 7-23-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 87-12]

Hearing; Plymouth Family Pharmacy, Inc., Birmingham, MI

Notice is hereby given that on January 13, 1987, the Drug Enforcement Administration, Department of Justice, issued to Plymouth Family Pharmacy, Inc., an Order to Show Cause as to why the Drug Enforcement Administration should not deny its Application for Registration dated June 2, 1986.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, August 4, 1987, in Courtroom 10, Room 309, United States Claims Court, 717 Madison Place NW., Washington, DC.

Dated: July 20, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87-16802 Filed 7-23-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will

have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirements which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics
Current Population Survey—November 1987—Veterans Supplement
CPS-I, CPS 260
Other—one time
Individuals or households
58,000 responses; 969 hours; 1 form

These data will provide information regarding service-connected disabilities among veterans, identify veterans who served in the Vietnam theater, and provide estimates on the labor force activity of Vietnam theater veterans as compared to other veterans and nonveterans. Estimates on the number of veterans who are no longer employed due to a service-connected disability will also be obtained.

New

Employment and Training Administration
Targeted Jobs Tax Credit (TJTC) Report Forms
ETA 8471, 8472, 8473 and 8588
Quarterly
State or local governments, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
52 respondents; 58,292 burden hours; 4 forms

Data provided by the States on these forms are used for program planning and evaluation and for oversight or verification activities as mandated by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), The Deficit Reduction Act of 1984 (PL 98-369) and the Tax Reform Act of 1986 (PL 99-514).

Signed at Washington, DC, this 21st day of July 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87-16866 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department to Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage

Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decision being modified.

Volume I

Pennsylvania:
PA87-7 (Jan. 2, 1987)—p. 907
PA87-9 (Jan. 2, 1987)—p. 927
PA87-12 (Jan. 2, 1987)—pp. 942-943
Virginia:
VA87-14 (Jan. 2, 1987)—p. 1156

Volume II

Illinois:
IL87-15 (Jan. 2, 1987)—pp. 196-198
Indiana:
IN87-1 (Jan. 2, 1987)—pp. 236-241, p. 247
Michigan:
MI87-6 (Jan. 2, 1987)—p. 474

Volume III

Colorado:
CO87-1 (Jan. 2, 1987)—p. 104
Idaho:
ID87-1 (Jan. 2, 1987)—p.141, pp. 145-147
Nevada:
NV87-1 (Jan. 2, 1987)—pp. 235, 239
Washington:
WA87-2 (Jan. 2, 1987)—p. 355

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interests, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distibuted to subscribers.

Signed at Washington, DC, this 17th day of July 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-16680 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[Training and Employment Guidance Letter No. 1-87]

Job Training Partnership Act; Presidential Awards for Program Year (PY) 1986

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the establishment of the Job Training Partnership Act (JTPA) Presidential Awards Program and requests nominations from Governors with respect to Program Year 1986 (July 1, 1986–June 30, 1987).

DATE: Training and Employment Guidance Letter No. 1-87 was issued on July 6, 1987, and expires on July 31, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Room N-4703, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-535-0577.

SUPPLEMENTARY INFORMATION: The Job Training Partnership Act Amendments of 1986 (Pub. L. 99-496) amended the Job Training Partnership Act (JTPA) to establish a Presidential Awards program for outstanding contributions to JTPA by the private sector and for model programs for those with multiple barriers to employment. JTPA section 172. Proposed plans for the Presidential Awards with respect to Program Year (PY) 1986 (July 1, 1986–June 30, 1987) activities were sent for comment in April 1987 to the Governors and public interest groups involved with JTPA. The Department of Labor (Department) received comments from 39 Governors and 4 public interest groups on the proposed plans. Following is a summary of significant comments raised by multiple commenters on the major aspects of the Awards program and the Department's response.

Nominations

The proposed procedures called for nominations to be made by the Governors by September 30, 1987. Commenters requested that the due date be extended to October 15 or October 30, 1987, in order to allow States additional time to evaluate PY 1986 performance. It was decided that the September 30 date, which is 90 days after the close of PY 1986, provides a sufficient time period to assess adequately whether a program, person, or private industry council (PIC) should be nominated. Thus, the September 30 date has been retained.

Commenters suggested that the Human Resources Development Institute, State organizations representing the private sector, *e.g.*, Chamber of Commerce, and chief elected officials of local governments be included on the list of examples from which Governors should solicit nominations. This has been done in the final procedures.

Numerous commenters suggested that the limit on the number of nominations a Governor can make be raised from one nomination in no more than two of the three Annual Award categories to one nomination in each of the three Annual Award categories. They also requested that Governors be allowed to submit more than one nomination in the Special Awards category. The Department has increased the number of nominations a Governor can make to one nomination in each of the three Annual Award categories, but decided to retain the single nomination limit in the Special Awards category. The Department feels that allowing only one nomination in each category will ensure program manageability and, more importantly, foster a true selectivity in the nominations made.

Award Categories

Many additional categories of awards were suggested, including outstanding State Job Training Coordinating Council (SJTCC), service delivery area (SDA), Governor and State legislature.

The Department did not feel that any of these suggestions were envisioned as award categories by the authorizing amendment to JTPA. The Department believes that the categories selected will reflect on the performance of all of these suggested entities, *i.e.*, an outstanding PIC will represent a successful SDA; SJTCC planning and guidance will impact on the design of an award-winning program, *etc.*

It was also suggested that regional as well as national awards be instituted. Because the Presidential Awards by definition envision national awards, it has been determined that only national awards will be made under the auspices of this program.

Several commenters questioned the decision to limit JTPA Title III nominees to formula-funded programs only and

not include Title III discretionary programs. Since Title III discretionary programs have in effect already received national awards by virtue of having been selected competitively to receive grant funds, the Department does not feel it is appropriate to include them within the scope of the Presidential Awards program.

Commenters requested the addition of welfare initiatives, displaced homemakers, and rural programs to the possible types of programs eligible under the Special Awards category. These additions have been made in the final procedures.

Criteria

Commenters suggested many wording changes to clarify the criteria. Many of these comments were accepted. Significant revisions made to the criteria as a result of the comments are as follows:

- Added specification that a nominee must meet all of the criteria for its category.
- Clarified that a nominee in the "Private Sector Volunteer" category must be a member of the private-for-profit sector and may be on the PIC, the SJTCC or outside the official JTPA system as long as he/she contributed to JTPA.
- Added that a PIC must represent an SDA which serves the most at-risk population.
- Clarified that the performance standards which must be exceeded by SDA's represented by PIC nominees are the seven DOL performance standards as adjusted by the Governor for local conditions.
- For programs nominated under the "Multiple Barriers to Employment" and "Special Awards" categories, deleted the requirement that they exceed all seven DOL performance standards and substituted a requirement that they exceed all goals and performance standards established for the program. Also added a clarification that nominated programs may be operated by an SDA, a contractor or by any other entity administering a JTPA program meeting the established criteria.
- Clarified that programs nominated in the "Multiple Barriers to Employment" category be specifically targeted to those with multiple barriers to employment.

Training and Employment Guidance Letter (TEGL) No. 1–87, announcing the procedures for the Presidential Awards program, is printed below.

Signed at Washington, DC, this 15th day of July 1987.

Robert T. Jones,

Deputy Assistant Secretary of Labor.

Training and Employment Guidance Letter No. 1–87

From: Roger D. Semerad, Assistant Secretary of Labor.

Subject: Job Training Partnerhsip Act (JTPA), Presidential Awards for Program, Year (PY) 1986.

1. *Purpose.* To announce the establishment of the JTPA Presidential Awards Program and to request nominations from Governors for PY 1986.

2. *Reference.* Public Law (PL) 97–300, PL 99–570.

3. *Background.* Section 172 of the Job Training Partnership Act provides for Presidential Awards for outstanding contributions to JTPA by the private sector and for model programs for those with multiple barriers to employment. In establishing our plans for the implementation of this section, we have consulted with the Governors and the public interest groups that serve as our JTPA partners. Their comments have been incorporated into the design of our Presidential Awards program.

We look to the JTPA Presidential Awards program to recognize accomplishments under JTPA and to expand support for innovative and effective employment and training initiatives. The awards will afford increased visibility for JTPA. Through such visibility, we anticipate increased private sector and community participation in JTPA activities.

4. *Program Parameters.* Attachment I provides the specifics on the scope, categories and criteria for the awards for Program year 1986. It also details selection procedures and plans for awards ceremonies.

5. *Nomination Procedures.* All nominations are to be made by the Governors of the States.

- Governors may submit one nomination each year in each of the three Annual Award categories.
- Governors also may submit no more than one nomination each year for a program deserving of a Special Award.
- In deciding on their nominations, Governors are encouraged to solicit recommendations from National Alliance of Business representatives as well as from other JTPA partners in the State, such as: SDAs; PICs; chief elected officials; State Job Training Coordinating Councils; local education organizations; Human Resources Development Institute; and State organizations representing the private sector, such as the Chamber of Commerce.
- Nominations are to be made on the Official Program Year 1986 JTPA Presidential Awards Entry Form (Attachment II), four copies of which are attached to this TEGL. A separate form, with two copies, is to be submitted for each nomination being made. Particular attention should be paid to Part D of the Form—Criteria Information. It is essential that *each* criterion for the category under which a nomination is made be listed and specifically addressed. The criteria for the categories are found in Section C of Attachment I of this TEGL.
- *Nominations must be postmarked by midnight on September 30, 1987,* and should be sent to: Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

6. *Awards Timetable.*

- Nominations Postmarked by—September 30, 1987.
- Award Selection by—December 31, 1987.
- National Awards Ceremony—Flexible—Dependent on availability of officials and facilities.
- Local Awards Ceremonies—January 15, 1988, March 31, 1988.

7. *State Notification.* A copy of this TEGL is also being sent to your State JTPA Liaison.

8. *Federal Register Publication.* A copy of this TEGL is being published in the **Federal Register.**

9. *Inquiries.* Questions concerning this guidance letter should be addressed to Robert N. Colombo on (202) 535–0577 or James Wiggins on (202) 535–0533.

Attachments

Attachment I—JTPA Program Year 1986 Presidential Awards

A. Scope

Awards will be for activities carried out under Titles I, II and III (Formula—Funded Programs) of the Job Training Partnership Act.

B. Categories

- Annual Awards

One award and two honorable mentions will be made each year in each of the following categories:

—Outstanding Contribution to a JTPA Program by a Private Sector Volunteer.

—Outstanding Contribution to a JTPA Program by a Private Industry Council.

—Outstanding Program for Assisting Individuals with Multiple Barriers to Employment.

• Special Awards

The Secretary each year, at his discretion, may make additional awards to outstanding programs not falling within the annual award categories above. Categories in which nominations can be made for these awards include but are not limited to:

—Literacy Programs
—Economic Development Innovations
—Coordination Activities
—Exemplary Public/Private Partnerships
—Older American Programs
—Youth Programs
—Dislocated Workers Programs
—Displaced Homemaker Programs
—Welfare Initiatives
—Rural Programs

C. Criteria

Nominations must be for active Program Year (PY) 1986 JTPA programs or individuals active in JTPA during PY 1986 and must meet all of the criteria for the nominated category.

• Annual Awards

Following are the criteria to be met in each of the three annual award categories:

• Outstanding contribution to a JTPA program by a private sector volunteer. The volunteer must:

—Be a member of the private-for-profit sector. May be on the PIC, the SJTCC, or be outside the official JTPA system as long as he/she contributes to JTPA through his/her efforts.
—Have demonstrated a commitment to JTPA through donation of time and service.
—Have exercised leadership in an area of the job training program system which, through such leadership, improved substantially.
—Have been instrumental in increasing the awareness of the benefits of JTPA in the business community.

• Outstanding contribution to a JTPA program by a Private Industry Council. The PIC must:

—Provide exemplary leadership.
—Exercise effective oversight over and guidance for the SDA's programs.
—Represent an SDA which serves the most at-risk population and has exceeded all seven Department of Labor performance standards as adjusted by the Governor for local conditions.
—Effect increased private sector participation in JTPA activities, such as provision of training and placement of participants.
—Actively promote the benefits of JTPA in the business community.

• Outstanding program for assisting individuals with multiple barriers to employment. Program may be operated by an SDA, a contractor or by any other entity administering a JTPA program meeting the criteria below. Program must:

—Exceed all goals and performance standards established for the program.
—Be innovative and creative in its use of available resources.
—Be specifically targeted to those with multiple barriers to employment.
—As appropriate, coordinate effectively with the private sector, other training and employment agencies, labor and other organizations.
—Achieve acceptance by the business community of those with multiple barriers to employment.
—Be well planned and administered.

• Special Awards

Programs nominated for a Special Award may be operated by an SDA, a contractor or by any other entity administering a JTPA program meeting the criteria below. Program must:

—Exceed all goals and performance standards established for the program.
—Be innovative and creative in its use of available resources.
—As appropriate, coordinte effectively with the private sector, other training and employment agencies, labor and other organizations.
—Be geared to the needs of the target population and the local economy.
—Be well planned and administered.

D. Selection

The selection process will be a three-tiered approach:

• Staff Review

Initial review and recommendations will be made by Department of Labor staff. The staff review will be designed to reduce the nominations from the Governors to no more than 20 for each annual award category and no more than 20 for special awards.

• Panel Review

A panel of training and employment experts from the public and private sectors will review each nomination, giving special attention to those nominations recommended by the staff for further consideration.

The panel will ensure that the possible top nominations in each category are thoroughly validated through a field review. The panel will recommend to the Secretary three nominations for each of the Annual Award categories and up to eight nominations for Special Awards.

• Secretary Review

The Secretary of Labor will review the panel's recommendations and will make the final selection of winners and honorable mentions in all three of the Annual Award categories. The Secretary will also select the recipients of Special Awards.

E. Awards Ceremonies

Awards will be presented to the winners at, where possible and appropriate, both a National awards ceremony and at local ceremonies in the hometown of each winner. The Awards ceremonies will be arranged by the Department of Labor in coordination with the White House, the Governors and its various JTPA partners as appropriate. The National awards ceremony will vary from year to year depending on the availability of locations and people. Where possible, a special White House or Department of Labor presentation will be held. The Department from time to time also may ask the various partners in the JTPA system to include the awards ceremony as part of an annual conference. Local ceremonies in the hometowns of the winners will be held each year, with the awards being presented by a high-level White House or Department of Labor official. Governors will be invited to participate in all ceremonies.

BILLING CODE 4510-30-M

Attachment II

OFFICIAL
PROGRAM YEAR 1986
JTPA PRESIDENTIAL AWARDS
ENTRY FORM

PART A - NOMINATING GOVERNOR

I. NOMINATION SUBMITTED BY:

_____
(Name of Governor)

_____
(State)

_____
(Signature of Governor or Designated Representative)

II. ANY CLARIFICATIONS ON NOMINATION CAN BE OBTAINED FROM:

_____
(State Contact)

_____
(Telephone Number)

PART B - GENERAL INFORMATION

I. NOMINATION CATEGORY

A. ☐ Outstanding Private Sector Volunteer

B. ☐ Outstanding Private Industry Council

C. ☐ Outstanding Program for Serving Those With Multiple Barriers to Employment

D. ☐ Special Award for _____

_____
(Type of Program)

II. NOMINEE/PROGRAM IDENTIFYING INFORMATION

A. Volunteer/PIC/Program Nominated _____

_____

Address _____

_____

Telephone _____

Contact Person (for PIC and Program Nominations) _____

_____

B. In addition to information requested in II-A, provide:

1. For Volunteer nominees:

Employer _____

Title of Volunteer's Position _____

_____

2. For PICs:

Attach to this form a list of the names, titles, organizational affiliations and addresses of all PIC members. Indicate who serves as Chairperson.

3. For programs nominated under Multiple Barriers and Special Awards categories:

Period of Performance _____

JTPA Title and Funding _____

_____

Source and Amount of Additional Funds (as appropriate)

_____

_____

Jurisdiction of Program ☐ SDA

☐ Statewide

Number of Participants Served _____

Characteristics of Participants Served

_____

_____

_____

_____

_____

_____

III. SDA IDENTIFYING INFORMATION (for all but statewide program nominations)

Name and address of SDA with which nominee/program is affiliated:

_____

_____

_____

_____

Contact Person: _____
(Name)

_____
(Title)

_____
(Phone Number)

BILLING CODE 4510-30-C

PART C—SYNOPSIS

Attach a brief synopsis (no more than one page) describing the outstanding accomplishments of the nominee or program and why the nominee/program should be considered for a Presidential Award.

PART D—CRITERIA INFORMATION

List and give information on *each* criterion for the category in which the nomination is being made. Try to limit information to no more than one page per criterion. Be as specific as possible; give concrete examples of the performance of the nominee/program where appropriate. (Attach continuation sheets as needed.)

[FR Doc. 87-16867 Filed 7-23-87; 8:45 am]
BILLING CODE 4510-30-M

Addition to List of Labor Surplus Areas; Labor Surplus Area Classifications Under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The addition to the labor surplus area list is effective August 1, 1987.

SUMMARY: The purpose of this notice is to announce an addition to the list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470, Attention: TEESS, Washington, DC 20210. 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 March 26, 1987 (52 FR 9727).

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 area described below has been classified by the Assistant Secretary of Labor as a labor surplus area pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and is added to the list of labor surplus areas, effective August 1, 1987. The following addition to 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 July 15, 1987.

Roberts T. Jones,

Deputy Assistant Secretary of Labor.

ADDITION TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[August 1, 1987]

Labor surplus area	Civil jurisdiction included
Louisiana:	
Dameron Parish	Cameron Parish.

[FR Doc. 87-16868 Filed 7-23-87; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-159-C]

Petition for Modification of Application of Mandatory Safety Standard; Aspen Mining Co., Inc.

Aspen Mining Company, Inc., P.O. Box 149, Durbin, West Virginia 26264 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance to its Enviro No. 3 Mine (I.D. No. 46-06362) located in Randolph County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16869 Filed 7-23-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-142-C]

Petition for Modification of Application of Mandatory Safety Standard; Astor Coal Co.

Astor Coal Company, P.O. Box 139, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15–15335) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 50–60% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16870 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-87-137-C]

Petition for Modification of Application of Mandatory Safety Standard; Big Hill Coal Co.

Big Hill Coal Company, H.C. 61, Box 1310, Hatfield, Kentucky 41514, has filed a petition to modify the application of 30 CFR 75.1403–(5)(g) (belt conveyors) to its Mine No. 9 (I.D. No. 15–13300) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a clear travelway at least 24 inches wide be provided on both sides of all belt conveyors.

2. Petitioner states that due to adverse conditions in the #1 belt entry beginning at the inby corner of the #11 crosscut and extending about 15 feet inby this area (roof that has broken and cracked), additional cribs were set as close to the belt and each other as possible to protect the belt from the rock that has broken down. This does not allow a 24-inch travelway.

3. As an alternate method, petitioner proposes to install mandoors in Nos. 10 and 12 brattices allowing safe passage around this area. Danger signs will be placed at both #10 and #12 crosscuts detouring everyone around this area. Switches will be installed at both #10 and #12 crosscut danger signs allowing the belt to be deenergized and locked out to visually inspect, clean and dust this area of the belt line. A phone has also been placed in the affected area.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16871 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-87-132-C]

Petition for Modification of Application of Mandatory Safety Standard; Block Mountain Mining, Inc.

Block Mountain Mining, Inc., P.O. Box 238, Huntsville, Tennessee 37756 has filed a petition to modify the application of 30 CFR 77.1605(k) (berms or guards) to its Mine No. 1 (I.D. No. 40–02912) located in Scott County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer banks of elevated roadways.

2. Petitioner states that application of the standard will result in a diminution of safety to the miners affected because berms confine water runoff to the road surface which washes away the surfacing materials; resulting in a dangerous road surface. The berms also hamper the removal of snow and ice with a motor grader.

3. As an alternate method, petitioner states that:

(a) Daily inspections of all coal-hauling vehicles will be made. Any defects will be corrected before the vehicle is put into service;

(b) A specific traffic system will be

developed for the roads. These rules will be posted on the bulletin boards throughout the mine area, and they will become a part of the training and retraining programs;

(c) Warning signs will be posted designating curves, steep grades, where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs will be posted where one road intersects another, giving main haulage traffic the right-of-way, and signs will be posted designating passing points. Passing of one vehicle by another vehicle while traveling in the same direction is prohibited, except in the case where one vehicle is parked in a run-around area out of the normal lanes of traffic;

(d) All haulage vehicles will have original manufacturers brakes and an emergency braking system;

(e) All equipment operators will be trained in the use of haulage equipment and the safety of vehicles on haulage roads;

(f) Where abrupt drop-offs occur along the outer banks, elevation will be provided to cause the vehicles to gravitate toward the highwall side of the road;

(g) Roadway surfaces will be kept free of debris, excessive water, snow, and ice, and maintained as free as practicable of small ditches (washboard effects); and

(h) The speed at which trucks will be operated will be consistent with conditions of roadway clearance, visibility and traffic. Trucks operating on any descending grade will be restricted to 10 miles per hour.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16872 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-135-C]

Petition for Modification of Application of Mandatory Safety Standard; C. R. & C. Coal Co.

C. R. & C. Coal Company, RD#1 Box 131, Lykens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 6 Vein Slope (I.D. No. 36-07289) located in Dauphin County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 16, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16873 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-138-C]

Petition for Modification of Application of Mandatory Safety Standard; Consolidation Coal Co.

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1704 (escapeways) to its Dilworth Mine (I.D. No. 36-04281) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person and which are to be designated as escapeways at least one of which is ventilated with intake air, shall be provided from each working section continuous to the surface escape drift opening or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked.

2. As an alternate method, petitioner proposes to use two entries separate and distinct from the intake shaft bottom to the working face. One will be the track entry, alternate escapeway, and the other will be an isolated intake. In further support of this request, petitioner states that:

(a) The shafts used for escape facilities will be fully concrete lined and will be maintained free of mine power cables, elevators, and/or personnel hoists, thus minimizing sources of fire and/or smoke, but will be equipped with an emergency escape hoist;

(b) An alternative travelable route, not designated as an escapeway, will be maintained in a return entry to bypass the shaft and allow persons to enter a separate split of intake air. This route will be maintained passable. It will be stressed to all personnel that the route is not an escapeway and is to be used only if instructed or when both the track and intake escapeways are rendered impassable; and

(c) All personnel will be reinstructed as to the escapeway routes prior to implementing the plan.

3. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16874 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-140-C]

Petition for Modification of Application of Mandatory Safety Standard; Consolidation Coal Co.

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its McElroy Mine (I.D. No. 46-01437), and its Ireland Mine (I.D. No. 46-01438) both located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and that they be kept at least 150 feet from pillar workings.

2. Petitioner states that the longwall mining systems will be 750 feet wide and have over 1800 connected horsepower. In order to supply power to such a mining system from a power system limited to 1,000 volts, the following problems arise:

(a) There is a very small safety factor to account for normal in-mine wear of the circuit breaker;

(b) The ampacity requirements at 1,000 volts are such that very large and heavy cables must be used. Accident information indicates that a large number of electrical-related injuries are strains and sprains incurred during cable handling.

3. As an alternate method petitioner proposes to use high-voltage (not to exceed 4,160 volts) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16875 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-155-C]

Petition for Modification of Application of Mandatory Safety Standard; Consolidation Coal Co.

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 77.216-5 (water, sediment or slurry impoundments and impounding structure; abandonment) to its Georgetown Mine No. 24 (I.D. No. 36-00962) and its associated Georgetown Freshwater Dam (MSHA I.D. NO. 1211-048-0298-01) located in Harrison County, Ohio. The petition is filed under section 101(c) of the Fedeal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that prior to abandonment of any water, sediment, or slurry impoundment and impounding structure, the person owning, operating or controlling such an impoundment and impounding structure shall submit a plan for abandonment based on current, prudent engineering practices which shall contain provisions to preclude the probability of future impoundment of water, sediment, or slurry, provide for major slope stability, and include a schedule for the plan's implementaton.

2. Petitioner requests a modification of the requirement of the standard for an abandonment plan which shall contain provisions to preclude the probability of future impoundment of water. In further support of this request, petitioner states that the Ohio Division of Water in accordance with the Ohio Revised Code Section 1521 and the Ohio Administrative Code 1501:21 regulates the design, construction, operation and maintenance of dams within the State of Ohio. The Dam has been constructed in accordance with plans reviewed and approved by MSHA and the Ohio Division of Water. All mining activity has been completed at this location and therefore no miners are present to protect.

3. As an alternate method, petitioner states that the property upon which the impoundment and impounding structure is situated is no longer owned by Consol having been transferred to a nonprofit corporation, The Conservation Fund, by agreement dated December 23, 1986. In addition, continued operation of the Dam will be under the laws and regulations of the Ohio Department of Natural Resources, Division of Water.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 16, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16876 Filed 7-23-87; 8:45 am]

BILING CODE 4510-43-M

[Docket No. M-87-144-C]

Petition for Modification of Application of Mandatory Safety Standard; Elijah Coal Co.

Elijah Coal Company, P.O. Box 453, Heidrick, Kentucky 40949 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-15949) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16877 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–163–C]

Petition for Modification of Application of Mandatory Safety Standard; Jim Walter Resources, Inc.

Jim Walter Resources, Inc., P.O. Box C–79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery charging stations, substations, compressor stations, shops and permanent pumps) to its No. 3 Mine (I.D. No. 01–00758) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner has electrical installations which are located such that all entries close to them are maintained as intake airways. There are no return airways available for ventilating these installations.

3. As an alternate method, petitioner proposes that:

(a) The electric equipment will be housed in a fireproof structure equipped with automatic closing fire doors activated by thermal devices;

(b) The electric equipment will be protected with thermal devices designed to remove incoming power. Grounded phase protective devices protecting three-phase equipment will be adjusted to remove incoming power at not more than 40 percent of the available fault current;

(c) An automatic fire suppression system will be installed and maintained;

(d) The electrical equipment will contain no flammable cooling liquid or flammable hydraulic oil;

(e) Rectifying substations providing power to trolley systems will be protected by direct current circuit breakers with reverse current protection;

(f) No combustible materials will be stored or allowed to accumulate in the fireproof enclosure;

(g) Firefighting equipment will be provided on the outside of the fireproof structure;

(h) A signal, activated by a suitable sensor, will be located so that it can be seen or heard by a responsible person; and

(i) The electrical equipment and fire suppression devices will be examined weekly.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 16, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16878 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–130–C]

Petition for Modification of Application of Mandatory Safety Standard; John Boy Coal Co.

John Boy Coal Company, P.O. Box 403, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15–14384) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC

powered machines, with no hydraulics. The bucket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secreary for Mine Safety and Health.

[FR Doc. 87–16879 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–76–C]

Petition for Modification of Application of Mandatory Safety Standard (Amendment); Lady Blue Coal Inc.

Lady Blue Coal Inc., P.O. Box 40, Woodbine, Kentucky 40771 has filed an amendment to a petition for modification. On March 24, 1987, Lady Blue Coal Inc., submitted a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 3 Mine (I.D. No. 15–14694) located in Whitley County, Kentucky. On April 10, 1987, MSHA published notice of this petition in the **Federal Register** (52 FR 11768), allowing interested parties 30 days to submit comments. On May 20, 1987, petitioner submitted a request to amend the originally submitted petition for modification to include its Mine No. 2 (I.D. No. 15–15945), also located in Whitley County, Kentucky. The amendment is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: July 16, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16880 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–145–C]

Petition for Modification of Application of Mandatory Safety Standard; Lick Branch Coal Co., Inc.

Lick Branch Coal Company, Inc., P.O. Box 140, Flatlick, Kentucky 40935 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15–16003) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: July 16, 1987.

[FR Doc. 87-16881 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-15-M]

Petition for Modification of Application of Mandatory Safety Standard; Nicholls & Lewis, Inc.

Nicholls & Lewis, Inc., P.O. Box 456, Lovell, Wyoming 82431 has filed a petition to modify the application of 30 CFR 56.12028 (testing grounding systems) to its Portable Crushers Mine (I.D. No. 48-00290) located in Big Horn County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that continuity and resistance grounding systems be tested immediately after installation, repair, and modification, and annually thereafter.

2. Petitioner requests a modification of the standard as it pertains to the testing of the resistance of the grounding electrodes where the portable plants relocate.

3. In support of this request, petitioner states that—

(a) When a grounding electrode system is made, one or more of the electrodes specified below will be used. Made electrodes will be imbedded below the permanent moisture level;

(b) Made electrodes will be free from nonconductive coatings such as paint or enamel;

(c) Where more than one electrode system is used (including those used for lighting rods), each electrode of one system will not be less than 6 feet from the other electrode of another system;

(d) Rod and pipe electrodes will not be less than 8 feet in length;

(e) Electrodes of pipe or conduct will not be smaller than ¾ inch trade size and, where of iron or steel, shall have the outer surface galvanized or otherwise metal-coated for corrosion protection;

(f) Electrodes of rods of steel or iron shall be at least ⅝ inch diameter. Nonferrous rods or their equivalent will not be less than ½ inch in diameter;

(g) Where rock bottom is not encountered, the electrodes will be driven to a depth of 8 feet. Where rock bottom is encountered at a depth of less than 4 feet, electrodes not less than 8 feet long will be buried in a trench;

(h) The ground rods and associated bonds will be visually inspected for physical deterioration and mechanical bonding each time a portable operation is relocated;

(i) Annual ground bed measurements shall be performed at the site where any portable plant remains in the same location for more than one calendar year; and

(j) The grounding conductor is most susceptible to breaking due to flexing and disconnecting/reconnecting during these moves. Therefore, equipment grounding conductor continuity measurements will be performed after each relocation of a portable plant.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16882 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-148-C]

Petition for Modification of Application of Mandatory Safety Standard; Quarto Mining Co.

Quarto Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Powhatan No. 4 Mine (I.D. No. 33-01157) located in Monroe County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the arrangement of water sprinkler systems.

2. As an alternate method, petitioner proposes to use a single line of automatic sprinklers for fire protection systems at main and secondary belt-conveyor drives. In support of this request, petitioner states that:

(a) Automatic sprinklers on the proposed single line will be maintained at a distance of not more than 10 feet apart with actuation temperatures between 200°F and 230°F.

(b) Automatic sprinklers will be located so that the discharge of water will extend over the belt drive, belt take-up, electrical control and gear reducing unit;

(c) During operation of the system, water pressure will not be less than 10 psi; and

(d) A test to insure proper operation will be conducted during the installation of each new system and during subsequent repair or replacement of any critical part thereof.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Date: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16883 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-75-C]

Petition for Modification of Application of Mandatory Safety Standard (Correction); Red Rose Coal Co., Inc.

This notice amends a petition for modification of application of a mandatory safety standard to change information in the document published in the **Federal Register** on April 14, 1987 (52 FR 12099). This correction is

necessary to change the mine identification number, the county, and state in which the mine is located. Paragraph number 1 is hereby amended to read: Red Rose Coal Company, Inc., Rt. 5, Box 248, Williamsburg, Kentucky 40769 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 3 Mine (I.D. No. 15–15328) located in Whitley County, Kentucky.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16884 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–114–C]

Petition for Modification of Application of Mandatory Safety Standard; Shell Energy Co., Inc.

Shell Energy Company, Inc., P.O. Box 446, Fairmont, West Virginia 26555 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Victoria Mine No. 1 (I.D. No. 46–07081) located in Harrison County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machiness.

2. As an alternate method, petitioner proposes to use a spring-loaded metal locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are not keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazardous of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 16, 1987.

Patricia W. Silvey,

Acting Association Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16885 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–87–165–C]

Petition for Modification of Application of Mandatory Safety Standard; Smooth Sailing Coal Co., Inc.

Smooth Sailing Coal Company, Inc., P.O. Box 54, Siler, Kentucky 40763, has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 4 (I.D. No. 15–16052) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that a methane monitor be installed on any electric face cutting equipment, continuous monitor, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition

are available for inspection at that address.

Dated: July 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16886 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-76-C]

Petition for Modification of Application of Mandatory Safety Standard; Southern Ohio Coal Co.

Southern Ohio Coal Company, P.O. Box 552, Fairmont, West Virginia 26554 filed an amendment to a petition for modification. On April 25, 1986, Southern Ohio Coal Company submitted a petition to modify the application of 30 CFR 75.505 (permissible electric face equipment; maintenance) to its Martinka No. 1 Mine (I.D. No. 46-03805) located in Marion County, West Virginia. On December 19, 1986, MSHA published notice of the petition in the **Federal Register** (51 FR 45569), allowing interested parties 30 days to submit comments. On May 29, 1987, petitioner submitted a request to amend the originally submitted petition for modification. Paragraph No. 4 of the December 19, 1986 **Federal Register** Notice is hereby amended to add:

. . . In further support of this request, petitioner states that—

(a) Cable smaller than # 4 AWG will not be used. Larger cables cannot be used because of the size of the cable reel;

(b) Circuit breakers with adjustable trip units will be provided with a warning label to indicate the maximum 500 ampere setting;

(c) Circuit breaker settings at the power center will be checked every shift, and will be within +/− 15% of the indicated 500 ampere setting;

(d) Cable anchoring points and belt feeders will be located to prevent shuttle cars from running over their own cables; minimize or eliminate the need for secondary cable anchoring points; and minimize back-spooling;

(e) The operator will require miners to wear dry work gloves while handling energized shuttle car trailing cables;

(f) Anchors for shuttle car trailing cables will be used that will minimize the tensile shock load the cable experience when the shuttle car passes the anchor;

(g) All shuttle car trailing cables will be rates 90° Celsius. The cables will be examined for external damage once each shift. Damaged places will be repaired immediately; and

(h) The training plan will be modified to include training mining methods that will protect the shuttle car trailing cables against damage; training in proper procedures for examining the shuttle car trailing cables to ensure cables are in safe operating condition; training in the hazards of setting instantaneous circuit breakers higher than specified; and training in how to properly read and set the instantaneous circuit breaker trip unit.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: July 14, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16887 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-74-C]

Petition for Modification of Application of Mandatory Safety Standard; Summar Coal Inc.

Summar Coal Inc., P.O. Box 150, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 6 (I.D. No. 15-15853) located in Whitley County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on any electric face cutting equipment, continuous miner, longwell face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous monitor will be available to assure that all coal hauling tractors will be equipped with a continuous monitor;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's sepcifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request of Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for imspection at that address.

Dated: July, 17, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-16888 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-153-C]

Petition for Modification of Application of Mandatory Safety Standard; U.S. Steel Mining Co., Inc.

U.S. Steel Mining Company, Inc., 8800 Oak Grove Mine Road, Adger, Alabama 35006 has filed a petition to modtfy the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Oak Grove Mine (I.D. No. 01–00851) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. Petitioner states that the longwall mining systems will increase in width, which will require additional horsepower to power the longwall system, nominally 900 horsepower. In order to supply power to such a mining system from a power system limited to 1,000 volts, the following problems arise:

(a) The ampacity requirements at 1,000 volts are such that very large and heavy cables must be used. These large, heavy cables can cause congested work space and handling problems. Accident information indicates that a large number of electrical-related injuries are strains and sprains incurred during cable handling;

(b) Poor voltage regulation resulting in motor overheating and lack of torque to be applied to the face conveyor; and

(c) A diminished safety factor as the interrupting limits of the available circuit breakers at 1,000 volts is approached.

3. As an alternative method, petitioner proposes to use high-voltage (not to exceed 4,160 volts) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 24, 1987. Copies of the petition are available for inspection at that address.

Dated: July 16, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–16889 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–43–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 87–65; Exemption Application No. D–6790 et al.]

Grant of Individual Exemptions; The Justin Industries, Inc., Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the Prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c) (2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 18471, April 28, 1975, and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Justin Industries, Inc. Pension Plan; the H.J. Justin and Sons, Inc. Pension Plan for Employees represented by the United Shoeworkers of America, Fort Worth, Texas; the Acme Brick Company Pension Plan for Employees represented by the United Brick and Clay Workers of America, Perla, Arkansas; and the Acme Brick Company Pension Plan for Exmployees represented by the United Brick and Clay Workers of America, Malvern, Arkansas (collectively, the Plans) Located in Fort Worth, Texas

[Prohibited Transaction Exemption 87–65; Exemption application Nos. D–6790, D–6795, D–6796, D–6797]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash purchase by the Plans of certain commercial real property (the Property) from Justin Industries, Inc. (Justin), a party in interest with respect to the Plans; provided that the purchase price paid by the Plans for the Property is no greater than the lower of (1) the Property's fair market value as of the date of such sale, less six percent, or (2) $4,060,800; and provided further that all terms of such transaction are at least as favorable to the Plans as those which the Plans could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of roposed exemption published on December 23, 1986 at 51 FR 46593.

Written Comments: The Department received nineteen written comments to the proposed exemption and no requests

for a hearing. The comments addressed ten concerns about the proposed transaction, most of which appeared in more than one comment. The concerns are summarized as follows:

1. Allegations that the Property is in a bad or undesirable area of Fort Worth;

2. Concerns that the Property is vacant or not generating adequate income;

3. Concerns about expenses for insurance, taxes, upkeep and repairs on the Property;

4. Concern about vandalism of the Property;

5. Concern about the possibility of condemnation of the Property;

6. Questions about why Justin would want to sell the Property if it is such a good investment;

7. Concerns about liquidity of the Property, i.e., the fact that it may be difficult to sell;

8. Statements that the funds could be more safely invested in interest-bearing investments such as CD's;

9. Concern about the security of retirees' pensions in general;

10. Concerns about the Texas economy in general and possible decreases in property values in general.

Responses to these comments were submitted to the Department by the Texas American Bank-Fort Worth, N.A. (the Trustee), an independent fiduciary representing the interests of the Plans with respect to the subject transaction. The Trustee's representations are summarized as follows, corresponding in order to the comment summaries listed above:

1. The Property is located in the vicinity of the city's arts and cultural district and is situated on a primary artery between the city's central business district and an elite residential area. It is the Trustee's position that the city government's support of development in such inner-city areas will facilitate a growth in traffic and exposure in the vicinity of the Property. As an indication of the community's commitment to the area, the Trustee notes, among other things, that the city has recently committed to a major funding and renovation of the facilities at the Will Rogers complex and approved establishment of a Fort Worth Improvement District No. 1 for the Central Business District.

2. The Trustee represents that all existing improvements on the Property are leased and that recent renewals of current leases indicate the area's desirability and potential.

3. According to the Trustee, current rental income from existing improvements is more than adequate to cover current ad valorem taxes on the Property and the current leases require the tenants to pay any future increases in taxes. Justin represents that all current leases require the tenants to carry workman's compensation and general liability coverage and that the fire and extended coverage insurance required to be carried by the Plans as lessor will be provided by Justin.

4. The Trustee states that vandalism has not been a problem on the Property, and current lease arrangements require the tenants to repair any damage resulting from vandalism.

5. The Trustee is unaware of any property condemnation in the area of the Property and doubts that any condemnations will occur, due to the quality of the structures in the area.

6. It is the Trustee's observation that the transaction is motivated by a desire to better diversify the Plans' assets, as the Plans' current investments are concentrated in securities. Justin acquired the Property as a long-term investment, has not offered it for sale to any other party, and has no intention of offering the Property for sale other than to the Plans.

7. The Plans maintain sufficient liquidity to provide for all retirement benefits due and are sufficiently funded to satisfy current and future benefit obligations, according to the Trustee.

8. The Trustee has determined that the proposed transaction is intended as a long-term investment, with value to be enhanced through cash flow and capital appreciation rather than the short-term interest returns available from CD's. The Trustee further represents that with the addition of this real estate, the diversification of the portfolio will be significantly improved and risks will be spread over a broader range of trust assets.

9. As the Trustee previously noted, the Plans are sufficiently funded and the current cash flow from dividends and interest is adequate to fund the annual benefit payments.

10. The Trustee represents that the real estate market in the city of Fort Worth has not suffered the depressions experienced recently in other Texas cities and that current economic factors create a favorable setting for real estate developers and investors in the Fort Worth area. However, the Trustee represents that Justin has agreed to obtain an updated appraisal of the Property from Crosson Dannis Appraisers of Dallas (CDA) prior to the sale transaction. In the event the updated appraisal indicates a lower Property value than CDA's appraisal of May 14, 1986, the updated appraisal (less six percent savings in real estate commissions) will be used as the basis for the Property's purchase price.

After consideration of the entire record, the Department has determined to grant the exemption.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

American Income Property Fund (the Fund) Located in Chicago, Illinois

[Prohibited Transaction Exemption Application No. D-6830]

Exemption

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions between parties in interest and the fund: general.* Any transaction between a party in interest with respect to a plan which has an interest in the Fund (the Participating Plan) and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not American Realty Advisors (American Realty) or one of its affiliates, any other Fund maintained by American Realty, and if, at the time of the transaction, acquisition or holding, the interest of the Participating Plan, together with the interests of any other Participating Plans maintained by the same employer or employee organization in the Fund, does not exceed 10 percent of the total of all assets in the Fund.

(2) *Special transactions not meeting the criteria of section I(a)(1) between employers of employees covered by a multiemployer plan and the fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan [as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code] that is a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets of the Fund, and the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if

"5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, sales, or holdings of employer securities and employer real property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to American Realty or to the employer, or any affiliate of American Realty or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither American Realty nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1.The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation by the Fund, not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. American Realty, its affiliates, and any collective investment fund maintained by American Realty or its affiliates, shall be considered to be persons independent of the issuer if American Realty is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan [as defined in section 407(d)(3) of the Act], the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which American Realty or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which American Realty or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party in interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H), or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of section III are met.

(1) *Certain leases and goods.* The furnishing of goods to the Fund by a party in interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party in interest and the incidental furnishing of goods to such party in interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party in interest is not American Realty, any affiliate of American Realty, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party in interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the prior to the transaction.

(2) *Transactions involving places of public accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party in interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions if the conditions of section III are met:

Any transaction between the Fund and a person who is a party in interest with respect to a Participating Plan, if—

(1) The person is a party in interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H), or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund;

(2) At the time of the transaction, the interest of the Participating Plan, together with the interests of any other Participating Plan maintained by the same employer or employee organization in the Fund, does not exceed 20 percent of the total of all assets in the Fund; and

(3) The person is not American Realty or an affiliate of American Realty.

(d) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of American Realty and any of its affiliates, and the applicable conditions of section III are met.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of section I of this exemption are met; and (3) the applicable conditions set forth in section III of this exemption are met.

Section III. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of American Realty or American Realty's affiliates, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's length transactions between unrelated parties.

(b) American Realty or its affiliates maintain for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of American Realty or its affiliates, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of American Realty or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV. Definitions and General Rules

For the purposes of this exemption,

(a) The term "Fund" shall include any collective investment fund that may hereafter be established, operated and managed by the Fund Sponsors, or by American Realty or its affiliate in essentially the same manner as the American Income Property Fund.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act [or a "member of the family" as that term is defined in section 4975(e)(6) of the Code], or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer [treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer] who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to transactions exempt by virtue of subsections I(a)(1) and (I)(c) at such time as the interest of the Participating Plan exceeds the percentage interest limitations set forth in those subsections, unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the investment of Fund earnings.

Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 10, 1987 at 52 FR 11777.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

Gaines and Derden Enterprises, Inc. Pension Plan and Gaines and Derden Enterprises, Inc. Retirement Plan (collectively, the Plans) Located in Little Rock, Arkansas

[Prohibited Transaction Exemption 87–67; Exemption Application Nos. D–6940 and D–6941]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past loan (the Loan) by the Plans of $215,000 to Gaines and Derden Enterprises, Inc., a party in interest with respect to the Plans, provided the terms of the Loan were and remain at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 5, 1987 at 52 FR 21391.

Effective Date: This exemption is effective November 1, 1986.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8833. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fuduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of July 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87–16905 Filed 7–23–87; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–6887] et al.

Proposed Exemptions; MacIntyre, Fay & Thayer Insurance Agency, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975 (c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

MacIntyre, Fay & Thayer Insurance Agency Profit Sharing Plan (the Plan) Located in Newton, Massachusetts

[Application No. D–6887]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) by the Plan of 1,251 shares of Class A common stock of ADAPT, Inc. (the Stock) to seven stockholders and employees of MacIntyre, Fay & Thayer Insurance Agency, Inc. (the Employer), who are parties in interest with respect to the Plan, provided that the sales price is no less than the greater of the fair market value of the Stock as of the date of Sale or the total expenses to the Plan in its acquiring, holding, and selling the Stock.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 69 participants and total assets of $790,309, as of June 30, 1986. The Employer, a corporation located in Newton, Massachusetts and engaged in the sale and servicing of insurance products, is the sponsor of the Plan. The Employer is owned by seven individual stockholders, who are employees of the Employer and participants in the Plan. Messrs. James F. Fay and Peter A. Ormiston, who are stockholders of the Employer, are trustees of the Plan (the Trustees).

2. On March 1, 1982, the Plan acquired the Stock at its initial offering for a total purchase price of $61,000 or $48.76 per share. The Stock is not publicly traded. The acquisition was made because at that time the Trustees believed that the potential for appreciation in the value of the Stock was substantial in relation to the investment risk involved. Neither

commissions nor other expenses were incurred by the Plan in the acquisition of the Stock. The principal stockholder of ADAPT, Inc. is a Connecticut-based insurance company, The Hartford Group (HG). Through the facilities of ADAPT, Inc., HG purchases and/or manages independent insurance agencies that are in the process of changing ownership and staffs these changing agencies with its own personnel. There is neither a common ownership nor a business relationship between ADAPT, Inc. and the Employer. The seven stockholders of the Employer have no ownership interest in ADAPT, Inc. or HG. The Employer is an independent insurance agency that has contractual agreements with nineteen insurance companies, including HG, which authorize the Employer to sell insurance products of those companies. The applicant represents that this contracting arrangement is a standard practice in the insurance industry. The relationship that the Employer has with HG is no different from its relationship with the other eighteen insurance companies.

3. The seven stockholders of the Employer propose purchasing the Stock from the Plan for $61,000 in cash. Neither commissions nor any other expenses will be incurred by the Plan from the transaction. The Stock was appraised by John J. Keenan, a certified public accountant. Mr. Keenan has been a public accountant for eighteen years and certified for the last fifteen years, during which time he spent the first ten years with Peat, Marwick, Mitchell & Company, including working in its private business department, and the last eight years as a partner of Millen & Company in Boston, Massachusetts. His work experience has been exclusively with closely held organizations, frequently involved in making determinations and advising clients of valuations of closely held organizations.

Mr. Keenan determined, as of December 16, 1986, that the Stock had a market value of $37,530 or $30 per share and a book value of $10 per share. This determination was made from the perspective that ADAPT, Inc. is a closely held corporation and there is no market activity in the Stock. The last sales of the Stock occurred on January 30, 1985, when ADAPT, Inc. issued 20,000 shares of its Class A common stock for a price of $30 per share, and on April 29, 1985, when 615 shares sold for $30 per share. Also, Mr. Keenan's appraisal referred to audited financial statements of ADAPT, Inc. that showed a net loss of $697,000 from operations for the year ended 1984 and a net loss of $503,000 from operations for the year ended 1985, resulting in an accummulated deficit, as of December 31, 1985, of $1,585,000. An unaudited financial statement for the fiscal year ended December 31, 1986, showed a net loss of approximately $278,000.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria for an exemption under section 408(a) of the Act because (a) the Sale will be a one-time transaction for cash with no expense incurred by the Plan; (b) the Plan will be able to invest the proceeds of the Sale in income producing assets; and (c) the Plan will be able to sell the Stock at a sales price that is no less than the greater of the fair market value of the Stock as of the date of the Sale or the total expenses to the Plan in acquiring, holding, and selling the Stock.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Bozell, Jacobs, Kenyon & Eckhardt, Inc. Profit Sharing and Savings Plan (the Plan)

Located in Omaha, Nebraska

[Application No. D–7073]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan of a certain partnership interest from First National Leasing, Inc. (FNL); provided that such transaction is on terms at least as favorable to the Plan as the Plan could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. Bozell, Jacobs, Kenyon & Eckhardt, Inc. (the Employer) is a national advertising agency and public relations firm with its main office in Omaha, Nebraska. The Plan is a defined contribution profit sharing plan with approximately 1,500 participants and assets valued at $25,183,063 as of January 1, 1987.

2. In 1979, the Employer leased (the Master Lease) floors 6 through 12, inclusive, of a commercial office building (the Building) in New York City from the 805 Third Avenue Company of New York, which the applicant represents is unrelated to the Employer or the Plan. By agreement dated April 28, 1981, the Employer sublet (the Champion Sublease) the entire sixth floor of the Building to Champion International Corporation (Champion) for a base annual rental of $728,448. The applicant represents that Champion is unrelated to the Employer or the Plan. By agreement dated July 30, 1981, the Employer assigned all of its rights and obligations under the Master Lease to Cobro Real Estate Company (Cobro), which the applicant represents is unrelated to the Employer or the Plan. Cobro simultaneously sublet (the Cobro Sublease) to the Employer the entire sixth floor of the Building which was subject to the Champion Sublease. The Employer pays, under the Cobro Sublease, a base annual rental of $468,483. The Employer nets an annual profit of $259,965 ($728,448 less $468,483) between the Cobro and Champion Subleases, which both expire on August 31, 1991. By agreement dated September 30, 1983, the Employer assigned to First Bozell Company (the Partnership) all of its rights in the Champion and Cobro Subleases for a total consideration of $1,254,437.

3. FNL is requesting an exemption to permit the Plan's purchase of FNL's 27.34% interest (the Interest) in the Partnership for its fair market appraised value of $254,254. The Plan currently owns a 71.66% interest in the Partnership [1] and the remaining 1% interest is owned by the Marion Brown Sunderland Qualified Marital Trust, which the applicant represents to be independent and unrelated to the Plan and FNL. FNL is wholly-owned by First National of Nebraska, which also owns 99.6% of the First National Bank (FNB). The Trust Department of FNB is a Plan fiduciary.

4. The Norwest Bank Nebraska, N.A. (the Bank) has served as an independent fiduciary to the Plan since the Plan's purchase in 1983 of the Partnership interest. The applicant represents that the bank is unrelated to FNL. The Bank has evaluated the proposed transaction on behalf of the Plan and represents that the proposed transaction constitutes an arm's-length transaction and an appropriate and prudent investment for the Plan for the following reasons:

a. The Bank has examined a Dun & Bradstreet credit report dated April 7,

[1] The Department refers to Prohibited Transaction Exemption (PTE) 83–185 (48 FR 54405, December 2, 1983) which exemption permitted the Plan's participation in this transaction.

1987 on subtenant Champion. The Bank's Investment Department analyzed the report and determined that Champion is a substantial subtenant which should be able to fulfill the terms of the Champion Sublease without any likely risk of default.

b. The Employer, in 1983, guaranteed all monetary obligations of Champion under the Champion Sublease for its duration.[2] The Bank obtained and reviewed a Dun & Bradstreet report on the Employer. The Bank found nothing detrimental in the report and concluded that the Employer's continued indemnification of the Plan against any potential default by Champion under the Champion Sublease minimizes risk to the Plan.

c. The Bank reviewed the type of Plan investment which the Interest would constitute. The Bank concluded that the investment was proper and prudent for the Plan.

d. The Bank reviewed the diversification of the Plan's investment portfolio and determined that after the proposed purchase of the Interest were to occur, approximately 5% of net Plan assets, as of December 31, 1986, would be invested in the Partnership. The Bank concluded that the Interest would be an appropriate investment yielding a fair market rate of return to the Plan.

e. The Bank has agreed to continue serving in the capacity of independent fiduciary on behalf of the Plan for the duration of the proposed transaction. The Bank, among other things, will act as agent for the collection of the rents from Champion and monitor the payments to safeguard the interests of the Plan and its participants.

5. The Bank, as independent appraiser, has determined the fair market value of the Interest, as of May 1, 1987 to be $254,254. FNL proposes to sell the Interest to the Plan for its appraised value. The Plan will realize a rate of return of 9% on its investment. In its capacity of independent fiduciary, the Bank has reviewed the proposed purchase price and concluded that the price to be paid by the Plan is fair and at arm's-length.

6. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act will be satisfied because (1) the Plan will acquire an additional interest in a profitable sublease at a price which is at its appraised fair market value; (2) the subtenant under the Champion Sublease has been found by the Bank to be a substantial and favorable subtenant; and (3) on behalf of the Plan, the Bank has examined the proposed investment in the Interest and has determined that it will be appropriate and prudent investment for the Plan.

[2] The Department again refers to Prohibited Transaction Exemption (PTE) 83-185 (48 FR 54405, December 2, 1983), which permitted this transaction.

For Further Information Contact:

Mrs. Betsy Scott of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Futhermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of July, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 16906 Filed 7-23-87; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before September 8, 1987. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archieves of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules

also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Commerce (N1–151–87–13). Records relating to salvage and scrap programs January 1951–January 1954.

2. Department of Commerce (N1–151–87–14). Heating equipment subject file of the National Production Authority.

3. Department of Energy, Western Area Power Administration (N1–201–86–1). Records relating to the design and construction of facilities.

4. Environmental Protection Agency, Water Management Division (NC1–412–85–17). Comprehensive schedule for records of water management programs conducted by regional offices.

5. Federal Communications Commission, Office of Engineering and Technology (N1–173–87–4). Correspondence, licenses, studies, and other records documenting technical issues associated with regulation of the electromagnetic spectrum.

6. United States Court of International Trade (N1–321–87–1). Registers of protests received by the Board of General Appraisers from the Collector of Customs at New York, 1890–1926, and related records.

7. Department of Labor, Bureau of Labor Statistics (N1–257–86–4). Comprehensive schedule for the records of regional and area offices.

8. Peace Corps, Office of the Associate Director for Volunteer Recruitment and Selection (N1–362–87–1). Revised disposition standards for volunteer applicant case files.

9. Department of State, Bureau of Economic Affairs (N1–353–87–2). State Department copies of National Advisory Council on International Monetary and Financial Policies (NAC) records. (Record set of NAC material already accessioned from the Department of the Treasury.)

10. Department of Transportation, Federal Railroad Administration (N1–399–87–1). Design records for the improvement of the Northeast Corridor.

11. Department of the Treasury, Bureau of the Public Debt (N1–58–87–4). Records generated by TREASURY DIRECT book entry securities system.

Dated: July 20, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–16832 Filed 7–23–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media 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 Media Arts Advisory Panel (Media Arts Centers/Advancement Section) to the National Council on the Arts will be held on August 11–14, 1987, from 9:00 a.m.—5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

If time permits, a portion of this meeting will be open to the public on August 13, 1987 from 4:30 p.m.—5:30 p.m. The topic for discussion will include policy issues.

The remaining sessions of this meeting on August 11–12, 1987, from 9:00 a.m.—5:30 p.m., August 13, 1987 from 9:00 a.m.—4:30 p.m. and August 14, 1987 from 9:00 a.m.—5:30 p.m. are for the purpose of application review.

In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

July 21, 1987.

[FR Doc. 87–16932 Filed 7–23–87; 8:45 am]

BILLING CODE 7537–01–M

Music 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 Music Advisory Panel (Opera-Musical Theater Professional Companies Section) to the National Council on the Arts will be held on August 11–14, 1987, from 9:00 a.m.–5:30 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 11, 1987 from 9:00 a.m.–9:30 a.m. and on August 14, 1987, from 10:00 a.m.–12:00 p.m. The topics for discussion will include introductions, guidelines and policy issues.

The remaining sessions of this meeting on August 11, 1987, from 9:30 p.m.–5:30 p.m., August 12–13, 1987, from 9:00 a.m.–5:30 p.m. and August 14, 1987 from 9:00 a.m.–10:00 a.m. and 12:00 p.m.–5:30 p.m. are for the purpose of application review.

In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

July 21, 1987.

[FR Doc. 87–16842 Filed 7–23–87; 8:45 am]

BILLING CODE 7537–01–M

Music 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 Music Advisory Panel (Chamber Music/New Music Presenters Section) to the National Council on the Arts will be held on August 12–14, 1987, from 9:00 a.m.–6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 14, 1987 from 1:30 p.m.–3:30 p.m. The topics for discussion will include guidelines, the Five Year Planning Document and policy issues.

The remaining sessions of this meeting on August 12–13, 1987, from 9:00 a.m.–6:00 p.m. and August 14, 1987 from 9:00 a.m.–12:30 p.m. and 3:30 p.m.–6:00 p.m. are for the purpose of application review.

In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

July 21, 1987.

[FR Doc. 87–16931 Filed 7–23–87; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATES: Interested parties are invited to submit written data, comments, or view with respect to those permit applications by August 24, 1987. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct).
- To collect any plant native to Antarctica in specially protected areas.
- To enter any Specially Protected Area or certain Sites of Special Scientific Interest.
- To import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area.
- To introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native

birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The applications received by the National Science Foundation are as follows:

1. Applicant

Arthur L. DeVries, 524 Burrill Hall, University of Illinois, Urbana, Illinois.

A. Activity for Which Permit Requested

Introduction of a non-indigenous species into Antarctica. The applicant proposes to introduce specimens of the fish *Notothenia angustata* into Antarctica for experiments on the role of blood glycopeptide antifreezes in prevention of freezing of body fluids of Antarctic fishes. All specimens will be maintained in a closed sea water aquarium in Antarctica, at McMurdo Station. These fish are in the same family as the Antarctic nototheriids and therefore are used as control specimens.

B. Location

McMurdo Station, Antarctica.

C. Dates

October 1987—February 1988.

2. Applicant

G. L. Kooyman, University of California—San Diego, La Jolla, California 92093.

A. Activity for Which Permit Requested

Taking, Import into U.S.A. The applicant proposes to collect up to 20 Emperor penguins and 20 Weddell seals for a study of diving physiology. The specimens will be captured, fitted with instrumentation (blood and muscle electrodes, temperature thermistors and ECG electrodes) and released. After the experiments, which may last up to three days, the instrumentation will be removed and the animals will be released. Biopsy samples may be imported into the U.S.A. for further laboratory study.

B. Location

McMurdo Sound, Antarctica.

C. Dates

October 1987—January 1988.

3. Applicant

Donald B. Siniff and J. Ward Testa, Department of Ecology and Behavioral Biology, University of Minnesota, Minneapolis, Minnesota 55455.

A. Activity for Which Permit Requested

Taking; Import into U.S.A.

The applicant is conducting a long-term study on the ecology and behavior of Weddell seals. He proposes to tag up to 1500 seals and approach up to 2500 seals to read tag numbers. Up to 10 seals and their pups may be weighed once. Up to 10 adult females may be instrumented with time-depth recorders. Additional species may be approached and observed.

B. Location

McMurdo Sound, Antarctica.

C. Dates

October 1987—February 1988.

4. Applicant

Wayne Z. Trivelpiece, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

A. Activity for Which Permit Requested

Taking; Enter Site of Special Scientific Interest. The applicant is conducting a study of the behavioral ecology and population biology of Adelie, Gentoo, and Chinstrap penguins, and the interactions between these species and their principal avian predators: skuas, gulls, sheathbills, and Giant Petrels. The applicant proposes to band 500 to 2000 of each penguin species.

All birds will be released unharmed after capture and banding.

The study site is within the borders of Site of Special Scientific Interest Number 8, Western Shore of Admiralty Bay.

B. Location

King George Island, South Shetland Islands, Antarctica.

C. Dates

October 1987–March 1988.

5. Applicant

Gary D. Miller, Biology Department, University of New Mexico, Albuquerque, New Mexico.

A. Activity for Which Permit Requested

Taking; Enter Site of Special Scientific Interest. The applicant is conducting a study of nest site selection of Adelie penguins. Up to 1200 Adelie penguins will be banded and marked. The applicant is also observing skuas and monitoring nest success rates. Up to 50 South Pola Skuas will be banded.

B. Location

Cape Bird, Ross Island, Antarctica.

C. Dates

October 1987–March 1988.

Charles E. Myers,

Permit Office.

[FR Doc. 87-16819 Filed 7-23-87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-247 and 50-286]

Issuance of Director's Decision Regarding Emergency Planning for School Children in the Vicinity of Indian Point; Consolidated Edison Co. of New York, Inc., et al.

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a "Decision Pursuant to 10 CFR 2.206" concerning the petition dated April 6, 1984, as supplemented June 9 and December 13, 1984, filed by New York Public Interest Research Group and seven community organizations (Petitioners) requesting the immediate suspension of the operating licenses for Indian Point Nuclear Generating Unit Nos. 2 and 3.

The Petitioners contended that there would be unacceptable risk to the health and safety of school children in the vicinity of the plants in the event of a radiological emergency at Indian Point.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the Petitioners' request pursuant to 10 CFR 2.206. The reasons for this decision are explained in the "Director's Decision Under 10 CFR 2.206" (DD-87-13) which is available for public inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20555, and at the local pubic document room for the Indian Point units located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Maryland, this 20th day of July 1987.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87-16844 7-23-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Environmental Assessment and Finding of No Significant Impact; Duquesne Light Co. et al.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of Appendix R to 10 CFR Part 50 to Duquesne Light Company, Ohio Edison Company and Pennsylvania Power Company (the licensee), for the Beaver Valley Power Station, Unit No. 1, located in Shippingport, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The exemption would allow deviations from the requirements of section III.J of Appendix R (Fire Protection) to 10 CFR Part 50 regarding requirements for emergency lighting units covering areas with safe shutdown equipment.

The requested exemption is responsive to Duquesne Light Company's application dated January 21, 1986 and supplemented by letter dated October 21, 1986.

The Need for the Proposed Action

The proposed exemption is needed because special circumstances are present in that literal application of the regulation is not necessary to achieve the underlying purposes of the regulation; features comparable with the requirements of the regulation are available. If the exemption is not granted, additional costs would be incurred by the licensee with no increase in the degree of safety.

Environmental Impacts of the Proposed Action

The proposed exemption will provide assurance of fire protection that is equivalent to that required by Appendix R such that there is no increase in the risk of fires at the facility. The probability of accidents has not been increased and the post-accident radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Beaver Valley Power Station, Unit No. 1.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing enviromental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for the exemption dated January 21, 1986, as supplemented by letter dated October 21, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Bethesda, Maryland, this 20th day of July, 1987.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects I/II.

[FR Doc. 87-16843 Filed 7-23-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Charter of the Office of Management and Budget Information Technology Advisory Committee

Pursuant to section 9(c) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 9(c), The Director, Office of Management and Budget has approved the following charter provisions for the Office of Management and Budget Information Technology Advisory Committee and hereby establishes such committee:

(A) The official designation of the Advisory Committee shall be the "Office of Management and Budget Information Technology Advisory Committee."

(B) The objectives and scope of activities of the Office of Management and Budget Information Technology Advisory Committee shall be to conduct meetings and submit reports and recommendations on issues affecting Federal agencies and the information industry including, but not limited to, the following:

(1) The opportunities for the productive application of information technology to government operations,

(2) The impediments to effective use of technology, and

(3) The remedies to mutual problems experienced by the Federal Government and the commercial sector.

(C) The period of time necessary to carry out the purpose of the Office of Management and Budget Information Technology Advisory Committee will be no less than two years from the date of its establishment.

(D) The Office of Management and Budget Information Technology Advisory Committee shall submit its reports and recommendations to the Office of Management and Budget.

(E) The Office of Management and Budget shall provide any necessary support services for the Office of Management and Budget Information Technology Advisory Committee.

(F) In accordance with the provisions of section 9(b) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 9(b), the duties of the Office of Management and Budget Information Technology Advisory Committee shall be solely advisory and shall extend only to submitting reports and recommendations to the Office of Management and Budget.

Determinations of action to be taken and policy to be expressed with respect to the reports or recommendations of the Advisory Committee shall be made solely by the Office of Management and Budget.

(G) The estimated annual operating costs in dollars and person-years for the Office of Management and Budget Information Technology Advisory Committee shall be as follows:

Dollar costs—not to exceed $5,000 for miscellaneous expenses, including: meeting room set-up, mail costs, transcript costs and other required expenses including court reporter fees

and telephone calls. Committee members *will not* be provided allowances or reimbursement for travel expenses or per diem in connection with attending committee meetings.

Work-years—.3 for OMB personnel.

(H) The Office of Management and Budget Information Technology Advisory Committee shall meet at such intervals as are necessary to carry out its functions. It is estimated at present that this shall not require meetings more frequently than four times a year.

(I) The Office of Management and Budget Information Technology Advisory Committee shall be composed of up to 20 members, who shall be representative of a cross-section of the information technology community. Membership will be drawn from providers and manufacturers of computer hardware and software products, computer industry trade associations, technology services, and private sector information technology users. The membership will be structured in such a way that upon reauthorization of the committee for additional two year period, one-third of the members will be replaced each year thereafter. The length of a member's tenure will be set at random, with one-third of the members serving two year terms, one-third serving three year terms, and one-third serving four year terms. Any vacancy caused by departure from the Committee by any member may be filled by appointment of a substitute member for the remainder of the departed member's term.

(J) The Chair of the Office of Management and Budget Information Technology Committee may, if circumstances require, appoint and dissolve subcommittees composed of Committee members with the Chair of the Committee or an official he so designates, serving as Chair of each subcommittee.

(K) Meeting of the Office of Management and Budget Information Technology Advisory Committee will be held at a site designated by the Chair within the Washington, DC metropolitan area.

(L) In accordance with section 14(c) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, Section 14(c), the Office of Management and Budget Information Technology Advisory Committee shall terminate two years from the date of its establishment unless, prior to such date, the charter of the Advisory Committee is again renewed in accordance with the Federal Advisory Committee Act, or until the Office of Management and Budget determines that continuance of the Advisory Committee is no longer in the public interest in connection with the performance of duties imposed on the Committee by law. In such a case, the Office of Management and Budget shall direct, by amendment to this charter, that the Office of Management and Budget Information Technology Advisory Committee terminate at an earlier date.

(M) Copies of this charter have been filed on this date with the Office of the Director, Office of Management and Budget and with the Senate Committee on Government Affairs, the House Committee on Government Operations, and the Library of Congress.

James C. Miller,

Director, Office of Management and Budget.

Washington, DC

January 12, 1987.

Editorial note: This document was received at the Office of the Federal Register on July 21, 1987.

[FR Doc. 87-16830 Filed 7-23-87; 8:45 am]

BILLING CODE 3110-01-M

Information Technology Advisory Committee; Meeting

SUMMARY: 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 Information Technology Advisory Committee will be held.

DATE AND TIME: August 11, 1987, from 1:00 p.m.-3:00 p.m.

ADDRESS: Room 474, the Indian Treaty Room, of the Old Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, 202/395-7231.

SUPPLEMENTARY INFORMATION: OMB's Information Technology Advisory Committee (ITAC) was established to provide a forum for the exchange of ideas between senior executives in the information technology industry and senior OMB policy officials. The topics to be discussed at the first meeting are increased use of off-the-shelf technology, and implementation of appropriate standards. The meeting will be open to the public up to the seating capacity of the room (approximately 60 persons including committee members). Places will be allocated on a first call, first served basis. All persons who wish to attend the meeting must call 395-7231 by August 7 for clearance into the building.

Agenda: 1:00—Opening remarks and general guidelines; How the Government can take better advantage of off-the-shelf software; the opportunities for implementation of appropriate standards.

Wendy L. Gramm,

Administrator for Information and Regulatory Affairs.

[FR Doc. 87-16831 Filed 7-23-87; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Visit to Facilities

July 21, 1987.

Notice is hereby given that Postal Rate Commission advisory staff personnel will visit the Merrifield facility on July 31, 1987 to view mail acceptance and processing.

For further information, contact Ms. Norma Brown at 268-2997. A report of the visit will be on file in the Commission's Docket Room.

Charles L. Clapp.

Secretary.

[FR Doc. 87-16835 Filed 7-23-87; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

Region X Advisory Council Meeting; Public Meeting

The Small Business Administration, Region X Advisory Council, located in the geographical area of Seattle, Washington, will hold a public meeting at 9:00 a.m., Tuesday, August 4th, 1987, at the Jackson Federal Building, 915 Second Avenue, Room 3080, Seattle, Washington, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call, Robert P. Meredith, Deputy District Director, U.S. Small Business Administration, 915 Second Avenue, Room 1792, Seattle, Washington 98174-1088, (206) 442-0704.

Jean M. Nowak,

Director, Office of Advisory Councils.

July 9, 1987.

[FR Doc. 87-16908 Filed 7-23-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/1094]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on August 13, 1987 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, NW., Washington, DC. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to review preparations for the international meeting of Study Group 7 in the Spring of 1988.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, DC 20520 (telephone (202) 647–2592).

Date: July 10, 1987.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 87–16820 Filed 7–23–87; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 17, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No 45018

Date Filed: July 16, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 13, 1987.

Description: Application of Islander Airways Limited, pursuant to Section 402 of the Act and Subpart of the Regulations, applies for a foreign air carrier permit to engage in scheduled foreign air passenger and cargo service between the United States and the Bahamas.

Docket No. 45022

Date Filed: July 17, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 14, 1987.

Description: Joint Application of Austin Airways Limited and Air Ontario Limited pursuant to section 402 of the Act and Subpart Q of the Regulations apply for the amendment and transfer of certain foreign air carrier permit authority held by each of them, pursuant to sections 402(c), 402(f) and 402(g) of the Act and Part 211 of the Department's Regulations. Joint Applicants seek relief, all of which arises out of the acquisition of Air Ontario by Austin Airways and the subsequent merger of the two companies into a single entity under the name Air Ontario Inc.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–16901 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ending—July 17, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45012

Parties: Members of International Air Transport Association.

Date Filed: July 13, 1987.

Subject: Surcharge Dallas-Japan Fares.

Proposed Effective Date: August 1, 1987.

Docket No. 45013

Parties: Members of International Air Transport Association.

Date Filed: July 13, 1987.

Subject: Japan/Korea-Australia/New Zealand Fares.

Proposed Effective Date: August 1, 1987.

Docket No. 45021

Parties: Members of International Air Transport Association.

Date Filed: July 17, 1987.

Subject: Increase in fares between U.S. and U.K./France/Germany Italy/Belgium/Netherlands/Luxembourg/Greece/Switzerland.

Proposed Effective Date: August 1, 1987.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–16900 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–62–M

Application of Interstate Airlines, Inc. For Transfer of a Certificate Under Section 401(h)

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order to Show Cause (Order 87–7–46), Docket 44711.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order transferring to InterState Airlines, Inc., a certificate to engage in interstate and overseas scheduled air transportation of persons, property, and mail currently held by Air One, Inc.

DATE: Persons wishing to file objections should do so no later than July 27, 1987.

ADDRESSES: Responses should be filed in Docket 44711 and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Janet A. Davis, Air Carrier Fitness Division, P–56, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366–2341.

Dated: July 20, 1987.

Vance Fort,

Deput Assistant Secretary for Policy and International Affairs.

[FR Doc. 87–16902 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–62–M

[Order 87–7–45]

Order Instituting the London-Frankfurt Exemption Proceeding

AGENCY: Department of Transportation.

ACTION: Institution of the *London-Frankfurt Exemption Proceeding:* Order 87–7–45.

SUMMARY: The Department is instituting a show-cause exemption proceeding to grant local traffic rights between the United Kingdom gateways in Bermuda 2 and Frankfurt, Germany, during the next two off-peak seasons i.e., October 29 through May 14. Under the terms of the U.S.-U.K. aviation agreement, the Department can only grant authority to

a single air carrier in this proceeding. Only air carriers who currently hold authority between the United States and one or both U.K. gateways of U.S. Route 1 under Bermuda 2 (London and Prestwick/Glasgow) are eligible to receive this authority.

DATES: Applications containing service proposals and supporting information and petitions for reconsideration are due not later than July 30, 1987. Answers are due not later than August 6, 1987.

ADDRESS: Applications, supporting information, and petitions for reconsideration should be filed in Docket 45028 addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW, Room 4107, Washington, D.C. 20590, and shall be served on all air carriers operating scheduled combination services between the United States and the United Kingdom.

Dated: July 20, 1987.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-16903 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Airport Study Environmental Impact Statement; Santa Clarita Valley, County of Los Angeles

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for acquisition and construction/improvement of existing privately-owned airport at Agua Dulce or Indian Dunes, Los Angeles County, California.

FOR FURTHER INFORMATION CONTACT: Thomas J. Conley, Environmental Protection Specialist, AWP-611.3, Federal Aviation Administration, Western Pacific Region, P.O. Box 92007, World Way Postal Center Los Angeles, California 90009, (213) 297-1621.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the County of Los Angeles, will prepare an Environmental Impact Statement (EIS) for acquisitions and construction/improvements a public use general aviation airport in the Santa Clarita Valley of the County of Los Angeles. The construction features improvements to one of two existing private airfields.

The environmental documentation pertaining to improvements to Agua Dulce includes a 175 based aircraft concept plan. Specific improvements associated with the 175 based aircraft concept plan include 95 aircraft tiedowns, 80 T-hangars and maintaining the existing 4,500 foot designated Runway 04-22. Two fixed based operators (FBO) are also included. The existing 200 foot displaced threshold for Runway 22 is eliminated under this alternative. The airport access road is also realigned further to the west for access to the most westerly tiedown area.

The remaining site, Indian Dunes is conceptually planned for 300 based aircraft. This also translates into 220 aircraft tiedowns, and 80 T-hangars. For planning purposes the study horizon year is 20005.

The "no project" alternative will also be included in the EIS, plus discussion of two other alternative sites that were eliminated due to extensive earthwork requirements. Particular environmental topics of focus includes noise exposure, land use compatibility and surface transportation.

Public Scoping Meeting

To ensure that the full range of issues related to these proposed projects are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. To facilitate receipt of comments a public scoping meeting will be held on August 29, 1987 at 9:30 a.m. at Lang's Arena, 33316 Agua Dulce Canyon Road, Agua, California 91350.

An informal information session will be held between 8:00 a.m. and 9:30 a.m. to insure thoroughly familiarize the public with the proposed action. The formal scoping session will begin immediately thereafter. Written comments may be mailed to the information contact listed above.

Issued in Hawthorne, California, on July 15, 1987.

James J. Wiggins,

Manager, Planning and Programming Branch, Airports Division, Western-Pacific Region.

[FR Doc. 87-16792 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administation

Flight Service Station at Mason City, IA; Notice of Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Mason City, Iowa; Notice of Closure.

SUMMARY: Notice is hereby given that on July 18, 1987, the Flight Service Station at Mason City, Iowa, will be closed. Thereafter services to the general public at Mason City, Iowa, will be provided by the Flight Service Station at Fort Dodge, Iowa. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on July 10, 1987.

T.R. Beckloff, Jr.

Manager, Air Traffic Division.

[FR Doc. 87-16793 Filed 7-23-87; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Fayette/Bourbon Counties, KY

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplemental environmental impact statement will be prepared for a proposed highway project in Fayette/Bourbon Counties.

FOR FURTHER INFORMATION CONTACT: Robert E. Johnson, Division Administrator, FHWA, 330 W. Broadway, P.O. Box 536, Frankfort, Kentucky 40602, Phone (502) 227-7321; FTS 352-5468.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kentucky Transportation Cabinet, intends to prepare a Supplemental EIS for a proposal to improve the US 68 highway link between Lexington and Paris, Kentucky, a distance of approximately 12.1 miles.

A Final Environmental Impact Statement was previously approved by FHWA on June 18, 1973. Design was completed and right-of-way acquisition initiated. On September 7, 1979, the Federal District Court issued an injunction which stopped the project until section 4(f) requirements were met. The current environmental studies are being undertaken in accordance with all applicable federal regulations to advance project development. A Supplemental Environmental Impact Statement (SEIS) and section 4(f) Statement will be prepared to document the present studies.

There are five "Build" alternates under consideration for widening the existing two-lane facility to a four-lane divided highway for just south of Rogers Road (approximately 2,000 feet north of

I–75/I–64) in Fayette County, to just north of Houston Creek in Bourbon County, a distance of 12.1 miles. In addition, the "Do Nothing" alternate is also being considered.

The "Build" alternates are described as follow:

Alternate A, the previously approved design concept, is a high type rural arterial facility with partial control of access. Many driveways are relocated and frontage roads are used in several locations. A 40-foot depressed grass median is used except in the urban areas (Segments 2 and 3) at the project terminals. Considerable earthwork is associated with Alternate A in order to achieve a relatively flat profile. This alternate would require the acquisition of 240 acres of right of way.

Alternate B utilizes the minimum-width arterial cross section (14 feet) for the entire length of the project. The profile grade of Alternate B, as well as Alternates C, D, and E, follows existing ground much more closely than Alternate A, thus reducing earthwork and consequently right-of-way requirements. Few limited access provisions are included in Alternates B, C, D and E. As a result, driveways are not usually relocated. This alternate would require the acquisition of 132 acres of additional right of way.

Alternate C uses a 22-foot raised grass median. It represents the minimum width grassed median concept. This alternate would require the acquisition of 140 acres of additional right of way.

Alternate D is similar to Alternate A in terms of typical cross section dimensions. It differs from A in its closer fitting profile and lack of access control features. This alternate will require the acquisition of 173 acres of additional right of way.

Alternate E attempts to minimize impacts on visible cultural features in the corridor, such as dry stone fences, standing structures, and wooded fencerows. Alternate E preserves the rock fences and trees on both sides of Paris Pike between the Lexington Country Club and a point just north of Hughes Lane by minimal widening of the existing Paris Pike to obtain 12-foot lanes, making the improved Paris Pike one-way southbound. New northbound lanes would be constructed on the east side of the existing roadway with a median wide enough to achieve a 30-foot clear recovery area for the northbound lanes and to preserve the rock fences and trees at the edge of the existing right of way. This alternate will require the acquisition of 149 acres of additional right of way.

Several meetings open to the public were held during the initial development of this project. Input at these meetings has been considered in the development of the Supplemental EIS. More public meetings will be held as well as a formal public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the SEIS should be directed to the FHWA at the address provided above.

The supplemental EIS will be ready for public review and comment in late November 1987.

(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: July 16, 1987.

T. R. Pilling,

District Engineer, Frankfort, Kentucky.

[FR Doc. 87–16821 Filed 7–23–87; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 21, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0121
Form Number: 1116
Type of Review: Revision
Title: Computation of Foreign Tax Credit—Individual, Fiduciary, or Nonresident Alien Individual

Description: Form 1116 is used by individuals (including nonresident aliens) and fiduciaries who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by IRS to verify the foreign tax credit.

Respondents: Individuals or households
Estimated Burden: 617,757 hours
OMB Number: 1545–0175
Form Number: 4626
Type of Review: Revision
Title: Alternative Minimum Tax-Corporations

Description: Form 4626 is used by corporations having adjustments, tax preference items or a taxable income above an exemption amount together with credits against their regular tax. The form provides a computation of the alternative minimum tax and environmental tax which are added to tax liability. The information is needed to see whether taxpayers are complying with the law.

Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 51,091 hours
Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20305

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–16857 Filed 7–23–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 21, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0029
Form Numbers: IRS Forms 941, 941E, 941PR, 941SS, Schedule A (Form 941).
Type of Review: Resubmission
Title: Employer's Quarterly Federal Tax Return; Quarterly Return of Withheld Income Tax; Record of Federal Backup Withholding Tax Liability

Description: Form 941 is used by employers to report payments made to employees subject to income and FICA taxes and the amounts of these taxes. Form 941E is used primarily by State and local governments to report withheld income taxes only. Form 941PR is used by employers in Puerto Rico to report FICA taxes only and Form 941SS is used by employers in the possessions to report FICA tax only. Schedule A is used by payers subject to the backup withholding provisions who elected to report the liability as a separate tax.

Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations

Estimated Burden: 18,077,853 hours

OMB Number: 1545–0123

Form Numbers: IRS Form 1120, Schedule D (Form 1120); and Schedule PH (Form 1120)

Type of Review: Resubmission

Title: U.S. Corporation Income Tax Return; Capital Gains and Losses; Computation of U.S. Personal Holding Company Tax

Description: Form 1120 is used by corporations to compute their taxable income and their tax liability. Schedule D (Form 1120) is used by corporations to report gains and losses from the sale of capital assets. Schedule PH (Form 1120) is used by personal holding companies to compute their tax liability. The IRS uses these forms to determine whether corporations have correctly computed their tax liability.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 22,444,053 hours

Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–16858 Filed 7–23–87; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 142
Friday, July 24, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time) Thursday, July 30, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. Report on Commission Operations (Optional)
3. Further Consideration of Coverage of Apprenticeship Programs by the Age Discrimination in Employment Act and a Related Petition for Rulemaking
4. Notice of Proposed Rulemaking on Waivers under the Age Discrimination in Employment Act
5. Proposed EEOC Regulations Implementing Section 504 of the Rehabilitation Act in its Federally Conducted Programs

Closed

1. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

This Notice Issued July 21, 1987.

Date: July 22, 1987.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 87–16970 Filed 7–22–87; 3:46 pm]

BILLING CODE 6750–06–M

FEDERAL ENERGY REGULATORY COMMISSION

July 21, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

TIME AND DATE: July 28, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 861st Meeting—July 27, 1987. Regular Meeting (10:00 a.m.)

CAP–1.
Project No. No. 488–003, Thermalito Irrigation District and Table Mountain Irrigation District
CAP–2.
Project No. 8488–003, Cosumnes River Authority Water and Power Authority
Project No. 8722–002, David O. Harde
CAP–3.
Project No. 8136–004, Friends of Keeseville, Inc.
Project No. 9817–002, Cash Flow Systems, Inc.
CAP–4.
Project No. 5130–003, Floyd N. Bidwell
CAP–5.
Project No. 9319–001, Keith and Marilyn Peterson
CAP–6.
Project No. 3285–003, Trinity River Authority of Texas
CAP–7.
Project Nos. 2266–006, 008, 010 and 011, Nevada Irrigation District
Project No. 8840–001, Northwest Power Company, Inc.
CAP–8.
Project No. 7895–000, Independence Electric Corporation
Project No. 7425–001, Mississippi Power & Light Company
CAP–9.
Docket No. EL86–1–000 (Project No. 553), The City of Seattle, City Light Department
CAP–10.
Docket No. ER87–464–000, The Detroit Edison Company
CAP–11.
Docket No. ER87–483–000, Southern California Edison Company
CAP–12.
Docket No. ER87–365–001, Southern California Edison Company
CAP–13.
Docket Nos. ER79–97–010, 011 and 012, Alamito Company
CAP–14.
Docket No. ER83–437–006, Commonwealth Edison Company
CAP–15.
Docket No. ER85–720–006, Connecticut Light and Power Company
Docket No. ER85–707–001, Western Massachusetts Electric Company
Docket No. ER85–689–001, Holyoke Water Power Company and Holyoke Power & Electric Company
CAP–16.
Docket No. EL87–11–000, North Carolina Municipal Power Agency No. 1 v. Duke Power Company
Docket No. EL87–18–000, Piedmont Municipal Power Agency v. Duke Power Company
Docket No. 87–20–000, North Carolina Electric Membership Corporation v. Duke Power Company
CAP–17.
Docket No. EL87–31–000, Connecticut Municipal Electric Energy Cooperative and its affiliates, Northeast Utilities, Holyoke Water Power Company, Holyoke Power and Electric Company, Western Massachusetts Electric Company, Northeast Nuclear Energy Company and Northeast Utilities Service Company
CAP–18.
Docket No. EL85–1–000, Greensboro Lumber Company v. Rayle Electric Membership Corporation and Oglethorpe Power Corporation
Docket No. EL85–8–000, Greensboro Lumber Company v. Oglethorpe Power Corporation, Altamaha EMC, Amicalola EMC, Canoochee EMC, Carroll EMC, Central Georgia EMC, Coastal EMC, Cobb EMC, Colquitt EMC, Coweta-Fayette EMC, Douglas County EMC, Excelsior EMC, Flint EMC, Grady County EMC, Habersham EMC, Hart County EMC, Irwin County EMC, Jackson EMC, Jefferson EMC, Lamar EMC, Little Ocmulgee EMC, Middle Georgia EMC, Mitchell EMC, Ocmulgee EMC, Oconee EMC, Okefenoke Rural EMC, Pataula EMC, Planters EMC, Rayle EMC, Satilla Rural EMC, Sawnee EMC, Slash Pine EMC, Snapping Shoals EMC, Sumter EMC, Three Notch EMC, Tri-County EMC, Troup County EMC, Upson County EMC, Walton EMC, Washington EMC, Municipal Electric Authority of Georgia, City of Adel, Georgia, City of Albany, Georgia, City of Barnesville, Georgia, City of Blakely, Georgia, City of Brinson, Georgia, City of Buford, Georgia, City of Cairo, Georgia, City of Calhoun, Georgia, City of Camilla, Georgia, City of

Cartersville, Georgia, City of College Park, Georgia, City of Commerce, Georgia, City of Covington, Georgia, Crisp County Power Commission, City of Doerun, Georgia, City of Douglas, Georgia, City of East Point, Georgia, City of Elberton, Georgia, City of Ellaville, Georgia, City of Fairburn, Georgia, City of Fitzgerald, Georgia, City of Forsyth, Georgia, City of Fort Valley, Georgia, City of Grantville, Georgia, City of Griffin, Georgia, City of Hogansville, Georgia, City of Jackson, Georgia, City of Lafayette, Georgia, City of LaGrange, Georgia, City of Lawrenceville, Georgia, City of Mansfield, Georgia, City of Marietta, Georgia, City of Monroe, Georgia, City of Monticello, Georgia, City of Moultrie, Georgia, City of Newnan, Georgia, City of Norcross, Georgia, City of Palmetto, Georgia, City of Quitman, Georgia, City of Sandersville, Georgia, City of Sylvania, Georgia, City of Sylvester, Georgia, City of Thomaston, Georgia, City of Thomasville, Georgia, City of Washington, Georgia, City of West Point, Georgia and City of Whigman, Georgia

Consent Miscellaneous Agenda

CAM–1.
Docket No. FA85–67–000, Southern California Edison Company
CAM–2.
Docket No. FA86–72–000, Allegheny Generating Company
CAM–3.
Docket No. FA86–70–000, Missouri Public Service, a Division of UtiliCorp United Inc.
CAM–4.
Docket No. FA85–49–000, Public Service Company of New Mexico
CAM–5.
Docket No. RM87–24–000, Procedures for the Assessment of Civil Penalties Under Section 31 of the Federal Power Act
CAM–6.
Omitted
CAM–7.
Docket Nos. RM86–7–001 and 002, Compression Allowances and Protest Procedures Under NGPA Section 110
CAM–8.
Docket No. RM83–72–010, First Sales of Pipeline Production Under Section 2[21] of the Natural Gas Policy Act of 1978
Docket No. RM82–16–010, First Sales by Affiliates
CAM–9.
Docket No. RM87–31–000, Procedures for Determining High-Cost Natural Gas Produced from Tight Formations
Docket No. RM79–76–101 (Colorado–23), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–225 (Kentucky–3), High-Cost Gas Produced from Tight Formations
Docket No. 79–76–239 (Colorado–39), High-Cost Gas Produced from Tight Formations
Docket No. 79–76–248 (Oklahoma–8), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–249 (Virginia–4), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–250, High-Cost Gas Produced from Tight Formations (Travis Peak)
Docket No. 79–76–255 (Colorado–38 Addition), High-Cost Gas Produced from Tight Formations
CAM–10.
Docket No. GP87–27–000 (Formerly RM79–76–250), High-Cost Gas Produced from Tight Formations
CAM–11.
Docket No. RM79–76–101 (Colorado–23), High-Cost Gas Produced from Tight Formations
CAM–12.
Docket No. 79–76–248 (Oklahoma–8), High-Cost Gas Produced from Tight Formations
Docket No. 79–76–239 (Colorado–39 Addition), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–225 (Kentucky–3), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–249 (Virginia–4), High-Cost Gas Produced from Tight Formations
Docket No. RM79–76–255 (Colorado–38 Addition), High-Cost Gas Produced from Tight Formations

Consent Gas Agenda

CAG–1.
Docket No. RP87–78–000, Penn-York Energy Corporation
CAG–2.
Omitted
CAG–3.
Docket Nos. TA87–2–52–000 and TA86–2–52–000, Western Gas Interstate Company
CAG–4.
Omitted
CAG–5.
Docket Nos. TA87–3–18–000 and TA85–1–18–003, Texas Gas Transmission Corporation
CAG–6.
Docket Nos. TA87–3–16–000, TA85–1–16–000 and RP86–136–000, National Fuel Gas Supply Corporation
CAG–7.
Docket Nos. TA87–3–17–000 and 001, Texas Eastern Transmission Corporation
CAG–8.
Docket Nos. TA87–2–41–000 and 001, Southwest Gas Corporation
CAG–9.
Docket Nos. TA87–3–43–000 and 001, Williams Natural Gas Company
CAG–10.
Docket Nos. TA84–2—49–001 and TA85–1–49–002, Williston Basin Interstate Pipeline Company
CAG–11.
Docket No. TA87–1–53–003, K N Energy, Inc.
CAG–12.
Docket Nos. TA87–3–49–002 and TA87–4–49–003, Williston Basin Interstate Pipeline Company
CAG–13.
Docket Nos. RP86–104–004, 005, CP86–589–003 and 004, Colorado Interstate Gas Company
CAG–14.
Docket No. TA87–3–55–002, Mountain Fuel Resources, Inc.
CAG–15.
Docket No. RP87–41–000, Alabama-Tennessee Natural Gas Company
Docket No. CP86–589–000, Colorado Interstate Gas Company
Docket No. RP85–169–000, Consolidated Gas Transmission Corporation
Docket No. RP86–120–000, Gas Gathering Corporation
Docket No. CP86–423–000, Great Lakes Gas Transmission Company, *et al.*
Docket No. RP86–52–000, Kentucky West Virginia Gas Company
Docket No. CP86–582–000, Natural Gas Pipeline Company of America
Docket No. RP86–32–000, Northwest Central Pipeline Corporation
Docket No. CP86–578–000, Northwest Pipeline Corporation
Docket No. CP86–250–000, Ozark Gas Transmission System
Docket No. RP87–47–000, Phillips Gas Pipeline Company
Docket No. RP85–177–000, Texas Eastern Transmission Corporation
Docket No. CP86–720–000, Trailblazer Pipeline Company
Docket No. TA85–3–29–000, Transcontinental Gas Pipe Line Corporation
Docket No. RP85–175–000, Transwestern Pipeline Company
Docket No. RP86–115–000, Trunkline Gas Company
Docket No. CP86–526–000, United Gas Pipeline Company
CAG–16.
Docket Nos. TAZ86–3–59–004 and 005, Northern Natural Gas Company, Division of Enron Corporation
CAG–17.
Docket Nos. TA86–3–43–003, 004 and TA87–1–43–003, Williams Natural Gas Company
CAG–18.
Docket Nos. TA87–3–33–001, and 002, El Paso Natural Gas Company
CAG–19.
Docket Nos. RP87–67–001 and 002, Trunkline Gas Company
CAG–20.
Docket Nos. RP87–7–007, 013, 014, 015, 016, 017 and 018, Transcontinental Gas Pipe Line Corporation
CAG–21.
Docket Nos. RP81–47–005, Northwest Pipeline Corporation
CAG–22.
Omitted
CAG–23.
Docket No. RP87–35–000, Texas Gas Pipe Line Company
CAG–24.
Docket Nos. RP85–178–000, 010, RP82–10–012 and 013, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG–25.
Docket Nos. ST87–1847–000, ST87–2065–000, ST87–2066–000 and ST87–2067–000, Lear Gas Transmission Company
CAG–26.

Docket No. CI87-384-001, Phillips Petroleum Company
Docket No. CI87-385-001, Phillips 66 Natural Gas Company
CAG-27.
Docket Nos. CI87-115-001, and CI87-121-001, Colorado Interstate Gas Company
CAG-28.
Docket Nos. CI77-337-002 and G-14227-001, Union Texas Petroleum Corporation
CAG-29.
Docket No. CI83-357-002, Pan Eastern Exploration Company
CAG-30.
Docket No. CI86-56-002, Citizens Energy Corporation, Citizens Resurces Corporation and Citizens Gas Supply Corporation
Docket No. CI86-267-000, Howell Gas Management Company
Docket No. CI86-672-000, Clinton Gas Marketing, Inc.
Docket No. CI87-53-000, Cheney Energy Corporation
Docket No. CI87-254-000, Salmon Resources Ltd.
Docket No. CI87-324-000, Natural Gas Clearinghouse Inc.
Docket No. CI86-413-000, ANR Gathering Company
Docket No. CI86-419-000, ANR Supply Company
Docket No. CI86-421-000, TEXCOL Industrial Sales Company
Docket No. CI86-218-000, Transco Energy Marketing Company
Docket No. CI86-503-000, SNG Trading, Inc.
Docket No. CI87-295-000, Gulf Energy Marketing Corporation
Docket No. CI87-307-000, MidCon Marketing Corporation
Docket No. CI86-168-000, and 003, Tenngasco Corporation and Tenngasco Exchange Corporation
Docket No. CI86-377-000, Arkla Energy Marketing Company
Docket No. CI86-378-000, Arkla Energy Marketing Company
Docket No. CI86-641-000, Northwest Marketing Company
Docket No. CI86-425-000, Energy Marketing Exchange, Inc.
Docket No. C186-255-000, Hadson Gas Systems, Inc.
Docket No. CI87-349-000, Brooklyn Interstate Natural Gas Corporation
CAG-31.
Docket No. CI87-559-000, The Resource Group
Docket No. CI87-578-000, Continental Natural Gas, Inc.
Docket No. CI87-581-000, Prior Energy Corporation
Docket No. CI87-621-000, Mountain Industrial Gas Company
Docket No. CI87-648-000, Victoria Gas Corporation
CAG-32.
Docket No. CI87-223-000, Cities Service Oil and Gas Corporation
Docket No. CI87-244-000, Forest Oil Corporation
Docket No. CI87-245-000, Forest Oil Corporation
Docket No. CI87-293-000, Conoco Inc.
Docket No. CI87-340-000, Zapata Exploration Company
Docket No. CI87-394-000, ARCO Oil and Gas Company, Division of Atlantic Richfield Company
Docket No. CI87-475-000, Texaco Inc. and Texaco Producing Inc.
Docket No. CI87-579-000, Cabot Corporation
Docket No. CI87-595-000, Diamond Shamrock Offshore Partners Limited Partnership
CAG-33.
Docket No. CP87-263-000, Panhandle Eastern Pipeline Company
Docket No. CI71-714-002, Pan Eastern Exploration Company
CAG-34.
Docket No. CP86-538-001, Granite State Gas Transmission, Inc.
CAG-35.
Docket Nos. CP86-232-008, 009, 010, CP84-486-000, CP86-504-000, CP86-551-000, CP86-573-000, CP86-598-000, CP86-645-000, CP86-655-000, CP86-660-000, CP86-669-000, CP86-670-000 and CP86-671-000, Panhandle Eastern Pipe Line Company
Docket No. CP86-584-000, Independent Petroleum Association of Mountain States v. Panhandle Eastern Pipe Line Company
Docket No. CP86-663-000, Independent Petroleum Association of Mountain States v. Colorado Interstate Gas Company
CAG-36.
Docket No. CP86-277-006, Southern Natural Gas Company
Docket No. CP86-610-003, South Georgia Natural Gas
CAG-37.
Docket Nos. CP75-23-027 and CP75-120-020, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket No. CP86-552-001, Trunkline Gas Company
CAG-38.
Docket No. CP84-441-023, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-39.
Docket Nos. CP87-16-001 and 002, Yukon Pacific Corporation
CAG-40.
Docket Nos. CP86-225-001, CP86-247-001 and 002, Texas Eastern Transmission Corporation
CAG-41.
Docket Nos. RP74-50-010 through 015 and 023, Florida Gas Transmission Corporation (Basic Magnesia, Inc., *et al.*)
CAG-42.
Docket No. CP86-483-000, ANR Pipeline Company
CAG-43.
Docket Nos. CP87-231-000 and CP87-232-000, Alabama-Tennessee Natural Gas Company
CAG-44.
Docket Nos. CP87-39-000 and CP87-40-000, Granite State Gas Transmission, Inc.
Docket No. CP87-70-000, Portland Pipeline Corporation
CAG-45.
Docket No. CP87-196-000, Transcontinental Gas Pipe Line Corporation
Docket No. CP87-203-000, Consolidated Gas Transmission Corporation and North Penn Gas Company
CAG-46.
Docket No. CP86-574-000, Natural Gas Pipeline Company of America
CAG-47.
Docket No. CP87-20-000, Williston Basin Interstate Pipeline Company
CAG-48.
Docket Nos. CP81-225-002, Great Lakes Gas Transmission Company
CAG-49.
Docket Nos. CP84-4-003 and CP86-664-003, Natural Gas Pipeline Company of America
CAG-50.
Docket No. CP87-293-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-51.
Docket No. CP87-115-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-52.
Docket No. CP86-510-000, Mountaineer Gas Company v. Columbia Gas Transmission Corporation and Weirton Service Pipeline Company
Docket No. ST86-1431-000, Weirton Service Pipeline Company
CAG-53.
Docket No. RP86-14-017, Columbia Gulf Transmission Company
Docket No. RP86-15-017, Columbia Gas, Transmission Corporation
CAG-54.
Docket Nos. CP85-78-000 and 001, Mountain Fuel Resources, Inc.
CAG-55.
(A) Docket No. CP78-532-009, Ozark Gas Transmission System
(B) Docket No. IN86-6-000, Ozark Gas Transmission System
CAG-56.
Docket Nos. CP87-150-001 and CP87-197-001, United Gas Pipe Line Company

I. Licensed Project Matters

P-1.
Project No. 2381-001, Utah Power & Light Company. Application for new license (relicense filed by Utah Power & Light Company for the Ashton—St. Anthony Project No. 2381

II. Electric Rate Matters

ER-1.
Docket No. ER87-496-000, Baltimore Gas and Electric Company. Tariff filing regarding auctioning of excess capacity.
ER-2.
Docket Nos. ER85-204-000, 003 and ER85-603-001, South Carolina Generating Company, Inc. Opinion and order determining just and reasonable rates.
ER-3.
Docket No. EL86-37-001, Consumer Advocate Division of the West Virginia Public Service Commission and Maryland People's Counsel, Complainants v. Allegheny Generating Company, Respondent
Docket No. EL86-38-001, David M. Barasch, Consumer Advocate of Pennsylvania, Complainant v. Allegheny Generating

Company, Respondent. Opinion and order determining just and reasonable rates.

Miscellaneous Agenda

M-1.
Reserved
M-2.
Reserved
M-3.
Docket No. RM87-34-000, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Remand of Order No. 436.

I. Pipeline Rate Matters

RP-1.
Docket Nos. RP82-58-011 through 017, Panhandle Eastern Pipe Line Company
Docket Nos. RP82-105-001 through 004, Central Illinois Light Company. Order on rehearing of Opinion No. 265 including minimum bill and sole supplier issues.
RP-2.
Docket Nos. RP82-55-006 through RP82-5-020 and RP87-7-000. Transcontinental Gas Pipe Line Corporation. Order on rehearing on Opinion No. 260 concerning rate design and minimum bill.
RP-3.
Docket Nos. RP81-54-023 through 032, RP82-12-014 through 021, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Order on rehearing of Opinion No. 249 concerning minimum bill, cost classification, allocation and rate design.
RP-4.
Docket Nos. RM83-71-040 and 041, Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions. Order on rehearing of Order No. 380-E concerning minimum commodity bills.
RP-5.
Docket Nos. RP82-124-000, RP81-53-000, RP81-55-000 and RP85-149-000, East Tennessee Natural Gas Company. Opinion and order on exceptions to initial decision and proposed settlement.
RP-6.
Docket Nos. RP87-26-000, 003, 004, 005, 006 and RP85-178-015, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Order on rates and terms for transportation and requests for rehearing.
RP-7.
Docket Nos. RP87-55-000 and TA81-1-21-022, Columbia Gas Transmission Corporation. Order concerning contract reformation cost issues.
RP-8.
Docket Nos. TA82-1-21-012, TA82-1-21-013, TA82-1-21-014, TA82-1-21-018 and TA82-1-21-020, Columbia Gas Transmission Corporation. Order on rehearing concerning the June 14, 1985, PGA settlement.
RP-9.
Docket Nos. TA81-1-21-022 through 027, Columbia Gas Transmission Corporation. Order on rehearing concerning remand of Opinion No. 204.

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP87-159-000 and CP87-304-000, Pacific Gas Transmission Company. Order No. 436 blanket certificate application.
CP-2.
Docket Nos. CP85-621-000, CP86-674-000, CP85-713-001, CP85-714-001, CP85-716-000, CP85-889-000 and CP86-53-000, ANR Pipeline. Opinion on initial decision regarding requests for section 7(c) authorization for transportation of gas.
CP-3.
Docket No. CP86-232-000, *et al.*, Panhandle Eastern Pipe Line Company
Docket No. CP86-584-000, Independent Petroleum Association of Mountain States v. Panhandle Eastern Pipe Line Company
Docket No. CP86-663-000, Independent Petroleum Association of Mountain States v. Colorado Interstate Gas Company. Opinion on initial decision regarding requests for section 7(c) authorization for transportation of gas.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16930 Filed 7-22-87; 11:22 am]

BILLING CODE 6717-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 27, 1987:

Closed meetings will be held on Tuesday, July 28, 1987, at 2:30 p.m. and on Thursday, July 30, 1987, following the 2:30 p.m. open meeting. Open meetings will be held on Thursday, July 30, 1987, at 10:00 a.m. and 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 28, 1987, at 2:30 p.m., will be:

Institution of injunctive action.
Settlement of injunctive action.
Settlement of administrative proceedings of an enforcement nature.
Institution of an administrative proceedings of an enforcement nature.
Amendment of an administrative proceeding.

The subject matter of the open meeting scheduled for Thursday, July 30, 1987, at 10:00 a.m., will be:

1. Consideration of whether to authorize publication of a release proposing for comment two alternative versions of a new Rule 433 which would allow, if certain conditions are met, the prospectus meeting the requirements of section 10(a) of the Securities Act of 1933 ("final prospectus") to be sent to an investor no later than five (5) business days following the date a confirmation of sale is sent to an investor in a firm commitment offering of securities sold for cash. For further information, please contact Gerard S. DiFiore at (202) 272-2589.

2. Consideration of whether to authorize publication of a release proposing for comment proposed amendments to Rule 81 of the Commission's regulations on Information and Requests, which would permit immediate publication of interpretative and no-action letters written by the Commissioner's staff at the time such letters are sent or given to the requesting party, unless temporary confidential treatment is granted. For further information, please contact Michael Hyatte or Kenneth L. Wagner at (202) 272-2573.

3. Consideration of whether to authorize publication of a release which reproposes for comment a revised Rule 701, new temporary Rules 702 and 703 and a revised Form 701 to provide an exemption from the registration requirements of the Securities Act of 1933 for offers and sales of securities pursuant to employee benefit plans or compensation contracts of issuers that are not subject to the reporting requirements of the Securities Exchange Act of 1934. For further information, please contact John D. Reynolds at (202) 272-2644.

The subject matter of the open meeting scheduled for Thursday, July 30, 1987, at 2:30 p.m., will be:

Oral argument on an appeal by Adrian Antoniu from the decision of an administrative law judge. For further information, please contact R. Moshe Simon, at (202) 272-7400.

The subject matter of the closed meeting scheduled for Thursday, July 30, 1987, following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272-3077.

Shirley E. Hollis,

Assistant Secretary.

July 21, 1987.

[FR Doc. 87-16969 Filed 7-22-87; 3:45 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 142
Friday, July 24, 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.

DEPARTMENT OF DEFENSE

48 CFR Part 215

Department of Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation

Correction

In proposed rule document 87-15848 appearing on page 26363 in the issue of Tuesday, July 14, 1987, make the following correction:

215.804-1 [Amended]

In the third column, in section 215.804-1, following the seventh line, insert "shall request only that data which the contracting officer".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 53

[FRL-3141-9(e)]

Ambient Air Monitoring Reference and Equivalent Methods

Correction

In rule document 87-13711 beginning on page 24724 in the issue of Wednesday, July 1, 1987, make the following correction:

On page 24725, in the third column, in the second complete paragraph, in the second line ".05"should read "0.5".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-400005; FRL-3187-8]

Emergency Planning and Community Right-To-Know Programs; Denial of Toxic Chemical List Petition

Correction

In notice document 87-12348 beginning on page 20142 in the issue of Friday, May 29, 1987, make the following corrections:

1. On page 20143, in the first column, in the fourth paragraph, in the 16th line, "to" should read "of".

2. On the same page, in the third column, in the first complete paragraph, in the 16th line, insert a comma after "fluorosis".

3. On page 20145, in the table, in the second column, the last entry should be followed by a footnote reference "5".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[PP 4G3039/T543; FRL-3219-7]]

Renewal of Exemptions From Requirement of Tolerances

Correction

In notice document 87-13926 appearing on page 23718 in the issue of Wednesday, June 24, 1987, make the following correction:

On page 23718, in the third column, in the date line, "June 9" should read "June 8".

BILLING CODE 1505-01-D

Executive Office of the President

Office of Administration

3 CFR PART 102

Office of Personnel Management

5 CFR PART 723

Merit Systems Protection Board

5 CFR PART 1207

Office of the Special Counsel

5 CFR PART 1262

Federal Labor Relations Authority

5 CFR PART 2416

National Aeronautics and Space Administration

14 CFR PART 1251

Securities and Exchange Commission

17 CFR PART 200

Overseas Private Investment Corporation

22 CFR PART 711

African Development Foundation

22 CFR PART 1510

National Labor Relations Board

29 CFR PART 100

National Archives and Records Administration

36 CFR PART 1208

Veterans Administration

38 CFR PART 15

Federal Emergency Management Agency

44 CFR PART 16

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

Correction

In proposed rule document 87-14491 beginning on page 25124 in the issue of Thursday, July 2, 1987, make the following corrections:

§ __.150 [Corrected]

1. On page 25138, in the third column, in § __.150(a) introductory paragraph, in the fifth line, "usable" was misspelled.

§ __.160 [Corrected]

2. On page 25139, in the third column, in § __.160(d), in the eighth line, "program" should read "proposed" and in the ninth line, "proposed" should read "program".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Methane in Metal and Nonmetal Mines

Correction

In rule document 87-14978, beginning on page 24924, in the issue of Wednesday, July 1, 1987, make the following corrections:

§ 57.22005 [Corrected]

1. On page 24945, in the first column, in § 57.22005(f)(1), in the sixth line, "the" should read "an".

2. On the same page, in the second column, in § 57.22005(g), in the fifth line, "90" should read "30".

§ 57.22232 [Corrected]

3. On page 24948, in the second column, in § 57.22232, in the section heading, "0.25" should read "0.5", and in the first line "0.25" should read "0.5".

§ 57.22233 [Corrected]

4. On the same page, in the second column, in § 52.22233, in the section heading, "0.25" should read "0.5", and in the first line "0.25" should read "0.5".

§ 57.22240 [Corrected]

5. On page 24949, in the first column, in § 57.22240, in the fifth line, "the mine" should read "affected areas".

BILLING CODE 1505-01-D

federal register

Friday
July 24, 1987

Part II

Department of Education

34 CFR Part 646

Student Support Services Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 646

Student Support Services Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Student Support Service Program formerly called the Special Services for Disadvantaged Students Program. Amendments are needed to implement changes made in the statute authorizing the Student Support Services Program, Title IV–A–4 of the Higher Education Act of 1965, (HEA) by the Higher Education Amendments of 1986, Pub. L. 99–498.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the U.S. Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Sonnergren, Division of Student Services, U.S. Department of Education, L'Enfant Plaza, P.O. Box 23772, Washington, DC 20026–3772. Telephone: (202) 732–4804.

SUPPLEMENTARY INFORMATION:

Background

The Student Support Services Program was formerly called the Special Services for Disadvantaged Students Program. Under the Student Support Services Program, the Secretary awards grants to institutions of higher education for the purpose of providing support services to low-income, first-generation or physically handicapped college students to enhance their academic skills, imcrease their retention and graduation rates, and as appropriate, facilitate entrance into four-year colleges or graduate and professional programs.

Explanation of Changes

The amended HEA changed the name of the program to the Student Support Services Program, and revised the definition of a "first generation college student." The definition was amended to address the situation where the student resided with, and was supported by, only one parent. Section 646.4(d) has been revised to accommodate the amended definition of a "first generation college student."

The amended HEA also expanded the services to be provided to students to include counseling and peer counseling to assist students at junior and community colleges enroll in four year institutions.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since these amendments only incorporate statutory changes, public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature, and amend existing regulations which have been previously determined to not have had any significant impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 646

Bilingual education, Education, Education of disadvantaged, Education of handicapped, Government contracts, Grant programs—education.

(Catalog of Federal Domestic Assistance Number 84.042—Student Support Services Program (formerly Special Services for Disadvantaged Students Program))

Dated: July 7, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 646 of Title 34 of the Code of Federal Regulations, as follows:

PART 646—[AMENDED]

1. The authority citation for Part 646 is revised to read as follows:

Authority: 20 U.S.C. 1070, 1070d–1b.

2. In Part 646 remove the words "Special Services for Disadvantaged Students Program" and add, in their place, the words "Student Support Services", in the part title and in § 646.1.

§§ 646.1, 646.2, 646.3, 646.4, 646.5, 646.6, 646.10, 646.30, 646.31, 646.32, 646.40 [Amended]

3. In Part 646 remove the words "Special Services" and add, in their place, the words "Support Services" in the following places:

(a) Section 646.1;
(b) Section 646.2;
(c) Section 646.3 (introductory text);
(d) Section 646.4 (a) and (b);
(e) Section 646.5 (heading and introductory text);
(f) Section 646.6 (section heading);
(g) Section 646.10 (section heading), (a) and (b);
(h) Section 646.30 (b);
(i) Section 646.31 (f)(1) and (f)(1)(iii), (h)(1) and (h)(2)(iv);
(j) Section 646.32 (a)(1);
(k) Section 646.40 (introductory text).

4. Section 646.3 is amended by revising paragraph (c) to read as follows:

§ 646.3 Eligible project participants: General.

* * * * *

(c) Has a need for academic support, as determined by the grantee, in order to pursue successfully a postsecondary educational program; and

* * * * *

5. Section 646.4 is amended by revising paragraph (d)(1) to read as follows:

§ 646.4 Eligible project participants: Selection requirements.

* * * * *

(d)(1)(i) Except as provided in paragraph (d)(1)(ii) of this section, a student qualifies as a "first generation college student" if neither of the student's parents received a baccalaureate degree.

(ii) If a student regularly resided with and received support from only one parent, the student qualifies as a first

generation college student if that parent did not receive a baccalaureate degree.

* * * * *

6. Section 646.10 is amended by redesignating paragraph (a)(8) as paragraph (a)(9), adding a new paragraph (a)(8), and revising paragraphs (a)(4) and newly redesignated (a)(9) to read as follows:

§ 646.10 Kinds of projects the Secretary assists under the Student Support Services Program.

(a) * * *

(4) Tutorial services, counseling and peer counseling;

* * * * *

(8) Activities designed to assist students currently enrolled in two-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

(9) Programs and activities as described in paragraphs (a)(1) through (8) of this section which are specially designed for students of limited proficiency in English.

* * * * *

[FR Doc. 87-16732 Filed 7-23-87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
July 24, 1987

Part III

Department of the Treasury

Office of the Assistant Secretary (Domestic Finance)

17 CFR Ch. IV

Implementing Regulations for the Government Securities Act of 1986; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary (Domestic Finance)

17 CFR Ch. IV

Implementing Regulations for the Government Securities Act of 1986

AGENCY: Office of the Assistant Secretary (Domestic Finance), Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is issuing final regulations as required by the Government Securities Act of 1986 (the "Government Securities Act" or "GSA"). These regulations reflect proposed regulations issued by the Treasury on February 25, 1987 (52 FR 5660), a temporary rule issued on May 26, 1987 (52 FR 19641) and the Treasury's response to comments received thereon. The final rule adopts the temporary rule, with amendments.

The GSA requires the Secretary of the Treasury (the "Secretary") to adopt rules and regulations concerning the financial responsibility, protection of investor securities and funds, recordkeeping, reporting and audit of brokers and dealers in government securities. The GSA also requires the Secretary to adopt regulations relating to the custody of government securities held by depository institutions. The regulations are designed to enhance the protection of investors in government securities while maintaining a fair, honest and liquid market in such securities. Subchapter A of the regulations covers government securities brokers and dealers. Subchapter B of the regulations deals with custody of government securities by depository institutions, including those that are government securities brokers or dealers.

The GSA requires that all government securities brokers and dealers either be registered with the Securities and Exchange Commission ("Commission" or "SEC") by July 25, 1987, or have provided notice of their status as a government securities broker or dealer to either the SEC (in the case of registered brokers or dealers) or the appropriate federal financial institution supervisory agency (in the case of commercial banks and thrift institutions) by July 25, 1987. This requirement has been delayed by these regulations to October 31, 1987 for certain futures commission merchants.

EFFECTIVE DATE: July 25, 1987. See also 17 CFR 402.1(f), 403.7, 404.2(c), 404.4(c), 404.5(b), 405.1(c) and 450.5.

FOR FURTHER INFORMATION CONTACT: Anne Meister (Federal Reserve Liaison Officer), Room 553, Bureau of Public Debt, Department of the Treasury, 999 E Street, NW., Washington, DC 20239, (202) 376–4304, or Ellen Seidman (Special Assistant to the Under Secretary), Room 4414, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220, (202) 566–2278.

For information concerning financial responsibility (capital) and Form G–405, contact: Norman Carleton (Assistant Director, Office of Government Finance & Market Analysis), Room 3044, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220, (202) 566–2330.

For information concerning possession or control of customer securities and Part 450, contact: Cindy Reese (Senior Attorney and Special Assistant), Room 503, Bureau of Public Debt, Department of the Treasury, 999 E Street, NW., Washington, DC 20239, (202) 376–4320, or Virginia Rutledge (Attorney-Advisor), Room 2025, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, DC 20220, (202) 535–4890.

SUPPLEMENTARY INFORMATION:

I. Background

The GSA establishes, for the first time, a federal system for regulation of brokers and dealers who transact business exclusively in government securities, or a government securities business combined with business in non-security financial instruments, exempted securities and/or futures and other commodity interests regulated by the Commodity Futures Trading Commission ("CFTC"). The Secretary is to adopt rules and regulations concerning the financial responsibility, protection of investor securities and balances, recordkeeping, reporting and audit of government securities brokers and dealers.[1] Previously unregulated government securities brokers and dealers must also register with the SEC and join a self-regulatory organization.[2] Enforcement of the Secretary's regulations with respect to newly registered government securities brokers and dealers will be carried out by the SEC and the appropriate self-regulatory organizations.[3]

The GSA also provides for regulation of all other brokers and dealers in government securities, all of whom must, by July 25, 1987, notify their principal regulatory agency of their status as government securities brokers or dealers.[4] Enforcement of the regulations for such entities will be carried out by the appropriate regulatory agencies.[5]

The purpose of such registration and regulation is to enhance the protection of investors in government securities by establishing and enforcing appropriate financial responsibility and custodial standards for government securities brokers and dealers. At the same time, the standards must respect and protect the integrity, liquidity and efficiency of the world's largest securities market, which is vital to the effective implementation of fiscal and monetary policy in the United States.[6] In adopting regulations concerning those entities that are already regulated, such as brokers and dealers registered under sections 15 or 15B of the Securities Exchange Act of 1934 (the "Act") and financial institutions, the Secretary of the Treasury is to take into consideration already existing

---

[1] Section 15C(b) of the Securities Exchange Act of 1934 [15 U.S.C. 78o–5(b)]. All citations to the Securities Exchange Act (hereinafter the "Act") will refer to the section of the Act followed by the parallel citation to the United States Code in brackets. Title I of the GSA, which provides for regulation of government securities brokers and dealers, amends the Act, in part by adding Section 15C.

[2] Section 15C(a)(1)(A), (e) [15 U.S.C. 78o–5(a)(1)(A), (e)]. Currently unregulated persons (including subsidiaries and affiliates of financial institutions) and registered brokers or dealers uncertain of their status as government securities brokers or dealers are urged to contact the Office of the Chief Counsel, Division of Market Regulation, Mail Stop 5–1, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, as soon as possible. Financial institutions uncertain of their status should contact their appropriate regulatory agency or the SEC.

[3] Section 15C(c)(1), 19(g)(1) [15 U.S.C. 78o–5(c)(1), 78s]. The Act also contains criminal penalties enforced by the Department of Justice. Section 32 [15 U.S.C. 78ff].

[4] Section 15C(a)(1)(B), (b) [15 U.S.C. 78o–5(a)(1)(B), (b)].

[5] Generally, the appropriate regulatory agency for a financial institution is that institution's federal supervisory agency. It is the SEC for all others, including brokers and dealers registered with the SEC under sections 15 or 15B of the Act and financial institutions that do not have a federal supervisory agency. Section 3(a)(34)(G) [15 U.S.C. 78c(a)(34)(G)].

Brokers and dealers in Small Business Administration ("SBA") individual loan certificates and pool certificates under the authority of sections 5(f)–5(h) of the Small Business Act (15 U.S.C. 634(f)–(h)) are government securities brokers or dealers. The SBA has informed the Department that, in addition to requirements under the Act, pool assemblers must be qualified with the SBA pursuant to 13 CFR 120.703. The SBA intends to take the position that, notwithstanding Chapter III, Part 2, of the Secondary Market Program Guide, pool assemblers may register under section 15C of the Act (if otherwise eligible) and thereby be subject to the Treasury financial responsibility rules, 17 CFR 402.2.

[6] Government Securities Act of 1986, Pub. L. 99–571, section 1, 100 Stat. 3208 (1986) (hereinafter cited as *GSA*).

regulation with a view toward preventing overly burdensome or duplicative regulation.[7]

The final regulations constitute the Secretary's third response to these mandates. As required by the GSA, they become effective on July 25, 1987.[8] All government securities brokers and dealers must register or give notice by July 25, 1987, and must be in compliance with the final regulations on that date.[9]

Consultation and Comments

As discussed in the preambles to the proposed and temporary regulations, in developing the regulations the Department has consulted extensively with other federal regulators, affected parties, and trade and professional associations. During the period since publication of the temporary regulations, that process has continued. In addition, representatives of the Department have continued to participate in conferences and seminars to discuss the proposed regulations. The Department received over 20 written comments in response to the temporary regulations. Among the commenters were 12 of the 40 primary dealers, two banks that are not primary dealers, three brokers, one self-regulatory organization, and three trade associations—the Public Securities Association ("PSA"), the Government Securities Brokers Association and the Institute of Foreign Bankers.

The comments generally supported the approach taken in the temporary regulations. Comments on the temporary regulations concentrated mainly on operational problems that could arise from the requirements of Part 403 relating to hold-in-custody repurchase agreements, confirmations and buying in of securities, and related sections of Part 450. In addition, a number of comments were received requesting delayed effective dates, transition rules and clarifications. These comments and the Department's response thereto are discussed in the following section-by-section analysis. The Department appreciates the commenters' general adherence to the Department's request that comments on the temporary regulations recognize the need of affected parties to rely on regulations known to the maximum extent possible before the July 25 effective date and therefore to limit comments to provisions likely to result in serious and widespread operational difficulties. The Department has responded by making changes in the temporary regulations only to respond to such problems and for clarification. As noted in the preamble to the temporary regulations, the rulemaking process under the GSA is a continuing one, and the Department therefore welcomes suggestions for changes or modifications to the final rule.

II. Section-by-Section Analysis of Regulations

A. Part 400—Rules of General Application

1. *Section 400.1.* No comments were received on this section of the temporary regulations and it is adopted without amendment.

2. *Section 400.2.* Four comments reflected continuing concern with the status of Treasury Department interpretations of SEC rules, and particularly with the potential for inconsistent interpretations. This potential is an inevitable consequence of the decision of the Treasury—supported by virtually all commenters—largely to adopt SEC rules.

Problems potentially can arise in several ways. First, Treasury may interpret rules uniquely its own, such as § 402.2a(a) (relating to haircuts on Treasury market risk instruments) in a manner at variance with analogous SEC regulations. Second, Treasury may interpret its modifications of SEC rules [10] in a manner that appears to conflict with the underlying rules. Third, Treasury and the SEC may differ on the appropriate interpretation of an SEC rule adopted by Treasury.

The Department and the SEC recognize these problems, and propose to deal with them as follows. First, § 400.2(c)(4) has been amended to provide that in responding to a request for an interpretation, the Department will, where appropriate, consult with the appropriate regulatory agencies. Particularly in the case of a request by a financial institution, this consultation will frequently include not only the requester's appropriate regulatory agency but also, in order to assure consistency, the other financial institution supervisory agencies and in certain cases the Commission.

Second, § 400.2(c)(4) has also been amended to provide for the possibility of formal concurrence by the staff of the appropriate regulatory agency in a Treasury interpretation. As a matter of practice, the Department believes this will be appropriate only when the Department is interpreting a Treasury-adopted SEC or financial institution supervisory agency regulation with respect to a registered government securities broker or dealer or with respect to the government securities transactions of a registered broker-dealer or financial institution. Treasury believes its interpretations will be followed by the appropriate regulatory agencies with respect to the entity that is the subject of the request without a formal concurrence, and the process of obtaining formal concurrence may substantially delay issuance of an interpretation.[11] However, where it is possible to obtain such concurrence within a reasonable period of time, the interpretation will thereby obtain the full force and effect of an interpretation issued by the staff of the appropriate regulatory agency.

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[7] Section 15C(b)(3)(C) [15 U.S.C. 78o-5(b)(3)(C)]; 132 Cong. Rec. H9251 (Oct. 6, 1986).

[8] The requirement that the final regulations become effective immediately results from the confluence of the statutory requirements of section 402 of the GSA, mandating the date on which the rules are to take effect, and of the Administrative Procedure Act to receive and take into account comments on the proposed regulations published February 25, 1987 and the temporary regulations published May 26, 1987. See 5 U.S.C. 553 (b), (c). The Department notes, however, that since the final regulations largely adopt the temporary regulations and since section 401 of the GSA provides that the statutory requirements of the GSA do not become effective until July 25, 1987, as a practical matter the final rules have been published in the form of temporary rules with a 60-day delay of effective date. Moreover, the effective date of a number of the most difficult requirements in the rules is delayed beyond July 25. The Department therefore finds that there is good cause to provide for immediate effectiveness of the final rule. 5 U.S.C. 553(d)(3).

[9] *GSA, supra* note 6, section 402. See, however, the limited registration delays provided in §§ 401.7 and 401.8 of the regulations. In addition, because of the difficulties of achieving compliance with several of the regulations before July 25, 1987 several of the regulations, in particular the market risk ("haircut") calculations of Part 402 relating to financial responsibility, and related possession or control, recordkeeping and audit rules, will not become fully effective until the end of October 1987. The regulations in Part 403 relating to hold-in-custody repurchase agreements take effect in stages and become fully effective on January 31, 1988. The rules relating to custodial holdings of government securities by depository institutions (Part 450) also do not become effective until October 31, 1987.

Previously unregulated government securities brokers and dealers are reminded that, in addition to the regulations to be promulgated under the GSA, they are subject to the provisions of sections 10(b), 15(c)(1), 17(f)(1) and 17(f)(2) of the Act and the regulations promulgated by the SEC thereunder.

[10] This category will be quite small after final Treasury and SEC rules concerning repurchase agreements have been adopted. This is the major area in which modifications of SEC rules were made in the temporary rules, and as SEC and Treasury rules are brought into conformity with each other, Treasury modifications will be eliminated.

[11] Having adopted SEC regulations, the Treasury has adopted all existing relevant interpretations—this is the only manner in which any consistency can be obtained in the short run. To the extent that newly registered government securities brokers or dealers find any of these troublesome, they should so inform the Treasury, SEC and relevant self-regulatory agency, in general the National Association of Securities Dealers ("NASD"). To date, Treasury has found it possible to respond to these problems once they have been brought to its attention.

Finally, Treasury and the SEC have agreed that the staffs of the two agencies will meet quarterly to discuss issues that have arisen and questions that need to be resolved. These meetings may also include the other regulatory agencies and the self-regulatory organizations. It is the firm expectation of the Department, however, that the excellent day-to-day coordination and cooperation among all the agencies which has occurred to date will continue, rendering the quarterly meetings useful largely to review actions and to raise to higher policy levels issues that the staffs have been unable to resolve.

The Department recognizes that these procedures do not produce iron-clad assurances of perfect consistency. That would be obtainable only if Treasury ceased its rulemaking function or adopted regulations entirely distinct from SEC regulations—neither of which is contemplated by the GSA. However, the Department believes that these provisions for coordination, which in formality go beyond those provided in analogous situations,[12] will reduce to a minimum the incidence of inconsistency.

Other changes have been made in § 400.2 to direct inquiries to the Office of the Commissioner, Bureau of the Public Debt. As discussed in the preamble to the temporary regulations, the Department has determined that implementation of the regulations should be the continuing responsibility of that office. The Departmental Offices—particularly the Offices of the Assistant Secretary (Domestic Finance) and the General Counsel—intend to stay involved with the regulations, particularly with respect to major modifications or amendments. Section 400.2(b)(2) has been amended to clarify the Department's authority to interpret the statutory language of section 15C(b) of the Act and related sections. Except as described, § 400.2 of the temporary regulations is adopted as final.

One commenter asked that Treasury clarify what must be included in a request for an interpretation pursuant to § 400.2(c)(3)(iii). The requirement that the requester provide the "writer's opinion on the matter, and the basis of such opinion" is not meant to require that the writer prepare a proposed response letter, but merely to require that the writer include a reasoned basis for the requested response. The same commenter requested that Treasury clarify that a superseding interpretation that would nullify prospectively a prior interpretation is one made to the requester. This is the case, but the Department cautions that in such a situation others should not rely on the superseded interpretation. In addition, persons relying on identical interpretations previously issued to them in writing should be aware that the Department may issue a superseding interpretation without a request for one.

3. *Section 400.3.* This section of the temporary regulations is adopted with three amendments. Paragraph (j), the definition of "financial institution," has been amended to clarify that a subsidiary or affiliate of a financial institution may also be a financial institution, but only if the subsidiary or affiliate is *independently* (a) a bank, (b) a foreign bank, or (c) an institution insured by the Federal Savings and Loan Insurance Corporation. The SEC has informed the Department that it takes the position that for purposes of the GSA, any bank, including a savings bank, that is insured by the Federal Deposit Insurance Corporation is a "bank." Paragraph (n) has been amended to clarify that a bank municipal securities dealer is treated in these rules as a financial institution rather than as a registered broker or dealer.

The Department received a comment concerning the derivation of the definition of "associated person," § 400.3(c). This definition is derived from Rule G–3 of the Municipal Securities Rulemaking Board. The Department notes that the definition is "for the purpose of these regulations," and unless adopted by a self-regulatory organization it is in practice relevant only to financial institution government securities brokers and dealers. The Department also received several questions that indicated that the use in paragraph (c)(3)(i) of the term "fiduciary capacity," defined in paragraph (i) to refer to the financial institution, was confusing. Therefore paragraph (c) has been amended to refer to persons whose functions consist of carrying out a financial institution's activities in a fiduciary capacity, examined as such. This also conforms more completely to the exemption for fiduciary activities in § 450.3.

4. *Section 400.4.* Paragraph (d)(1) of this section has been amended at the request of the staff of the Board to require that the appropriate regulatory agency be provided with a list of all persons with respect to whom a financial institution is relying on a Form MSD–4 or U–4 in lieu of filing a Form G–FIN–4. This will provide the financial institution regulatory agencies with a complete list of all persons associated with a financial institution's government securities activities. The remainder of the section is adopted without amendment.

5. *Section 400.5.* This section of the temporary regulations is adopted as final.

6. *Section 400.6.* Subsection (a) of this section has been amended to clarify that the requirement to file a withdrawal notice arises whether or not a firm has originally registered or given notice, if such registration or notice was in fact required. The amendment is not in any way meant to exonerate the firm for failing to register or give notice. The remainder of the section is adopted without amendment.

B. Part 401—Exemptions

1. *Section 401.1.* No comments were received on this section of the temporary regulations, which provides an exemption from the provisions of section 15C of the Act and the regulations thereunder for those organizations whose government securities transactions are limited to savings bond transactions and any other activity exempt as provided in Part 401. Therefore, the temporary rule will become the final rule without change.

The Department notes that the recordkeeping requirements of Part 404 do not apply to any savings bond transactions of any government securities broker or dealer.[13] Furthermore, the Department does not consider that any other parts of these regulations are applicable to savings bond transactions.

2. *Section 401.2.* Section 401.2 of the temporary rules provides an exemption for depository institutions whose government securities transactions are limited to submitting tenders for customers on a fully disclosed basis for the purchase on original issue of United States Treasury securities and other exempt activities. Institutions relying on this exemption must comply with Part 450 of the regulations concerning custodial holdings of government securities. The Department received no comments on the temporary rule. Therefore, the temporary rule will become the final rule.

The Department has been asked whether financial institutions that, as an accommodation to customers, accept United States Treasury securities for redemption will be required to register.

[12] For example, there are no formal coordination procedures concerning SEC enforcement of Regulation T adopted by the Board of Governors of the Federal Reserve System ("Board") under section 7 of the Act.

[13] See 17 CFR 240.17a–3(c), 404.2(a)(6), 404.4(a)(1), and 12 CFR 12.2(e), 208.8(k)(1)(v), 344.2(e).

The Department does not consider this activity to be a government securities activity requiring registration under the Act.

3. *Section 401.3.* The Department received two comments on this section of the temporary regulations. One commenter objected to the Department's clarifications in the temporary regulations that: (i) The 500 transaction de minimis provision may not be added to networking transactions and (ii) the term "fully disclosed basis" with respect to networking means that the transacting government securities broker or dealer must receive and maintain customer information.

With respect to the first point, the position was adopted because the 500 transaction limitation is essentially a final screen to excuse from regulatory requirements an entity that *by definition* holds itself out or solicits business as a government securities broker. To allow such an institution to transact 500 brokerage transactions in addition to an unlimited number of networking transactions would be inconsistent with Congress's determination not to exclude financial institutions from the definition of government securities broker. The definition of "fully disclosed basis" in § 401.3(a)(2)(ii)(D) is not meant to require the financial institution to monitor the recordkeeping activities of the transacting government securities broker or dealer. Rather, it requires that the parties agree that such records will be kept by the transacting broker or dealer and that the financial institution provide the transacting broker or dealer with the information required for that purpose.

The second comment received concerned the applicability of §§ 401.3 and 401.4 to branches and agencies of foreign banks. As stated in the preamble to the temporary regulations, the Department was concerned that such entities might be able to use the exemptions in those sections to engage in government securities transactions (such as brokerage transactions and repurchase transactions) with United States customers without a sufficient capital base in the United States. The temporary regulations therefore precluded branches and agencies of foreign banks from using either of those exemptions.

The Institute of Foreign Bankers ("Institute") expressed serious concern that, in order for the Department to achieve its objective of requiring branches and agencies to have U.S. based capital for all U.S. customer government securities transactions through the reserve formula of § 403.5(e), the Department had excluded such entities from the definitions of "financial institution" in those sections. The Department notes that the exclusion was required to accomplish the desired result only because such entities *are* "financial institutions" for all other purposes of the Act and regulations. However, in recognition of the potential precedential issues cited by the Institute as well as the purpose of the exclusion, paragraphs (c) of §§ 401.3 and 401.4 of the final regulations have been amended to delete the exclusion and new paragraphs (b)(2) have been added to each section to condition use of the exemption on compliance with the reserve formula of § 403.5(e). Particularly since branches and agencies relying on the exemption will not have notified the Board or the Comptroller of the Currency of their government securities activities, the Department expects them to assist examining agencies in enforcement of this requirement. The Department will consider modification of the exemption if it becomes apparent that the condition is unenforceable.

The remainder of § 401.3 of the temporary regulations is adopted without amendment.

4. *Section 401.4.* Other than the comment of the Institute of Foreign Bankers discussed above, the Department received no comments on this section. Except for the modifications to paragraphs (b) and (c) discussed in connection with § 401.3, the temporary rule is adopted as final.

Three points should be made with respect to this exemption. First, it supplements but does not displace the exceptions in the statutory definition of "government securities dealer," section 3(a)(44) of the Act, in particular the exception for banks engaging in fiduciary activities. Second, all financial institutions engaging in repurchase transactions with customers should carefully examine § 403.5(d) of the regulations to determine whether that section is applicable to their activities and if so whether their activities are conducted in the manner described in that section. Finally, purchases and sales of government securities from or to customers without an agreement to resell or repurchase (other than brokerage transactions or transactions described in §§ 401.1 or 401.2), including "due bill" sales, will render a financial institution ineligible for the exemption.

5. *Sections 401.5, 401.6, 401.7, 401.8.* No comments were received on these sections of the temporary regulations. With the exception of correction of a typographical error in § 401.5(b)(2), the temporary regulations are adopted as final.

C. Part 402—Financial Responsibility

1. *Section 402.1.* This section provides that certain government securities brokers and dealers are not subject to this part, provides a special capital rule that certain government securities brokers may elect and a capital rule for futures commission merchants that are registered government securities brokers or dealers, and states the effective date of the part. Changes from the temporary regulations to this section (other than minor wording changes) are confined to paragraph (e), which relates to government securities interdealer brokers.

The Government Securities Brokers Association and two interdealer brokers submitted comments voicing concern that two aspects of the § 402.1(e)(2) definition of government securities interdealer broker could be interpreted as indicating that Treasury had determined that the government securities interdealer brokers function as principal rather than agent: (i) The use of the word "broker" rather than "agent"; and (ii) the use of the term "partially disclosed basis." In addition, they were concerned that the inclusion of the words "have the right to obtain [the name of a counterparty]" as an alternative basis for determining that a trade was made on a "partially disclosed basis" might raise concerns about whether trading was conducted on a truly blind basis.

The Department wishes to emphasize that it has not taken and is not taking any position on the legal status or liability of a government securities interdealer broker as principal or agent, and that nothing in this preamble or the regulations should be interpreted otherwise. Indeed, the decision to use the term "broker" rather than "agent" in the definition stems in part from this concern.

With respect to the term "partially disclosed basis," the commenters are correct in noting that this is a term of art usually implying a transaction as principal. To avoid this implication, the definition has been amended to use the term "identified group basis." This is also more descriptive of the manner in which blind brokering operates—that counterparties know a list of entities from which the counterparty will be chosen, but do not, at the time of the transaction, know or have the right to know the counterparty to a specific transaction.[14]

[14] Although settlement of mortgage-backed securities frequently is made on a name give-up basis, counterparties are not permitted to rescind the trade once the counterparty is known.

The same commenters objected to the haircut for net exposure to counterparties. The Department has decided to retain this haircut, which will encourage monitoring of exposure by the government securities interdealer brokers and assure that there is some capital cushion as the chance of problems occurring increases. By encouraging monitoring, this haircut helps to reduce the risks inherent in blind brokering. The idea of pooling exposure information from all the interdealer brokers to an independent party, as was suggested by several commenters, goes beyond the regulatory framework set up by the Government Securities Act and implies establishing a system of trading and monitoring that comes close to a formal exchange.

The counterparty exposure haircut also retains some parity of capital treatment between government securities interdealer brokers and other government securities brokers subject to § 402.2. The Department wishes to reiterate that it intends to re-examine the capital requirements for government security brokers after some experience is gained under the current rule in order to determine whether a capital to volume ratio test might be more appropriate, and, if so, what classes of brokers should be subject to a broker rule rather than the requirements of § 402.2.

Changes have been made to clarify that certain loans to commercial banks of immediately available funds (commonly referred to as "fed funds sales") held in connection with the clearance of securities need not be deducted from the net worth of a government securities interdealer broker nor are they included in net exposure. These changes, which were also made in § 402.2, are discussed in the context of § 402.2 below.

The grace period for net pair-off receivables and money differences has been lengthened. This is also discussed in more detail in connection with the same change made in § 402.2.

The Department wishes to clarify that election to meet the requirements of paragraph (e) need not be made effective until the last business day of October, and consequently until that date the capital requirement for interdealer brokers is liquid capital, as defined in § 402.2(d), of not less than $50,000.

2. *Sections 402.2 and 402.2a.* Section 402.2 is the capital rule for government securities brokers and dealers and § 402.2a (Appendix A) is the detailed description of the calculation of the market risk haircut.

Repurchase and Reverse Repurchase Agreement Deficits

The temporary regulations have been modified in these final regulations to incorporate deductions for repurchase agreement deficits that were adopted by the SEC on June 4, 1987, effective September 9, 1987.[15] New subparagraph 402.2(d)(3) modifies the deduction for repurchase agreement deficits adopted by the SEC and refers to paragraph numbers in SEC Rule 15c3–1 after the June 4 rule amendments become effective.

A repurchase agreement deficit occurs when the market value of the securities underlying the agreement exceeds the contract price. The basic deduction under the SEC rule is for the amount by which the value of the underlying securities exceeds 105 percent of the contract price in the case of Treasury securities, 110 percent of the contract price in the case of other government securities, including mortgage-backed securities, and 120 percent in the case of other securities.

The Department has adopted the basic SEC rule with respect to repurchase agreement deficits but has not adopted the additional concentration charge nor the aggregate repurchase agreement deficit test contained in the new SEC rule. The Department believes that these two additional aspects of the SEC repurchase agreement deficit rule are unnecessary in the context of § 402.2 because the problems they are meant to address—concentration and total exposure—are dealt with by the haircuts for net credit exposure in the Treasury rule. In addition, the deduction for aggregate repurchase agreement deficits, were it incorporated in § 402.2, would require an additional counterparty allocation rule in order to make possible the determination of net counterparty exposure.

As indicated in the preamble to the temporary regulations, these final regulations incorporate the deductions for reverse repurchase agreement deficits adopted by the SEC on June 4.[16] A reverse repurchase agreement deficit occurs when the contract price of the reverse repurchase agreement exceeds the market value of the underlying securities. The Department has not modified the SEC rule.

The Department has decided to adopt without modification the same grace periods for margin calls with respect to these deductions and the same threshold levels for determining required deductions for repurchase agreement deficits as provided in the SEC rule in order that all broker and dealer participants in these markets be subject to similar rules with respect to repurchase and reverse repurchase agreements, in particular with respect to the more constraining deductions.

"Excess" Margin on Reverse Repurchase Agreements

The Department has decided not to incorporate at this time a rule similar to the SEC rule, adopted June 4, 1987, which increases the minimum required net capital when "excess" margin on a reverse repurchase agreement is received. The SEC rule is tailored to the SEC net capital rule and would require modification in order to be incorporated in § 402.2, which imposes a ratio test. Excess margin on reverse repurchase agreements is not in itself risk to the dealer but risk to counterparties, which is not generally addressed by rules concerning required capital, but if it develops that there are abuses concerning excess margin on reverse repurchase agreements by government securities dealers and brokers subject to § 402.2, the Department will have to revisit this issue.

Deductions for "Fed Funds Sales"

The Department has decided to clarify that government securities brokers and dealers subject to § 402.2 (or, as mentioned above, to § 402.1(e)) need not deduct as unsecured receivables certain overnight loans to commercial banks (commonly referred to as "fed funds sales") of funds held in connection with the clearance of securities. Also, as two commenters suggested, these loans have been removed from net credit exposure.

From the point of view of a government securities broker or dealer, these loans are similar to bank deposits, including time deposits, for which there is no deduction. The Department is aware, though, of concern that these overnight loans can become for certain dealers quite large in relation to their capital. While the Department feels it important to clarify the treatment of these loans under these final regulations, it is the Department's intention to study this matter further along with the SEC and the Federal Reserve. A 100 percent deduction for these loans appears inappropriate, but some partial credit or concentration charge may be indicated. The Department wishes to emphasize that the treatment of these loans for the purposes of the Treasury capital rule may well be changed at a later date.

[15] Securities Act Release No. 34–24553, 52 FR 22295 (June 11, 1987).

[16] Ibid.

Grace Period for Net Pair-Off Receivables and Money Differences

Six commenters suggested a longer grace period than one business day for net pair-off receivables and money differences. The final regulations in new subparagraph § 402.2(d)(5) grant a longer grace period and clarify when the grace period terminates. The grace period terminates immediately before the close of the third business day following the day the funds are due. The Department decided to extend the grace period in order not to discourage pair-offs and in order to grant a reasonable amount of time to collect funds before there is a capital charge. Of course, during the grace period the amounts owed to the dealer are included in net credit exposure for the purposes of the counterparty exposure and concentration of credit haircuts.

For example, trades in the same security with the same counterparty are made on Monday for settlement Tuesday. The trades are paired off, and funds arising from the pair off are not received by the dealer on Tuesday. If the dealer does not receive the funds on Friday, then at the close of the business day on Friday a deduction is taken for the net pair-off receivable. A capital computation reflecting the situation as of the close on Friday would include this deduction for the purposes of this rule.

As mentioned above, the same change was made to the government securities interdealer broker rule (§ 402.1(e)).

Net Credit Exposure and Counterparty Exposure Haircut

Several commenters criticized the counterparty exposure haircut of 5 percent as too high. However, the Department has decided to leave this factor at 5 percent. This is the same factor that the Federal Reserve Bank of New York used in its voluntary capital adequacy guidelines. There are also some significant omissions from net credit exposure (see § 402.2(g)(1)(i)). As mentioned above, the rule has been changed to clarify that certain overnight loans to commercial banks are not included in net credit exposure. Demand deposits, marketable certificates of deposit, commercial paper, and other marketable instruments are also not included.

This is a new haircut and the Department intends to monitor how it is working. As experience is gained by market participants, examiners, and regulators with this new type of haircut for securities firms, certain adjustments may need to be made. Also, as discussed above, some type of capital charge may be appropriate for the overnight loans made by dealers to depository institutions. In the context of reviewing how the credit charges are operating in practice, the Department will reconsider at a later date the appropriate level of the haircut.

With respect to the interaction of the determination of net credit exposure and the charges for repurchase agreement and reverse repurchase agreement deficits, net credit exposure to a counterparty may be reduced by the amount of the net charge taken for such deficits to the same counterparty. The Department notes that the SEC rules incorporated in § 402.2 allow the deficit charge to be reduced by, among other items, margin calls outstanding for one business day. If the deficit charge is reduced, then the resulting reduction in net credit exposure is lowered by the same amount. There is, of course, no grace period for items included in net credit exposure.

The Department has decided not to impose a haircut on exposure to a Federal Reserve bank.

Definition of Treasury Market Risk Instruments and Unlisted Options

The Department specifically asked in the preamble to the temporary regulations for comments concerning the treatment of unlisted options. Three commenters supported the treatment of unlisted options in the temporary regulations. However, SEC and NASD staff have expressed concern about the valuation of unlisted options which are defined to be Treasury market risk instruments.

In light of these comments, the Department has decided to include only unlisted options on Treasury securities in the definition of Treasury market risk instrument. These unlisted options are to be included in the determination of net worth at their approximate market value (i.e., intrinsic value plus time value) and are included in the determination of the Treasury market risk haircut. Other unlisted options are included in the determination of net worth at intrinsic value and the haircut to be included in the other securities haircut is the deduction required by Appendix A to SEC Rule 15c3–1.[17]

In arriving at this decision, the Department took seriously the concerns expressed about the practical difficulties of valuing unlisted options. This task, while still new to examiners, is easier with respect to Treasury securities because of the availability of reliable price data and the certainty of the payment stream. This cannot be said with respect to mortgage-backed securities.

The Treasury expects that examiners will be able to determine whether the valuation given by government securities brokers and dealers to unlisted options on Treasury securities is reasonable. A number of accepted option pricing models are available and assumptions concerning Treasury securities, such as volatility, should be easier to arrive at than for unlisted options on other types of securities.

The Department notes that to the extent that positions in Treasury market risk instruments form part of a hedge with unlisted options now defined not to be Treasury market risk instruments, these positions can be used to lower the haircuts required by the SEC rules and removed from the Treasury market risk haircut calculation.

The Department realizes that the treatment of options is perhaps not optimal and hopes that if there is dissatisfaction with the rule, either because of problems that develop in the examination process or because of the risk ascribed to option positions as a result of the workings of the rule, that a better treatment can be developed in cooperation with the SEC, the NASD, and market participants.

The definition of Treasury market risk instrument has also been clarified to make explicit that only *marketable* certificates of deposit are included.

Credit Volatility Haircut (§ 402.2(g)(1)(iv))

Options have been removed from the credit volatility haircut. The temporary regulations were ambiguous on how to include them, and because of this difficulty, it was judged best to exclude them.

The maturity of money market instruments subject to the credit volatility haircut has been changed to greater than 44 days so that all money market instruments that fall in Category B are included.

Haircut Factors (§ 402.2(f)(2))

The net position haircut factor for Category H has been lowered from 5 percent to 4.5 percent. The offset haircut factor for this category has consequently been lowered to 0.9 percent (20 percent of 4.5 percent). There has been a reduction in price volatility of longer maturity securities since the Department last looked at volatility at the beginning of the year.

As indicated earlier, the Treasury plans to review the haircut factors periodically and make adjustments

[17] 17 CFR 240.15c3–1a.

when there has been a significant change in market developments.

Haircuts for Primary Dealers

Four commenters suggested that the Treasury lower the haircuts for primary dealers. However, because of the generally greater recognition of risk reduction through hedging under the Treasury rule than under the SEC rule and because other dealers appear to have good access to the market, the Department has decided that all dealers subject to § 402.2 should use the same haircut factors in determining their liquid capital to haircut ratio.

Definition of "Gross Short Immediate Position" (§ 402.2a(a)(1)(ii)(A))

Two commenters suggested that the words "term financings" replace "bank loans" in the definition of gross short immediate position. This change has been made.

Other Securities Haircut (§ 402.2a(b))

The language of § 402.2a(b)(1) has been modified to state that a Treasury market risk instrument may be excluded from the Treasury market risk haircut calculation and included in the other securities haircut calculation if it forms part of a hedge with a position subject to the other securities haircut. In other words its inclusion in the other securities haircut must serve to reduce this haircut.

New § 402.2a(b)(3) has been added to clarify that the haircut resulting from undue concentration [18] is determined by reference to 10 percent of liquid capital.

One commenter suggested that use of haircut factors which are used for the SEC's alternative net capital requirement [19] be allowed to government securities dealers and brokers subject to § 402.2 in determining the other securities haircut. The Department has not adopted this suggestion. The alternative net capital requirement is tied to a greater reserve requirement under SEC Rule 15c3–3. There is no such direct link between the Treasury capital rule and the Reserve formula; consequently, it was decided that the haircut factors of the alternative net capital requirement should not be incorporated in § 402.2.

Charges for Fails to Deliver and for Nondelivery to a Customer

One broker asked for lower haircuts on aged fails to deliver. This will be decided on a case by case basis but such reductions will not be included in the general rule.

The Department also realizes that under current SEC interpretations these rules result in no charge for nondelivery of a security to a customer for 35 days and then only if there is a deficit (*i.e.*, the market value of the security has declined below the contract price). This contrasts with a charge after five days for an aged fail to deliver (which by definition can only be with respect to another dealer or broker). The Department decided that to change this situation in the final regulations without opportunity for comment is inappropriate but plans to consider alternatives in consultation with the SEC.

TBA ("To Be Announced") Transactions in Mortgage-Backed Securities

The Department wishes to clarify that long TBA positions in mortgage-backed securities that are Treasury market risk instruments may not be offset against short positions in such mortgage-backed securities in determining the gross long or gross short immediate position in mortgage-backed securities because of the uncertainty of what will be delivered. However, a short TBA position may be offset against a long position if the long position could be used to make delivery on the TBA. Consequently, long TBA positions and short TBA positions can be offset if whatever is delivered on the long TBA can be used for delivery on the short TBA. In general, net immediate positions in mortgage-backed securities are determined by netting long and short positions in such securities with the same pool number.

Forward Positions

The Department wishes to clarify that in determining gross long and gross short forward positions, if a long and short forward contract mature on the same day and are on the same security, they may be netted. Of course, if these contracts are with different counterparties, they will enter separately into the determination of net credit exposure for the separate counterparties.

3. *Section 402.2c (Appendix C).* The language of Appendix C has been modified to clarify that the consolidation rules are similar to the SEC's rule.[20]

The rules require a parent government securities broker or dealer to recognize all guaranteed obligations or liabilities of subsidiaries or affiliates in the parent's liquid capital calculation. Unless the parent has obtained an opinion of counsel that the subsidiary's or affiliate's assets would be available to the parent if needed, the parent must also add the haircuts of any guaranteed subsidiary or affiliate to the parent's own haircuts. Flow-through of capital benefits and consolidated calculation of haircuts of the parent and guaranteed subsidiaries and affiliates are permitted only if the opinion of counsel described above has been obtained. A parent firm may obtain flow-through capital benefits from its non-guaranteed majority owned and controlled subsidiaries and affiliates only if it has obtained the required counsel opinion.

The subsidiaries, if subject to the capital requirements of Part 402, must meet the capital requirement on a stand-alone basis. Two commenters suggested that only the consolidated entity be required to meet the capital requirement if the subsidiary were fully guaranteed by the parent firm. This proposal was not accepted in order to maintain consistency with the SEC rule.

4. *Section 402.2d (Appendix D).* Appendix D concerns satisfactory subordination agreements. No comments were received, and no modifications have been made to this section.

D. Part 403—Protection of Customer Securities and Balances

Seventeen comment letters addressed various provisions in Part 403. Most of these comments related to the provisions governing the treatment of securities that are the subject of hold-in-custody repurchase transactions and provisions requiring buy-ins of securities under certain circumstances.

1. *Section 403.2.* The temporary regulations required registered government securities brokers and dealers to comply with SEC Rule 8c–1,[21] concerning the hypothecation of customer securities, with certain minor modifications. Two comments were received on this provision.

One commenter requested Treasury to exempt from this rule any government securities dealer that may qualify for the exemption in paragraph (k)(2)(i) of SEC Rule 15c3–3. This commenter argued that if a dealer does not hold any customer securities or funds and thus qualifies for the (k)(2)(i) exemption, then it should not be considered to have "securities carried for the account of any customer" for purposes of SEC Rule 8c–1. The specific concern that prompted this comment was the situation where a dealer receives only

[18] SEC Rule 15c3–1(c)(2)(vi)(M). 17 CFR 240.15c3–1(c)(2)(vi)(M).

[19] SEC Rule 15c3–1(f). 17 CFR 240.15c3–1(f).

[20] See 17 CFR 15c3–1c.

[21] 17 CFR 240.8c–1.

part of the aggregate amount of securities needed to make a delivery to a customer. If the customer will not accept a partial delivery, then the dealer may retain the securities received overnight but may need to use them in a repurchase transaction or to collateralize a bank loan to finance the position.

The SEC has indicated that the phrase "securities carried for the account of any customer" is not interpreted to include securities that are to be paid for by the customer only upon delivery.[22] As a result, the rule is inapplicable in the situation described above and the Department does not believe an explicit exemption is necessary.

Another comment was made to the effect that the Treasury modification of the clearing lien exemption in this provision had the result of narrowing the clearing lien to loans made to acquire specific securities. This commenter pointed out that a lien on a particular security that resulted from the extension of credit may be released when that security is delivered out and other securities become subject to the lien. It was suggested that any loan incidental to the clearing of transactions in securities through a clearing bank should qualify for the exemption.

The Department agrees that the exemption should apply to a "floating" clearing lien without regard to the particular security that gave rise to the lien. The suggested language is broader than necessary, however, since the Department is of the opinion that a lien that qualifies for this exemption should arise from the actual extension of credit for securities transactions. Therefore, a change has been made in this provision to substitute the word "any" for the word "the" in the phrase "for a loan made to acquire the securities subject to said lien."

2. *Section 403.4.* Section 403.4 contains the rules concerning protection of customer funds and securities that are applicable to registered government securities brokers and dealers. With the exception of § 403.4(e), which governs hold-in-custody repurchase transactions, the rule requires compliance generally with SEC Rule 15c3–3.[23] For ease of reference, discussion of issues relating to hold-in-custody repurchase transactions has been organized under appropriate subparagraph headings. Since § 403.4(e) and § 403.5(d) contain parallel provisions dealing with hold-in-custody repurchase transactions that are applicable respectively to registered government securities brokers and dealers and financial institutions that are government securities brokers and dealers, issues common to both subsections are discussed jointly here.

Sections 403.4(e) and 403.5(d)

Restrictions on Hold-in-Custody Transactions of Less Than $1,000,000

The temporary regulations provided that for hold-in-custody repurchase transactions with a contract price of less than $1,000,000, substitution of securities that are the subject of the transaction is permitted only if the broker or dealer is granted the right to substitute in the repurchase agreement and if the broker or dealer additionally has obtained the prior consent of the counterparty to substitution on the trading day on which the substitution is to occur.

Four commenters objected to the provision because they felt that it would significantly impact smaller investors by excluding them from the repurchase market altogether. The commenters felt that most brokers and dealers would discontinue offering hold-in-custody repurchase transactions to smaller investors, rather than incur the cost and burden of obtaining those investors' additional consent or forgo intra-day use of the investors' securities. The commenters also indicated such investors would find it too costly to use tri-party or deliver-out repurchase arrangements and therefore may be forced into less safe investments. Finally, the commenters noted that the disclosure requirements and other provisions of the Treasury regulations should provide counterparties with sufficient protection. One commenter also proposed an exception to the rule in which, if a customer is engaged in any hold-in-custody repurchase transaction of $1,000,000 or more with a broker or dealer, the customer would not be required to consent to specific substitutions for any simultaneous transactions of less than $1,000,000 with the same broker or dealer.

The Department has carefully reviewed the comments received on this provision and discussed such comments at length with the SEC, which recently published for comment a virtually identical rule.[24] The concerns of commenters on both the proposed and temporary regulations that such a provision could eliminate the availability of hold-in-custody repurchase transactions for smaller investors have been given additional consideration. As a result, the Department has eliminated the restriction in the final rule. Accordingly, references to a requirement for specific prior consent to substitution (other than a general consent in the repurchase agreement) have been eliminated from §§ 403.4(e) and 403.5(d) in the final rule. The Department understands that the SEC staff concurs with this approach and will recommend to the Commission that it adopt a conforming change to its recently proposed rule.

In its reconsideration, the Department has taken into account the significant increases in customer protection that will be afforded in repurchase transactions by virtue of other measures contained in the rule, such as the requirements for registration and examination of all government securities brokers and dealers, the financial responsibility and recordkeeping rules being imposed, the requirement that repurchase agreements be in writing, the requirement for confirmation of specific securities that are the subject of hold-in-custody repurchase transactions, and the new disclosure requirements advising counterparties of the risks that they incur with hold-in-custody repurchase transactions, particularly if they grant the right of substitution.

Pool Repurchase Transactions; Confirmation of Specific Securities

In the preamble to the temporary regulations, the Department discussed a practice referred to as pool or bulk repurchase transactions, in which a dealer does not identify specific securities as belonging to specific counterparties. Instead, the dealer will set aside or otherwise designate a pool of securities to collateralize its outstanding repurchase transactions. In the proposed regulations, the Department had included a requirement that a dealer confirm specific securities to its counterparty in a hold-in-custody repurchase transaction. Four commenters had opposed this requirement since it effectively eliminated the ability to engage in pool repurchase transactions.

In the temporary regulations, the Department concluded that pool repos should not be permitted and continued its requirement to confirm specific securities to counterparties in hold-in-custody repurchase transactions. That decision was based primarily on a concern that it was unclear whether such transactions would be effective to convey any sort of enforceable property interest to the counterparties to the transaction.

In response to the temporary regulations, five commenters objected to

[22] Securities Exchange Act Release No. 34–2822, 11 FR 10983 (March 17, 1941).

[23] 17 CFR 240.15c3–3.

[24] Securities Exchange Act Release No. 34–24554, 52 FR 22493 (June 12, 1987).

this decision and asked that the Department reconsider. One of these commenters suggested that the added costs resulting from allocating and confirming specific securities for each hold-in-custody repurchase transaction would dry up the market for such transactions altogether. Another suggested that increased costs would eliminate such transactions for the smaller investor. A sixth commenter did not express a view as to the need for the ability to engage in pool repurchase transactions, but expressed concern over the Department's discussion of its uncertainty as to the interest conveyed in such transactions. This commenter suggested that the expression of our concerns might work to the disadvantage of innocent investors in the event of litigation involving such a transaction or in a similar type of transaction involving an undivided interest in a pool of securities. Some of the five that objected to the elimination of pool repurchase transactions expressed similar concern over the potential effect of the discussion in the temporary regulations.

Since the publication of the temporary regulations, the Department has made a number of inquiries to understand better how pool repurchase transactions are handled operationally and to examine more closely its concerns as to the interest conveyed. Based on these inquiries and on consideration of the issues raised by the practice, the Department has concluded that its original decision was appropriate and has determined to continue to require the confirmation of specific securities in connection with all hold-in-custody repurchase transactions.

However, the Department believes the concerns expressed by the commenters about a possible negative impact of statements made in the temporary regulations is not unreasonable and wishes to emphasize that those statements should not be viewed in any way as authoritative or conclusive. The Department is viewing these transactions as a general concept in an environment in which there can be many variations in both operational practices and in applicable law. To express concern as to the interest conveyed is not to say that, in a given case, a valid and enforceable interest has not been conveyed. However, even with respect to repurchase transactions involving specific securities, several issues arise from the fact that the transactions can be characterized either as sales and repurchases or as secured transactions and that they can involve different types of securities that are subject to different laws of transfer. Because of these complexities, which relate to legal issues beyond the scope of these rules, it is not possible to assure in every case that an enforceable interest is conveyed to the counterparty. The Department believes that the practice of pool repurchase transactions adds to the complexities to an extent that is unacceptable in the context of customer protection rules.

Pool repurchase transactions also present certain concerns of a more practical nature that are nevertheless important to the decision to require confirmation of specific securities. It is crucial to the compliance and examination process that a broker or dealer have an internal records system that assures the capability to monitor both customer securities positions and its own inventory. One means of imposing a discipline that will help assure the integrity of the internal records systems is to require allocation and confirmation of specific securities to specific counterparties. In addition to the operational concern, the Treasury is concerned that a confirmation referring to "various securities" is not entirely accurate in that it may suggest to a counterparty it has been allocated specific securities while the interest it should be receiving is more properly characterized as an undivided interest in a pool of securities.

For all of the foregoing reasons, the Treasury has decided to retain the requirement that a broker or dealer confirm specific securities to the counterparty in a hold-in-custody repurchase transaction. Because both the PSA and individual dealers have indicated that compliance with this requirement will require systems changes that cannot be completed by July 25, 1987, the Treasury has decided to delay the effective date of the requirement to confirm specific securities until January 31, 1988.

Information Required on Confirmations

Under the temporary rule, all government securities brokers or dealers that engage in hold-in-custody repurchase transactions are required to send confirmations of the securities that initially are the subject of a repurchase transaction, as well as any substitute securities. The confirmation was required to include the issuer, maturity date, coupon rate, and market value of the securities, as well as, in some cases, the CUSIP number, or the pool number for mortgage-backed securities.

Ten commenters, including the Public Securities Association, raised concerns or requested clarification relating to various aspects of the confirmation requirements. Comments relating to the use of confirmations not identifying specific securities have been addressed in the preceding discussion.

Eight commenters objected to the requirement that the confirmation include the market value of the specific securities, stating that the requirement would be difficult operationally to implement, particularly within a very short time frame; that the requirement raises questions on methods that would be appropriate to determine market value; and that the broker-dealer's valuation of the securities would be of no real benefit to the counterparty and, in fact, may be confusing. A few commenters proposed that, in lieu of noting the market value specifically, brokers and dealers be required to include a statement that the market value of the securities equals or exceeds the contract price of the repurchase transaction. Several commenters also requested that, if the Department retains the rule to confirm market value specifically, it clarify that the broker-dealer may use, as a means of determining market value for purposes of the confirmation, the bid price of the securities, plus accrued interest, obtained by any reasonable and consistent methodology.

The Department believes that requiring market value on confirmations serves an important customer protection function in focusing the attention of both the counterparty and the broker-dealer on ensuring that securities of sufficient value have been allocated to the transaction. This is particularly the case since it appears that in some sectors of the government securities market, dealers allocate securities to repurchase transactions based on the par amount or face value of the securities, and counterparties are unaware that the market value can differ substantially. Another concern addressed by the requirement to confirm market value is to ensure that any securities substituted for the securities initially allocated to the transaction are of adequate market value. For these reasons, the Department has decided to continue to require confirmations to include the market value of the securities confirmed. However, in recognition of the operational modifications that may be required by many brokers and dealers to implement the market value requirement, the effective date for this requirement has been delayed until January 31, 1988, as noted in the discussion of § 403.7.

The Department understands that there is no single source for determining market value and that various sources

that may be appropriate will not reflect precisely the same valuation of the same security on a given day. It is also noted, however, that appropriate market valuation is necessary for other purposes and, for this reason, the Department does not believe that the concerns about the appropriate methodology for confirmations are significant enough to warrant elimination of the requirement. For purposes of the confirmation requirement, the Department agrees with and has incorporated into the rule the suggestion that market value be determined by reference to the bid price of the securities plus accrued interest, obtained by any reasonable and consistent methodology.

One commenter also requested clarification of the language that confirmations be made "at the end of the trading day." The commenter pointed out that confirmations ordinarily are printed as part of the end-of-the-day processing. The Department recognizes that a certain amount of time is required, after trading is completed, for finishing the normal processing of the day's transactions and generally would consider that the issuance of confirmations as part of this process would satisfy the requirement to confirm at the end of the trading day. However the Department also believes that, in order to maximize protection of counterparties, the confirmations should be issued as quickly as possible and that no unnecessary delay should occur.

With respect to the provision describing the specific data to be included in confirmations, clarification was requested on whether the clause "unless other records of the broker or dealer issuing such confirmation identify the specific security in which the counterparty has an interest" refers to all of the confirmation data or just CUSIP and pool number. Clarification was also requested on whether a written or computer notation of CUSIP or pool number maintained on a separate list or computer file would constitute adequate identification on other records of the broker or dealer.

In the provision of the temporary rule describing the specific data to be included in the confirmations, the Department intended: (i) That the issuer, maturity date, coupon rate, par amount and market value of the relevant securities be shown in all cases, and (ii) that the CUSIP number of each security or, in the case of mortgage-backed securities carrying a pool number, the pool number, also be shown, unless the internal records of the broker or dealer that allocate specific securities to specific counterparties also reflect the CUSIP numbers of the securities or, where applicable, the pool number. The Department has modified the wording of the rule to clarify its intent that only the CUSIP number or pool number may be excluded from the confirmation on the basis of other records of the broker or dealer. In addition, the rule has been clarified to provide that the par value of the securities must also appear on all confirmations.

Finally, the Department believes that whether a written or computer notation of the CUSIP or pool number as described above would constitute adequate identification on the records of the broker or dealer for purposes of the confirmation provision would depend on how that information is integrated into the other records. However, the Department agrees that, as a general matter, such information may be included in a secondary record or subledger of a broker or dealer's security position ledger provided that, together, the two records are sufficient to designate specific securities of specific counterparties.

One commenter also suggested that foreigners be permitted to waive the right to receive confirmations. The final rule has been amended to provide that the requirement to send confirmations may be waived by non-resident non-U.S. persons, if such persons elect, in writing, not to receive confirmations. It should be noted that the confirmation requirement may not be waived by any other persons.

Overnight Hold-in-Custody Repurchase Transactions

In the preamble to the temporary rule, the Department indicated that it was unwilling to exempt overnight hold-in-custody repurchase transactions from the general requirements of §§ 403.4 or 403.5 because of a concern that such an exemption would encourage the conversion of term transactions to rolling overnight transactions as a means of avoiding the consent and disclosure requirements. Several commenters again suggested that either all overnight transactions or that overnight transactions with a contract price of $1,000,000 or more be exempt from all of the provisions relating to hold-in-custody transactions. A primary reason for the requested exemption was that the provisions of §§ 403.4(e) and 403.5(d) focus on the risks associated with substitution of securities, which ordinarily does not occur with overnight transaction.

The Department believes that a counterparty's risk in a rolling overnight repurchase transaction may be the same as the risks associated with a term repurchase transaction. If the funds are not returned to a counterparty each day, a rolling overnight repurchase transaction has the same practical effect as a term repurchase transaction in which daily substitutions occur. Therefore, unless the funds are credited to an account of the counterparty each day, the consent and disclosure provision would be applicable. Furthermore, it should be clarified that the Department's objectives in formulating rules relating to hold-in-custody transactions were not focused solely on the widespread practice of intraday substitution of securities. The Department believes that the provisions of the rule requiring a written agreement, confirmations, possession or control of securities, and applicable insurance disclosures are relevant and appropriate protection measures for counterparties in *all* hold-in-custody repurchase transactions, regardless of the size or duration of the transaction.

Two commenters also suggested that non-financial institution brokers and dealers that do not retain the right of substitution should be exempt from the hold-in-custody provisions of § 403.4, since the temporary regulations provided such an exemption to financial institutions in § 403.5. Although it was not stated explicitly in the temporary rule, the Department indicated in the preamble that the exemption for financial institutions from the hold-in-custody provisions would also be dependent on the delivery of the securities to safekeeping.

The rationale was that if the securities were moved away from the dealer function of the financial institution and into an independent function that had responsibility solely for safekeeping customer securities and that would itself be subject to the requirements of Part 450, the transaction would be more similar to a tri-party or deliver-out repurchase transaction. Therefore, any difference in treatment of transactions under §§ 403.4(e) and 403.5(d) was unintended. To clarify this and to avoid confusion, the introductory language in § 403.5(d) has been modified clearly to indicate that delivery to safekeeping without retention of a right to substitution is required in order to avoid applicability of § 403.5(d).

For purposes of this provision, a new definition of safekeeping has been added as new paragraph (f)(3). Under that definition, securities are deemed to be in safekeeping if the employees responsible for the custody of the securities: (i) Are not directly involved in securities transactions, (ii) are not

subject to the control of any employees that have responsibility for securities transactions, and (iii) have the affirmative responsibility to maintain books and records relating to the securities maintained in safekeeping for the account of customers. Safekeeping employees would be considered subject to the control of an employee with responsibility for securities transactions if, for example, they were in the same managerial reporting chain as such employee, the safekeeping employees were subject to evaluation by such employee, or the safekeeping employees' compensation was linked to profits or fees arising from securities transactions.

Control Locations

The temporary regulations omitted as an acceptable control location for hold-in-custody repurchase transactions subject to § 403.4 those securities that have been transmitted for transfer by a broker or dealer to the issuer or its transfer agent (Rule 15c3–3(c)(3)). As explained in the preamble to the temporary regulations, the Department concluded that it would be unlikely that this control location would be relevant to a hold-in-custody repurchase transaction and that it would be inapplicable in the case of book-entry securities, in any event.

Two commenters said this control location should be permitted because some government securities, particularly GNMA securities, are still in certificated form, and that it is possible for a dealer to be the owner of securities that are "bona fide items of transfer" and to do a repurchase transaction with such securities. They also said that disallowing this control location could inadvertently discourage the re-registration of certificated securities. In response to these comments, the final regulations include "bona fide items of transfer" as an acceptable control location for hold-in-custody repurchase transactions.

Disclosures

One commenter noted, with respect to the disclosure to be provided concerning the coverage of the Securities Investor Protection Act ("SIPA"), that the rules do not specifically permit the disclosure to be set forth in the master repurchase agreement. This commenter also raised a question about whether Treasury will publish new regulations in the event of changes in the SIPC position. The Department contemplates that the SIPA disclosure will be provided in the repurchase agreement and this requirement has been clarified in the rule. It need not be included on each confirmation. However, until a written repurchase agreement is in place, the appropriate insurance disclosure under either § 403.4(e) or § 403.5(d) must be provided as part of the interim disclosure statement described in § 403.7. If, as a result of judicial or legislative developments, the Securities Investor Protection Corporation changes its position with respect to the coverage of repurchase transactions under the SIPA, the Department will make appropriate changes to the regulations.

Another commenter proposed that once the requirement to obtain a written repurchase agreement is fully effective, a broker or dealer should be permitted to read the disclosures to a new customer over the telephone, provided that a written repurchase agreement with the required disclosure statements is executed within ten days. The Department has concluded that a disclosure statement should be in writing to achieve its purpose in the most effective manner. Thus, once the written agreement requirement is effective, a broker or dealer may not enter into a hold-in-custody repurchase transaction with a customer until the written agreement with the required disclosure provisions has been executed.

Another question was raised about the meaning of the requirement in §§ 403.4(e) and 403.5(d) that the required disclosure statement concerning commingling of securities must be "prominently displayed" in the written repurchase agreements. The Department contemplates that the requirement would be satisfied if the disclosure is emphasized in any fashion that would visually distinguish it from other terms of the agreement. For example, the disclosure could be in larger print than the text of the agreement, or in boldface type.

In accordance with the elimination of special consent to substitution rules for transactions of under $1,000,000, the disclosure statement regarding the risks of substitution has been modified in the final rule. As mentioned above, an interim disclosure statement is also provided in § 403.7 of the final rule and is discussed further in the portion of the preamble relating to that section.

Exemption Under Rule 15c3–3(k)(2)(i)

The preamble to the temporary regulations made clear that government securities brokers and dealers can qualify for the exemption in Rule 15c3–3(k)(2)(i) from possession or control rules, but that they must still comply with the hold-in-custody repurchase agreement rules. Three commenters mentioned this exemption, which applies to brokers and dealers that carry no margin accounts, promptly transmit all customer funds and deliver all securities, and do not otherwise hold customer funds or securities. Two of the commenters inquired about a proposed SEC interpretation of this exemption which the Department and the SEC had discussed.

The question that had arisen through telephone inquiries was whether the receipt or retention of funds representing principal and interest on government securities or money differences on government securities transactions attributable to customers would disqualify a broker or dealer from claiming the (k)(2)(i) exemption. It is the Department's understanding that in many cases a dealer conducting its business solely on a delivery-versus-payment basis may have difficulty tracing these amounts to the appropriate customer, since the dealer does not hold the securities in an account for a customer after settlement. Since the receipt of these funds will occur for reasons beyond a dealer's control, it was concluded that it would not be equitable to make the retention of the funds a basis for disqualification so long as the funds are set aside in a special account for the exclusive benefit of customers. The SEC has issued a no action letter to the NASD to this effect.

Section 403.4(f). This section describes the Segregated Account at a clearing bank that can qualify as an acceptable control location for purposes of Part 403. To qualify, the account must be subject to certain conditions "pursuant to a written clearing agreement" between a broker or dealer and its clearing bank. Two commenters requested clarification on whether this requirement would require an entirely new clearing agreement to be executed between the clearing banks and their dealer customers or whether the requirement could be satisfied by amendments to existing clearing agreements. The Department believes that amendments to existing agreements, including amendments by side letters that are styled as amendments to an existing clearing agreement, would be satisfactory for compliance with the requirements of this section.

3. *Sections 403.4 and 403.5(c)— Buy-ins—Fails to Receive.* In the case of registered government securities brokers or dealers, the temporary regulations adopted the provision in SEC Rule 15c3–3(d)(2) that a broker or dealer is required to take prompt steps to buy in customer fully paid and excess margin securities shown as failed to receive more than 30 days. For financial

institutions, a similar rule was adopted, but with a modification to provide that no action would be required in the case of mortgage-backed securities until the fail had been outstanding for 45 days. This modification was provided because under SEC Rule 15c3–3, the appropriate national securities exchange or association may grant extensions in exceptional circumstances, while the financial institution regulatory agencies did not have such authority. The eight commenters who addressed this issue objected to the buy-in requirement, especially in connection with securities of the Government National Mortgage Association ("GNMA"), in particular, or with respect to mortgage-backed securities more generally. They pointed out the frequent difficulties of buying in such securities, particularly where the customer has specified delivery of a particular pool with unique characteristics. The Department also understands that general problems with clearance and settlement of mortgage-backed securities, particularly those in physical form, contribute to the number of deliveries not accomplished on the scheduled settlement date. Although the general problems are expected to be substantially diminished by the development of a centralized clearance and settlement mechanism for mortgage-backed securities, the scarcity of the specific pools will continue to be problematic.

In addition to the difficulties in buying in mortgage-backed securities, a few commenters maintained that the buy-in requirements would also cause difficulties for STRIPS and "off the run" Treasury issues. One commenter also suggested that onerous buy-in requirements could have an impact on the willingness of market participants to trade in certain issues throughout the government securities market. Another commenter predicted that a buy-in requirement could be competitively disadvantageous for primary dealers, which are required to make markets in government securities. The commenter stated that forcing a buy-in of a security, regardless of its scarcity, could result in substantial costs to dealers. This commenter pointed out that this would be a problem even with straight Treasury issues which normally trade in a deep market. Such issues are occasionally in short supply, leading to the inability to obtain the security without substantial cost. Finally, commenters noted that before a buy-in requirement is imposed for mortgage-backed securities it would be necessary to establish buy-in procedures that would be workable for this type of security.

The commenters made a variety of proposals to exempt mortgage-backed securities from the buy-in rules and/or to exempt or extend the buy-in period for other government securities. These suggestions were made by several commenters without distinguishing between the buy-in requirement of paragraph (d)(2), which is discussed here, and the buy-in requirement of paragraph (m), which is discussed below. Some commenters, however, objected only to the applicability of paragraph (m). In its comment letter, the PSA suggested the establishment of an industry task force to develop buy-in procedures. One commenter suggested, in lieu of a buy-in requirement, a requirement to substitute collateral of equivalent market value during the time the fail continues. Finally, several commenters objected to the differential treatment of financial institutions in the rule and argued that the time frames for both groups should be the same and that the appropriate regulatory agencies should be given the authority to grant extensions.

The Department believes that a number of the concerns raised by the commenters are legitimate. However, the Department also notes that, since the buy-in requirement of paragraph (d)(2) relates only to customers' fully paid or excess margin securities, it does not apply to a delivery-versus-payment transaction. As a result, this buy-in requirement generally will have an impact only with respect to retail customers that have actually paid for securities as of the settlement date. In this area, the Department believes that a buy-in requirement is appropriate as part of the overall design of SEC Rule 15c3–3 to ensure that customer securities positions are covered. The Department understands that the SEC has suspended enforcement of this buy-in requirement as it applies to mortgage-backed securities and notes that the PSA has suggested that an industry task force will be formed to develop buy-in procedures that would be appropriate for these securities. It is anticipated that enforcement will continue to be suspended by the SEC pending development of buy-in procedures that address, among other things, the permissible range or type of securities with certain investment characteristics that may be bought in. In recognition of the difficulties of implementing this buy-in requirement with respect to mortgage-backed securities, in the final regulations the Department has expressly suspended the buy-in provision for fails to receive of mortgage-backed securities.

The final regulations also conform the rule for financial institutions to the rule for registered government securities brokers and dealers, and the financial institution regulatory agencies have been given the authority to grant extensions in appropriate cases. The Department concurs with the commenters that it would be undesirable to have differing rules applicable to various parties within a series of transactions related to the same security.

The Department did not suspend the rule on buy-ins for Treasury securities because it is of the opinion that problems with the unavailability of particular issues occur infrequently, and requests for extensions may be made in such cases.

Buy-Ins—Customer Sell Orders

The temporary regulations adopted, with certain modifications, paragraph (m) of Rule 15c3–3, a rule that had been suspended by the SEC for all exempted securities (including government securities). Paragraph (m) states that if a broker or dealer executes a sell order of a customer (other than a short sale) and the broker or dealer has not obtained the securities from the customer within ten days after the settlement date, the broker or dealer shall close the transaction with the customer by purchasing securities of like kind and quantity. The modifications in the temporary regulations extended the ten-day period to 30 days for mortgage-backed securities and defined a short sale to mean that the customer has told the broker or dealer that the sale is a short sale.

Several commenters opposed the application of this provision to government securities, questioning the rationale for the rule and its necessity. One commenter specifically requested a 60-day time frame for mortgage-backed securities.

The Department understands that the general goals of paragraph (m) are to assure the close-out of transactions after a given period of time and to prevent a customer from "playing the market" against a dealer and refusing to deliver a security when the price goes up after the customer's sell order has been executed. In addition, the rule is viewed as a customer protection rule on the assumption that a customer's not delivering a security to the executing broker or dealer will result in that broker or dealer's failure to deliver to its purchaser. That will likely result in a

non-delivery of the security to another customer.

Although the Department believes these are reasonable goals, the Department believes that the actual impact of paragraph (m) in protecting customers against fails is uncertain in the government securities market. The Department also notes that the capital rules of Part 402 and SEC Rule 15c3–1 contain incentives for clearing up fails on transactions. Given these considerations and the potential for disruption, the final regulations exclude the provision making paragraph (m) applicable to government securities.

On June 4, the SEC proposed amendments to Rule 15c3–3 that would conform paragraph (m) to the Treasury temporary regulations.[25] It is the Department's understanding that the SEC will withdraw that proposal in view of the change to the final regulations discussed here. The effect of such action would be to leave undisturbed the order suspending the applicability of the provision to exempt securities. Because the suspension of a provision in the Code of Federal Regulations means that the regulation is not currently in force with respect to the matters suspended, the exclusion of any mention of paragraph (m) in these final regulations has the effect of suspending the applicability of that paragraph to government securities. Both the Department and the SEC will continue to study the matter to determine if eventual application of paragraph (m) in the government securities market is desirable.

4. *Section 403.5.* The temporary regulations provided that if a financial institution has accepted funds from a customer for the purchase of a security and does not initiate the purchase of the specified securities by the close of the next business day after receipt of a customer's funds, the financial institution must deposit or redeposit the funds to the customer's account and notify the customer of the redeposit. As discussed in the temporary rule, this provision was intended to minimize the practice of issuing "due bills," the obligations that result when a bank sells a security to a customer and receives payment but does not deliver the security sold.

Three commenters objected to the provision because "due bills provide an important source of liquidity insofar as a financial institution can offer a security to a customer even when the security is unavailable in the market". Although the Department recognizes that the general ability to sell securities that one does not currently have in hand is an important factor in the overall liquidity of the government securities market, the interests of customer protection also demand that prompt action be taken to obtain the security sold. Therefore, the Department's intent in formulating the rule was to remove the incentive for a financial institution to delay action on initiating the purchase of a security for a customer; it is entirely reasonable for the customer to expect prompt placement of its purchase order, particularly when the customer has already paid for the security. It should be noted, however, that if a purchase is initiated timely but the security is not received, then the customer purchase would not fall within the terms of the provision requiring the deposit of funds to the customer's account. Instead, customer protection generally will be achieved under the rule governing buy-in of securities with respect to a fail to receive.

The commenters also suggested that Regulation D of the Board of Governors of the Federal Reserve System [26] and Office of the Comptroller of the Currency Banking Circular No. 182, a policy statement requiring certain disclosures with respect to due bills, would provide sufficient protection for customers, if the provisions of Circular No. 182 were extended to all financial institutions. The Department's concern with the practice of issuing due bills is that an entity may take advantage of the practice in a way that might leave a customer without access to either the security or the funds being used to purchase the security. Even though Regulation D permits collateralization of due bills in lieu of reserving against the funds paid for the securities, the Department continues to be concerned that such collateral would not be treated as a security belonging to the customer to whom the due bill was issued. In this context, the Department is not willing to rely solely on the disclosures required by Circular No. 182 as a means of customer protection.

Paragraph (e) of this section provided that a branch or agency of a foreign bank would be required to set aside the amount that would be required to be reserved pursuant to SEC Rule 15c3–3 with respect to customer balances. One commenter objected to the application of the rule to traditional deposit accounts. The commenter pointed out that while the SEC rule is premised on the idea that a broker or dealer should not use customer funds to expand its business, banks are expected to do just that. The Treasury recognizes this distinction, which has been the basis for other decisions regarding the way in which financial institutions are regulated under these rules. Accordingly, § 403.5(e) has been amended to exclude traditional deposits from the reserve calculation. In addition, certain other amendments have been added to clarify its applicability.

5. *Section 403.6.* In the temporary regulations, this section was added to make clear that a registered futures commission merchant ("FCM") that is also a registered government securities broker or dealer must comply with Part 403 with respect to customer funds or securities that are not incidental to the FCM's futures business.

One commenter criticized this rule as duplicative of the requirements imposed by the CFTC on investment of customer funds in repurchase transactions that are described in the CFTC's Financial and Segregation Interpretation No. 2—Use of Customer's Funds for the Purchase of Obligations under Repurchase Agreements.[27] ("Interpretation No. 2").

Although not explicitly stated in the preamble to the temporary regulations, the line drawn by this rule is intended to parallel the line drawn by proposed SEC Rule 3a43–1, which provides an exemption from the definition of government securities broker for an FCM that engages only in certain specifically described activities. Section 403.6 is intended to require compliance with Part 403 only with respect to the activities involving transactions in government securities that would require the FCM to register as a government securities broker or dealer. It is the Treasury's understanding that funds and securities involved in such activities generally may not be placed in the customer segregation account that is subject to CFTC regulation and that they therefore would not be subject to the restrictions of Interpretation No. 2. As a result, it is necessary to make such activities subject to the requirements of Part 403. Since the rule is designed to apply only to activities not subject to CFTC regulation, the Treasury does not believe that § 403.6 constitutes duplicative regulation.

6. *Section 403.7.* The temporary regulations provided for a delayed effective date until the last business day of October, 1987, of all the possession or control rules in Part 403 except for the requirements relating to confirmations,

[25] Securities Exchange Act Release No. 34–24554, 52 FR 22493 (June 12, 1987).

[26] 12 CFR 204.2(a)(1)(iv).

[27] 1 CCH Commodities Futures Law Reports ¶ 7112 (1986).

disclosures, and written agreements. The regulations specified that the confirmation requirements would be effective July 25, 1987. Written agreements would be required in the case of new customers by October 31, 1987, and in the case of existing customers by January 31, 1988, with disclosures to be provided to all customers beginning July 25.

Most commenters supported the delayed effective date for Part 403, although one commenter requested an extension to March 1988. Two commenters requested that the effective date for providing confirmations of substitution of securities subject to hold-in-custody repurchase transactions be moved to the end of October due to the systems changes that would be required if a specific description of the securities subject to a repurchase transaction and the market value of those securities must be included on the confirmations. One commenter urged that the date for obtaining written agreements for new customers be moved to January 1988.

One question raised by several commenters was how to define an "existing customer" for purposes of determining the effective date for the written agreement requirement. Suggestions for defining existing customers ranged from including every customer with whom a dealer has done any business to including only customers with whom a dealer has engaged in a repurchase transaction within the last 18 months.

Questions were also raised by the commenters in connection with the disclosures to be provided before written agreements are required to be revised or in place. Principally, these commenters pointed out that the required disclosure statement contains language about consent to substitution and inquired about the effect of such language before the consent requirements themselves are effective. Several commenters urged that the consent requirements not become effective before a written agreement with the required provisions is required to be in effect. Other questions that were raised about the interim disclosures included whether the disclosure relating to Securities Investor Protection Act or deposit insurance coverage was required also to be furnished, and whether the interim disclosures could be provided only once to each customer or whether they would be required with each confirmation.

Two commenters addressed the treatment of term repurchase transactions outstanding on the effective date of the final regulations. These commenters urged that consent to substitution not be required for outstanding term repurchase transactions. They argued that consent to substitution was not explicitly a term of these agreements and that imposition of a consent requirement would give customers the pretext for terminating a transaction that is no longer economically advantageous because of changes in market conditions.

The final regulations retain the last day of October effective date for the basic possession or control rules. However, in recognition of the systems changes that may be necessary for dealers to comply with the requirements to confirm specific securities and indicate the market value of those securities, the effective date for the requirement to provide specific confirmation of the securities subject to a hold-in-custody repurchase transaction and any substitutions of those securities has been changed in the final regulations to January 31, 1988. Although the Department views these requirements to be essential to the goal of customer protection, the Department recognizes that it is also important to provide sufficient time so that the systems developed to allocate and confirm specific securities for hold-in-custody repurchase transactions be properly designed to ensure accurate internal records.

With respect to the deadlines for obtaining written repurchase agreements, the final regulations define an "existing customer" as a counterparty with whom the government securities dealer has entered into a repurchase transaction during the period beginning January 1, 1986, and ending July 24, 1987. If a dealer has a written repurchase agreement with a customer on file, but the customer has not entered into a repurchase transaction since January 1, 1986, the customer will be treated as a new customer for the purposes of this rule.

The final regulations also clarify what disclosures must be made until the written agreement requirement is fully effective. The interim disclosure must be a separate document and must contain both (1) The statement concerning the Securities Investor Protection Act or the statement regarding deposit insurance coverage, as specified in §§ 403.4 and 403.5 and (2) the modified disclosure statement regarding substitution of securities set forth in § 403.7. These disclosures need only be provided once to each counterparty during the interim period, rather than with each repurchase transaction with a counterparty.

For counterparties who are engaged in transactions initiated before August 31 and ending thereafter, the disclosures must be provided by August 31; for other counterparties initiating a transaction on or after August 31, the disclosures must be mailed to the counterparties no later than the day on which the transaction is initiated. For counterparties required to receive the interim disclosure by August 31, the disclosure document may be mailed separately or furnished with a confirmation, but may not be printed on the confirmation itself.

The final regulations also provide that existing term repurchase transactions outstanding on August 31, 1987, shall not be subject to any of the requirements of § 403.4(e) or § 403.5(d) other than the requirement to confirm substitute securities which becomes effective January 31, 1988. This provision applies to specific transactions with a specified maturity date. It does not apply to master repurchase agreements, standing alone, that may be in effect on August 31. If a repurchase transaction has a specific maturity but is renewable, the renewed transaction would be viewed under this provision as a separate repurchase transaction to which the requirements would apply.

7. *Sections 403.1 and 403.3.* No comments were received on §§ 403.1 and 403.3 of the temporary regulations; accordingly they are adopted without change into the final regulations.

E. Part 404—Recordkeeping and Record Preservation

Part 404 of the temporary regulations imposes requirements to make, keep current, and preserve records relating to the operations of government securities brokers and dealers. The Department received six comments on this part. Two comments addressed the securities ledger requirements of § 404.2, two comments sought delayed effective dates for all or part of the requirements, one comment sought modification of the verification requirement of § 404.5 for securities subject to repurchase and reverse repurchase agreements and one comment requested that CFTC regulated entities be exempt from the requirements of Part 404.

1. *Section 404.2.* Two commenters asked for modification of the the various securities ledger requirements of § 404.2. One commenter asked that government securities dealers who qualify for the exemption in paragraph (k)(2)(i) of SEC Rule 15c3–3 be exempt from the securities position ledger requirement of § 404.2. The commenter stated that maintenance of this ledger serves no useful purpose when applied to dealers satisfying the requirements of (k)(2)(i) by engaging only in delivery-versus-

payment transactions. The second comment asked that delivery-versus-payment transactions be exempt from the ledger requirement or that the rule be modified to provide that a delivery-versus-payment transaction does not constitute a transaction involving a "cash account." The commenter stated that there is no benefit of maintaining a ledger account by customer of such transactions.

The Department has considered these comments but is of the opinion that dealers who qualify for the (k)(2)(i) exemption should not be exempt from the securities position ledger requirement. The securities position record is the main record of the location and movement of securities within the broker or dealer. It is a record relied upon in the examination process to follow the business of the broker or dealer. It is not limited to customer positions but also includes the dealer's own positions. The Department would note that dealers that qualify for the (k)(2)(i) exemption may do hold-in-custody repurchase transactions. Securities that are the subject of repurchase and reverse repurchase agreements must also be included on the securities position ledger. In addition, because of the importance of securities ledgers to the examination process, the Department has determined not to exempt delivery-versus-payment transactions from the ledger requirements.

2. *Section 404.4.* No comments were received on this section of the temporary regulations. However, a new paragraph (a)(2) has been added to clarify that a financial institution government securities broker or dealer must comply with the recordkeeping requirements of § 450.4(c), as well as with the new § 450.4(f), which specifies the retention period for records required by § 450.4(c).

3. *Section 404.5.* One commenter stated that the verification requirements of § 404.5 for repurchase and reverse repurchase transactions are unfair and unduly burdensome. The comment stated that the verification procedures available for other securities are not available for repurchase and reverse repurchase transactions. The commenter requested therefore that verification be required after forty-five business days instead of thirty days. The Department notes that verification of securities subject to repurchase and reverse repurchase agreements will be a requirement for registered broker dealers under amended SEC Rule 17a–13.[28] That amendment was available in proposed form for almost a year, and received no adverse comments.[29] In addition, verification of securities subject to repurchase and reverse repurchase agreements is a requirement of Part 450, which applies to depository institutions and to financial institution government securities brokers and dealers by virtue of § 403.5. The Department is not persuaded by the commenter's arguments that this requirement should be modified.

4. *Effective dates.* Two commenters asked that the effective date for identified portions of Part 404 be delayed, citing problems with developing appropriate software and systems to fully comply with these recordkeeping requirements. One commenter stated that it did not become fully aware of the operational implications of the requirements until its pre-membership examination by the NASD. The effective dates requested by the commenters were January 31, 1988 and March 31, 1988. In the absence of a delayed effective date, one commenter asked for a flexible exception policy.

The Department has carefully considered this matter and is persuaded that some delay in the effective date of the recordkeeping requirements applicable to registered government securities brokers and dealers is necessary. For example, it is clear from the comments that the requirement of a securities position ledger represents a departure from current practice and will require additional time to develop. Furthermore, discussions with the NASD have convinced the Department that, while newly registering government securities brokers and dealers are making an effort to meet the recordkeeping requirements of the temporary regulations, problems exist that may not be fully resolved prior to July 25. A delay will allow new registrants to resolve in an orderly and long-lasting fashion problems they may be having in establishing an integrated recordkeeping system.

Therefore, with the exception of the records pertaining to personnel and to lost or stolen securities, the Department will delay the effective date of § 404.2(a), which modifies SEC Rule 17a–3, until October 31, 1987. In addition, because the securities count requirement of § 404.5 is so closely related to the securities ledger requirement of § 404.2, the effective date of that provision will also be delayed until October 31, 1987. Section 404.3, pertaining to record preservation and certain other records, continues to be effective on July 25, 1987. Of course, to the extent that records are not required to be kept until October 31, the preservation of those records is not required until that date.

At this time, the Department is not prepared to delay the effective dates of §§ 404.2 and 404.5 beyond October 31, 1987. A number of the other requirements under these regulations become effective on October 31, 1987. The maintenance of adequate records provides the basis for examiners to determine whether those requirements are being complied with.

Brokers and dealers that are able to comply with the recordkeeping requirements before October 31, 1987 are encouraged to do so. By granting this delay in effective dates, the Department hopes that brokers and dealers will develop integrated recordkeeping systems that will provide for long-term compliance with these requirements.

5. *CFTC regulated entities.* The Chicago Mercantile Exchange commented that CFTC rules 1.27 and 1.31[30] contain extensive recordkeeping and preservation requirements and therefore, there is no need for Part 404 to apply to CFTC regulated entities that are government securities brokers or dealers. The Department notes that it was unclear in the temporary regulations that the Part was meant to apply only to those futures commission merchants that are required to register under section 15C of the Act, and this has been clarified in the final regulations. After discussion with the CFTC, the Department has confirmed that the types of government securities activities that would result in a requirement to register as government securities brokers or dealers are not fully subject to the CFTC regulations cited. Therefore, the Department is not persuaded that the CFTC rules obviate the need for Part 404 compliance by those CFTC regulated entities who will be required to register as government securities brokers or dealers.

6. *Other Modifications.* When the Department proposed Part 404,[31] it noted that many of the proposed modifications to SEC rules 17a–3 and 17a–13 pertaining to repurchase and reverse repurchase agreements had been proposed by the SEC in September 1986[32] but had not yet been adopted.

[28] See Securities Exchange Act Release No. 34–24553, 52 FR 22295 (June 11, 1987).

[29] See Securities Exchange Act Release No. 34–23602, 51 FR 32658 (September 15, 1986).

[30] 17 CFR 1.27, 1.31.

[31] 52 FR 5660 (February 25, 1987).

[32] Securities Exchange Act Release No. 34–23602, 51 FR 32658 (September 15, 1986).

On June 4, 1987, the SEC adopted the proposed amendments to Rules 17a–3 and 17a–13, effective July 25, 1987.[33] Therefore, §§ 404.1, 404.2, and 404.5 of the temporary rules have been modified to reflect the amendments to the SEC rules.

F. Part 405—Reports and Audit

Only one written comment, from the Chicago Mercantile Exchange, was received on this part. That comment requested an exemption from Part 405 for government securities brokers and dealers who are futures commission merchants, on the assertion that the reporting and audit requirements of the CFTC and the related self-regulatory agencies were adequate. As discussed in connection with Part 403, the comment may be based on a misunderstanding arising from an ambiguity in the temporary regulations. In the final regulations, the Department has clarified its intention that only futures commission merchants required to register under section 15C of the Act are subject to the requirements of Part 405. With this limitation, only futures commission merchants who transact business not fully subject to CFTC regulation and not fully examined for under that regulatory system will be subject to the requirements of these regulations. Therefore, the Department has retained the applicability of Part 405 to registered government securities brokers or dealers who are also futures commission merchants.

Several questions have arisen concerning the delayed effective date for reports provided in § 405.1(c). That paragraph has been amended to specify that the reports required by 17 CFR 240.17a–5(a) by virtue of § 405.2—the Form G–405 Report on Finances and Operations of Government Securities Brokers and Dealers—are required starting with the first month and quarter in which a government securities broker or dealer must calculate haircuts under either § 402.1(e) (for government securities interdealer brokers) or § 402.2 (a), (b) and (c) (for all other government securities brokers and dealers). Except as provided by individual exemption, this means that Part I of the Form G–405 will be due, where applicable, starting with October 1987 and Part II or IIA, as appropriate, will be due starting with the quarter ending December 1987.[34] Unaudited quarterly financial reports are required for the quarter ending September 1987.

Other than these changes, the correction of several typographical errors, and changes to §§ 405.2(a)(7) and 405.2(b)(1) to conform to changes made previously in the temporary regulations, Part 405 of the temporary regulations is adopted as final.

G. Part 449—Forms

To accommodate clarifications relating to consolidation of entities for financial responsibility purposes under § 402.2c, and to the revised grace period for net pair-off and give-up receivables and money differences, pages 5 and 6 of Part II and page 4 of Part IIA of Form G–405 (§ 449.5) and the related instructions on pages 13–16A (for Part II) and pages 10–13A (for Part IIA) have been revised. The revised pages are available from the Treasury, the SEC and the NASD.

H. Part 450—Custodial Holdings of Government Securities by Depository Institutions

Part 450 contains the rules relating to the possession or control of customer securities held by depository institutions. The Treasury received only a few requests for clarification or suggested technical changes for any of the rules contained in this Part. The following changes have been made based on those comments.

Section 450.4(a) requires, among other things, that a depository institution maintain customer securities held in an account at a Federal Reserve Bank free of any lien, charge or claim of the Federal Reserve Bank. Since publication of the temporary regulations, the Department has received a number of inquiries from depository institutions about how to comply with this paragraph and has had further discussions with the Federal Reserve Board staff.

Based on those discussions, a new paragraph (a)(3)(ii) has been added in the final regulations to clarify that a depository institution is not in violation of § 450.4(a) if, in certain limited circumstances, a Federal Reserve Bank retains a lien on securities received during the day that may subsequently be determined to be customer securities. This provision has been added to deal with the extraordinary situation, such as massive computer failure or potential failure of the depository institution, in which an extension of credit by a Federal Reserve Bank is necessary to assure the safety and soundness or liquidity of the depository institution and the portion of incoming securities that are pledgeable by the depository institution cannot be promptly ascertained.

This provision will permit the Federal Reserve Bank, in these circumstances, to lend on a secured basis without automatically causing the depository institution to be in violation of the requirements of § 450.4. The provision is conditioned on the depository institution's inability to fully collateralize the extension of credit with securities that are clearly pledgeable, the depository institution's immediate and ongoing efforts to replace any securities subsequently identified as customer securities with pledgeable collateral, and the Reserve Bank's agreement that any customer securities will be the first securities released from the lien in the event of initial overcollateralization or subsequent paydown of the credit extended. This exception is not meant to allow a depository institution to enter into a standing agreement with a Federal Reserve Bank that collateralizes daylight overdrafts or extensions of discount window credit with securities that are customer securities. Because this provision is being published for the first time in the final regulations, the Department would welcome comments on it.

In § 450.4(a)(4)(ii), the phrase "as of the close of business" has been moved to clarify that it is the refusal to segregate as of the close of business that triggers the requirement to notify the dealer's appropriate regulatory agency of the refusal.

In connection with the issues described above in the discussion of Part 403 relating to the possible exclusion from applicability of § 403.5 of certain repurchase transactions, the Treasury recognizes that § 450.4(b) was ambiguous in that it requires a depository institution to keep a copy of a confirmation or safekeeping receipt issued in connection with customer securities, but it does not affirmatively state the requirement to issue either. The discussion of these provisions in the temporary regulations made clear that the Treasury intended to affirmatively impose that requirement. The rule has been amended to impose the requirement with respect to securities other than securities that are the subject of repurchase transactions to which the confirmation requirements of § 403.5 applies. The rule requires the confirmation to include issuer, maturity date, and coupon rate of the securities being confirmed. The confirmation may

[33] Securities Exchange Act Release No. 34–24553, 52 FR 22295 (June 11, 1987).

[34] Self-regulatory organizations may require the reports earlier as part of their procedures to determine whether government securities brokers and dealers will qualify for membership on July 25, 1987 and whether they will have any difficulty remaining qualified when the haircut requirements become effective at the end of October.

be supplied to the customer in any manner that complies with applicable federal banking regulations. In addition, in conformity with the amendment discussed above to §§ 403.4(e) and 403.5(d), the rule permits a foreign customer to waive the right to receive a confirmation. Confirmations involving securities that are the subject of hold-in-custody repurchase transactions will continue to be subject to the confirmation requirements of § 403.5 including the requirement to confirm market value.

III. Executive Order 12291; Regulatory Flexibility Act; Burden on Competition

In the preambles to the proposed and temporary regulations, the Department concluded that the regulations did not constitute a major regulation for purposes of Executive Order 12291 and certified that they would not have a significant economic impact on a substantial number of small entities. Accordingly, the Department concluded that neither a regulatory impact analysis nor a regulatory flexibility analysis is required.

Four comments were received taking issue with the Department's conclusions, from three large dealers and the Public Securities Association. The comments asserted that the regulations relating to hold-in-custody repurchase agreements, particularly the special requirements for agreements of under $1 million, were sufficiently onerous that the commenters would cease to offer some or all hold-in-custody repurchase agreements, thereby causing undesirable effects and impacting the ability of small entities to invest funds. None of the commenters provided any evidence to support their assertions that the commenters' potential business decisions in response to the regulations would have a significant economic impact beyond that required by the statute. However, the Department has concluded, for the reasons stated in the discussion of Part 403 above, that the special requirements for small repurchase agreements are unnecessary and has therefore eliminated them.

When the proposed regulations were issued, the Department received comments from a number of small entities and representatives thereof concerning their potential negative impact. As discussed in the preamble to the temporary regulations, modifications were made between the proposed and temporary regulations to respond to those concerns, particularly in the area of hold-in-custody repurchase agreements.[35] None of these commenters on the proposed regulations commented on the temporary regulations, and no other comments were received from any small entities or their representatives.

On this record, the Department does not believe there is any reason to alter its conclusion that the regulations do not constitute a major regulation and its certification that the regulations will not have a significant economic impact on a substantial number of small entities. As discussed above in connection with Parts 403 and 404, the Department has modified the regulations to remove some of the features cited by the commenters as having the most undesirable economic effects and further has mitigated the operational impact of the temporary regulations by delaying the effective dates of some of the operationally more difficult requirements to January 31, 1988. The discussions about Parts 403 and 404 also indicate why the Department chose to retain the general protections of the temporary regulations for hold-in-custody repurchase investors.

The collection of information requirements contained in the temporary rule were submitted to the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act.[36] These requirements of the temporary rule have been adopted with only minor amendments in the final rule. The collection of information requirements of the temporary rule, as amended in the final rule, have been approved by OMB.

List of Subjects

17 CFR Part 400

Administrative practice and procedure, Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 401

Banks, banking, Brokers, Government securities.

17 CFR Part 402

Brokers, Government securities.

17 CFR Part 403

Banks, banking, Brokers, Government securities.

17 CFR Part 404

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 499

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 450

Banks, banking, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Chapter IV of Title 17, Code of Federal Regulations, is revised to read as follows:

CHAPTER IV—DEPARTMENT OF THE TREASURY

SUBCHAPTER A—REGULATIONS UNDER SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

Part
400 Rules of General Application
401 Exemptions
402 Financial Responsibility
403 Protection of Customer Securities and Balances
404 Recordkeeping and Preservation of Records
405 Reports and Audit
449 Forms, Section 15C of the Securities Exchange Act of 1934

SUBCHAPTER B—REGULATIONS UNDER TITLE 11 OF THE GOVERNMENT SECURITIES ACT OF 1986

450 Custodial Holdings of Government Securities by Depository Institutions

SUBCHAPTER A—REGULATIONS UNDER SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

PART 400—RULES OF GENERAL APPLICATION

Sec.
400.1 Scope of regulations.
400.2 Office responsible for regulations; filing of requests for exemptions, for interpretations, and of other materials.
400.3 Definitions.
400.4 Information concerning associated persons of financial institutions that are government securities brokers or dealers.
400.5 Amendments to application for registration and to notice of status as a government securities broker or dealer.
400.6 Notice of withdrawal from business as a government securities broker or dealer by a financial institution.

Authority: Sec. 101, Pub. L. 99-571, 100 Stat. 3209 (15 U.S.C. 78o-5).

§ 400.1 Scope of regulations.

(a) Title I of the Government Securities Act of 1986 (Pub. L. 99-571, 100 Stat. 3208) amends the Securities Exchange Act of 1934 (48 Stat. 881-905;

[35] 52 FR 19668-69 (May 26, 1987).

[36] 44 U.S.C. 3504(h).

15 U.S.C. chapter 2B) ("Act") by adding section 15C, authorizing the Secretary of the Treasury to promulgate regulations concerning the financial responsibility, protection of customer securities and balances, recordkeeping and reporting of brokers and dealers in government securities. Those regulations constitute subchapter A of this chapter. Unless otherwise explicitly provided, all regulations in this subchapter apply to all government securities brokers or dealers, including registered brokers or dealers and financial institutions.

(b) Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o–5(a)(1)(A)) requires all government securities brokers and government securities dealers, except those who are brokers or dealers registered pursuant to section 15 or section 15B of the Act or financial institutions, to register with the Securities and Exchange Commission ("Commission"). Regulations concerning registration are at § 240.15Ca2–1 et seq. of this title. The Commission is responsible for the interpretation of the definitions of government securities broker and government securities dealer and of the regulations at § 240.15Ca2–1 et seq.

(c) Section 15C(a)(1)(B)(i) of the Act (15 U.S.C. 78o–5(a)(1)(B)(i)) requires all government securities brokers or dealers that are also registered brokers or dealers to notify the Commission of their status as government securities brokers or dealers. Regulations concerning notice are at § 240.15Ca1–1 of this title.

(d) Section 15C(a)(1)(B)(i) of the Act also requires all government securities brokers or dealers that are financial institutions to notify the appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Act (15 U.S.C. 78c(a)(34)(G)), of their status as government securities brokers or dealers. The form of notice, Form G–FIN, is at § 449.1 of this chapter. Forms are available from the appropriate regulatory agency.

§ 400.2 Office responsible for regulations; filing of requests for exemptions, for interpretations and of other materials.

(a) *Office responsible.* The regulations in this chapter are promulgated by the Assistant Secretary (Domestic Finance) pursuant to a delegation of authority from the Secretary of the Treasury. The office responsible for implementation of the regulations, including interpretations and action on requests for exemption, classification or modification, is the Office of the Commissioner, Bureau of the Public Debt.

(b)(1) *Exemptions and classifications.* Section 15C(a)(4) of the Act (15 U.S.C. 78o–5(a)(4)) authorizes the Secretary to exempt any government securities broker or dealer or class thereof, conditionally or unconditionally, from the requirements of registration or regulations promulgated under section 15C. In addition, section 15C(b)(3) of the Act (15 U.S.C. 78o–5(b)(3)) provides for classification, by the Secretary, of government securities brokers or dealers and authorizes the whole or partial exemption of classes from rules under section 15C or the application of different standards to different classes.

(2) *Interpretations.* Although the appropriate regulatory agencies, as defined in § 400.3, and the self-regulatory organizations, as defined in section 3(a)(26) of the Act (15 U.S.C. 78c(a)(26)), have enforcement responsibility under section 15C of the Act, Treasury is responsible for interpretation of section 15C(b) of the Act (15 U.S.C. 78o–5(b)) and related sections and for interpretation and amendment of the regulations under this chapter (with the exception of Forms G–FIN and G–FINW, §§ 449.1 and 449.2 of this chapter, which are the responsibility of the Board of Governors of the Federal Reserve System ["Board"]).

(c) *Requests for interpretations, exemptions, classifications.* (1) Interpretations under section 15C(b) of the Act (15 U.S.C. 78o–5(b)) and related sections and Treasury regulations thereunder may be provided, at the discretion of the Department, to firms or individuals actually or potentially affected by the Act or regulations, or to their representatives.

(2) Exemptions and classifications under sections 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), and (d)) and related sections and Treasury regulations thereunder may be provided at the discretion of the Department and after consultation with the SEC and the Board, to firms or individuals actually or potentially affected by the Act or regulations, or to their representatives.

(3) All requests for exemptions and classifications, and all requests for binding interpretations, shall be in writing, and shall conform to the following procedures.

(i) The names of the company or companies and all other persons involved shall be stated. Letters pertaining to unnamed companies or persons or hypothetical situations will not be answered.

(ii) The letter must contain a concise but complete statement of all material facts, a complete and accurate description of the entire transaction if the request is transactional (even though a request may apply to only a portion of a transaction), and a concise and unambiguous statement of the request, including precise statutory and regulatory citations.

(iii) The letter shall indicate why the writer believes a problem exists or interpretation is needed, the writer's opinion on the matter, and the basis for such opinion.

(iv) If the writer requests confidential treatment of all or a portion of the request or response, this request and the basis therefor shall be included in a separate letter submitted at the same time as the request letter. If confidential treatment of a portion of a letter is requested, a copy of the letter with the portions for which such treatment is requested blocked out shall also be submitted.

(v) An original and two copies of each request letter shall be submitted to the Office of the Commissioner, Bureau of the Public Debt, Room 553, 999 E Street NW., Washington, DC 20239. The envelope shall be marked "Government Securities Act Request." The letter shall indicate in the upper right hand corner of the first page the particular sections of the Act and of the regulations at issue.

(4) A written response by the Department to a request filed as stated in paragraph (c)(3) of this section shall be binding, with respect to the requester, on the Department, but shall cease to be binding if the facts are not as stated in the request or, prospectively, if the Department issues a superseding interpretation. In responding to such a request, the Department will, where appropriate, consult with and may obtain the formal concurrence of the appropriate regulatory agencies or their staffs. The Department understands that even if formal concurrence is not received the appropriate regulatory agencies and self-regulatory organizations will give appropriate deference to binding interpretations of the Department. The Department also expects the SEC staff to reflect such interpretations in responding, pursuant to the established procedures of the Commission, to no-action requests concerning rules the SEC enforces.

(5) The Department may decline to issue an interpretation for any reason and, in particular, may require that a requester make inquiry of its appropriate regulatory agency, the Commission or designated examining authority before the Department responds to a request.

(6) The Department will also provide informal oral and written advice, but such advice is not binding on the Department or on any other agency or organization.

(7)(i) Except as provided in paragraph (c)(7)(ii) of this section, every letter or other written communication requesting the Department to provide interpretive legal advice under the Act or to grant, deny or modify an exemption, classification or modification of regulations, together with any written response thereto, shall be made available upon request for inspection and copying by any person 30 days after the response has been sent or given to the person requesting it.

(ii) Any person submitting a letter or communication may also submit therewith a request that it be accorded confidential treatment for a specified period of time, not exceeding 90 days after the expiration of such 30 days, together with a statement setting forth the considerations upon which the request for such treatment is made. If the Department determines that the request for confidential treatment should be denied, the requester will be given 30 days to withdraw the request.

(d) *Effect of Commission interpretations.* Interpretations of the Commission and its staff (including no-action positions) and of the designated examining authorities, of any Commission regulation expressly adopted by reference in these regulations shall be of the same effect as if the regulation being interpreted were solely the Commission's regulation. However, in the event the Treasury has issued a formal interpretation on the subject, the Treasury understands that the Commission will give that interpretation appropriate deference, particularly with respect to both subsequent no-action positions and the continued validity of prior no-action positions.

§ 400.3 Definitions.

Unless otherwise explicitly provided, in this subchapter and for the purposes of these regulations:

(a) "Act" means the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. chapter 2B, as amended);

(b) "Appropriate regulatory agency" has the meaning set out in section 3(a)(34)(G) of the Act (15 U.S.C. 78c(a)(34)(G)), except that the appropriate regulatory agency for an entity insured by the Federal Savings and Loan Insurance Corporation is in all cases the Federal Home Loan Bank Board, and, with respect to a financial institution for which an appropriate regulatory agency is not explicitly designated, the appropriate regulatory agency is the SEC;

(c) "Associated person" means a person other than a person whose functions are solely clerical or ministerial:

(1) Directly engaged in any of the following activities in either a supervisory or non-supervisory capacity:

(i) Underwriting, trading or sales of government securities;

(ii) Financial advisory or consultant services for issuers in connection with the issuance of government securities;

(iii) Research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in paragraphs (c)(1)(i) and (c)(1)(ii) of this section;

(iv) Activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in paragraphs (c)(1)(i) and (c)(1)(ii) of this section; or

(2) Directly engaged in the following activities in a supervisory capacity:

(i) Processing and clearance activities with respect to government securities;

(ii) Maintenance of records involving any of the activities described in paragraph (c)(1) of this section;

Provided, however,

(3) That in the case of a financial institution,

(i) Persons whose government securities functions: (A) Consist solely of carrying out the financial institution's activities in a fiduciary capacity and (B) are subject to examination by the appropriate regulatory agency for compliance with requirements applicable to activities by the financial institution in a fiduciary capacity, shall not be considered "associated persons";

(ii) Persons whose sole government securities activities are, without exercising any investment discretion and solely at the direction of customers, to receive and/or transmit customer orders to purchase or sell government securities, but who do not give investment advice or receive transaction-based compensation shall not be considered "associated persons"; and

(iii) Directors and senior officers of the financial institution who may from time to time set broad policy guidelines affecting the financial institution as a whole that are not directly related to the conduct of the financial institution's government securities business are not considered to be "directly engaged" in the activities described in this paragraph (c);

(d) "Board" means the Board of Governors of the Federal Reserve System;

(e) "Branch or agency of a foreign bank" means a Federal branch or Federal agency of a foreign bank or a State branch or State agency of a foreign bank as such terms are used in the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607;

(f) "CFTC" means the Commodity Futures Trading Commission;

(g) "Commission" or "SEC" means the Securities and Exchange Commission;

(h) "Designated examining authority" and "Examining Authority" mean (1) in the case of a registered government securities broker or dealer that belongs to only one self-regulatory organization, such self-regulatory organization, and (2) in the case of a registered government securities broker or dealer that belongs to more than one self-regulatory organization, the self-regulatory organization designated by the Commission pursuant to section 17(d) of the Act (15 U.S.C. 78q(d)) as the entity with responsibility for examining such registered government securities broker or dealer;

(i) "Fiduciary capacity" includes trustee, executor, administrator, registrar, transfer agent, guardian, assignee, receiver, managing agent, and any other similar capacity involving the sole or shared exercise of discretion by a financial institution having fiduciary powers that is supervised by a federal or state financial institution regulatory agency;

(j) "Financial institution" has the meaning set out in section 3(a)(46) of the Act (15 U.S.C. 78c(a)(46)), and such term explicitly does not include a subsidiary or affiliate of an institution described in such section unless such subsidiary or affiliate is itself described in such section;

(k) "Government securities broker" has the meaning set out in section 3(a)(43) of the Act (15 U.S.C. 78c(a)(43)), and explicitly includes not only registered government securities brokers, but also registered brokers and financial institutions;

(l) "Government securities dealer" has the meaning set out in section 3(a)(44) of the Act (15 U.S.C. 78c(a)(44)), and explicitly includes not only registered government securities dealers, but also registered dealers and financial institutions;

(m) "Government securities" has the meaning set out in section 3(a)(42) of the Act (15 U.S.C. 78c(a)(42));

(n) "Registered broker or dealer" means a broker or dealer registered pursuant to section 15 or section 15B of the Act (15 U.S.C. 78o, 78o–4)) but does not include a municipal securities dealer that is a bank or a separately

identifiable department or division of a bank;

(o) "Registered government securities broker or dealer" means a government securities broker or dealer registered pursuant to section 15C(a)(1)(A) of the Act (15 U.S.C. 78o–5(a)(1)(A));

(p) "Secretary" means the Secretary of the Treasury; and

(q) "Treasury" or "Department" means the Department of the Treasury, including in particular the Bureau of the Public Debt.

§ 400.4 Information concerning associated persons of financial institutions that are government securities brokers or dealers.

(a) Every associated person of a financial institution that is a government securities broker or dealer that is not exempt pursuant to Part 401 of this chapter shall file with such financial institution a completed Form G–FIN–4 (§ 449.4 of this chapter) unless such person has on file with such financial institution a completed and current Form U–4 (promulgated by a self-regulatory organization) or Form MSD–4 (as required for associated persons of bank municipal securities dealers).

(b) To the extent any information furnished by an associated person pursuant to paragraph (a) of this section (including information on a Form U–4 or Form MSD–4) is or becomes materially inaccurate or incomplete, such associated person shall promptly furnish in writing to such financial institution, in a form acceptable to the appropriate regulatory agency for such financial institution, a statement correcting such information.

(c) For the purpose of verifying the information furnished by an associated person pursuant to paragraph (a) of this rule, every government securities broker or dealer that is a financial institution shall make inquiry of all other employers of such associated person during the immediately preceding three years concerning the accuracy and completeness of such information.

(d) Every government securities broker or dealer that is a financial institution not exempt from this section pursuant to Part 401 of this chapter shall:

(1) Promptly obtain and, within 10 days thereafter, file with the appropriate regulatory agency, in a form acceptable to such appropriate regulatory agency, the information required by paragraph (a) of this section (which shall consist of all Forms G–FIN–4 filed and a list of all associated persons who have filed Forms MSD–4 or U–4 with the financial institution since the last such filing, designating whether the associated person is serving in a supervisory or non-supervisory capacity) and by paragraph (b) of this section; and

(2) File with the appropriate regulatory agency within 30 days after the termination of the status of an individual as an associated person a Form G–FIN–5 (§ 449.4 of this chapter), unless—

(i) The financial institution is required to and has filed a Form U–5 or Form MSD–5 with respect to such person; or

(ii) The financial institution notifies the appropriate regulatory agency that the individual will remain in the financial institution's employment and the financial institution will continue to update the information about such individual as provided in paragraph (b) of this section and will file a Form G–FIN–5 within 30 days after the termination of such individual's employment with the financial institution.

(e) Every notice and form filed pursuant to this section shall constitute a "report" within the meaning of sections 15, 15C and 32(a) of the Act (15 U.S.C. 78o, 78o–5, 78ff(a)).

(Approved by the Office of Management and Budget under control number 1505–0100)

§ 400.5 Amendments to application for registration and to notice of status as a government securities broker or dealer.

(a) (1) If the information contained in any application for registration as a government securities broker or dealer (other than the statements required by § 240.15Ca2–2 of this title) or in any amendment thereto, becomes inaccurate for any reason, the registered government securities broker or dealer shall file within 30 days thereafter an amendment on Form BD (§ 249.501 of this title) correcting such information, in accordance with the instructions provided therein.

(2) If the information contained in any notice of status as a government securities broker or dealer filed by a registered broker or dealer, or in any amendment thereto, becomes inaccurate for any reason, the registered broker or dealer shall file within 30 days an amendment on Form BD (§ 249.501 of this title) correcting such information, in accordance with the instructions provided therein.

(b) If the information contained in any notice of status as a government securities broker or dealer filed by a financial institution, or any amendment thereto, becomes inaccurate for any reason, the financial institution shall file within 30 days an amendment on Form G–FIN (§ 449.1 of this chapter) correcting such information, in accordance with the instructions provided therein.

(c) Every amendment filed pursuant to this section shall constitute a "report" within the meaning of sections 15, 15C and 32(a) of the Act (15 U.S.C. 78o, 78o–5, 78ff(a)).

(Approved by the Office of Management and Budget under control number 1505–0100)

§ 400.6 Notice of withdrawal from business as a government securities broker or dealer by a financial institution.

(a) Whenever a financial institution that is a government securities broker or dealer that is not exempt from the notice requirements of section 15C(a)(1)(B)(i) of the Act (15 U.S.C. 78o–5(a)(1)(B)(i)) and of § 400.5 pursuant to Part 401 of this chapter, ceases to act as a government securities broker or dealer, it shall file with the appropriate regulatory agency notice of such cessation on Form G–FINW (§ 449.2 of this chapter) in accordance with the instructions contained therein.

(b) Except as provided in paragraph (c) of this section, a notice that a financial institution has ceased to act as a government securities broker or dealer shall become effective for all purposes on the 60th day after the filing thereof with the appropriate regulatory agency or within such shorter period of time as the appropriate regulatory agency determines.

(c) If the notice described in paragraph (a) of this section is filed with the appropriate regulatory agency any time after the date of the issuance of a notice or order by the appropriate regulatory agency instituting proceedings pursuant to section 15C(c)(2)(A) of the Act (15 U.S.C. 78o–5(c)(2)(A)) to censure, suspend, limit, or bar from acting as a government securities broker or government securities dealer the entity filing such notice, or if the appropriate regulatory agency has instituted any action against the entity filing such notice pursuant to section 15C(2)(B) of the Act (15 U.S.C. § 78o–5(c)(2)(B)), the notice shall become effective pursuant to paragraph (b) of this section at such time and upon such terms and conditions as the appropriate regulatory agency deems necessary or appropriate in the public interest for the protection of investors.

(d) Every notice filed pursuant to this section shall constitute a "report" within the meaning of sections 15, 15C and 32(a) of the Act (15 U.S.C. 78o, 78o–5, 78ff(a)).

(Approved by the Office of Management and Budget under control number 1505–0100)

PART 401—EXEMPTIONS

Sec.

401.1 Exemption for organizations handling transactions in United States Savings Bonds.
401.2 Exemption for depository institutions that submit tenders for the account of customers for purchase on original issue of United States Treasury securities.
401.3 Exemption for financial institutions that are engaged in limited government securities brokerage activities.
401.4 Exemption for financial institutions engaged in limited government securities dealer activities.
401.5 Exemption for corporate credit unions transacting limited government securities business with other credit unions.
401.6 Exemption for branches and agencies of foreign banks that deal solely with non-United States citizens resident offshore.
401.7 Temporary exemption for certain government securities brokers and dealers terminating business on or before October 31, 1987.
401.8 Temporary exemption for government securities brokers and dealers that are futures commission merchants registered with the CFTC.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(a)(4)).

§ 401.1 Exemption for organizations handling transactions in United States Savings Bonds.

An organization that handles United States Savings Bond transactions, including a qualified issuing or paying agent or an organization that accommodates customers or employees by forwarding requested transactions to qualified issuing or paying agents or the Treasury and whose transactions in government securities are limited to these transactions and such other activities that are exempted by the regulations under this subchapter, shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter. For the purposes of this section, the term "United States Savings Bond" means any savings-type security offered by the Treasury, including all series of United States Savings Bonds, United States Savings Notes and United States Savings Stamps.

§ 401.2 Exemption for depository institutions that submit tenders for the account of customers for purchase on original issue of United States Treasury securities.

(a) Subject to the requirements of paragraph (b) of this section, a depository institution that submits tenders or subscriptions for purchase on original issue of United States Treasury securities for the account of customers on a fully disclosed basis, whose transactions in government securities are limited to such transactions and such other activities as have been exempted by regulation under this subchapter shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter.

(b) A depository institution that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of Part 450 of this chapter concerning custodial holdings of government securities.

(c) For the purposes of this section, "depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)–(vi)) and also includes a foreign bank, an agency or branch of a foreign bank and a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607).

§ 401.3 Exemption for financial institutions that are engaged in limited government securities brokerage activities.

(a)(1) Subject to the requirements of paragraph (b) of this section, a financial institution shall be exempt from the provisions of sections 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter, unless it acts as a government securities broker by:

(i) Holding itself out as a government securities broker or interdealer broker; or

(ii) Actively soliciting purchases or sales of government securities on an agency basis;

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, a financial institution shall not be regarded as acting as a government securities broker within the meaning of this section if it:

(i) Effects fewer than 500 government securities brokerage transactions (other than transactions described in §§ 401.1 or 401.2) per year; or

(ii) Effects all such transactions (other than transactions described in §§ 401.1 or 401.2) pursuant to a contractual or other arrangement with one or more government securities brokers or dealers each of which has registered or filed notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o–5(a)(1)) (each referred to as the "transacting government securities broker or dealer") under which the transacting government securities broker or dealer will offer securities services on or off the premises of the financial institution, provided that:

(A) The transacting government securities broker or dealer is clearly identified to customers as the person performing the securities services;

(B) Financial institution employees perform only clerical and ministerial or order-taking functions in connection with government securities transactions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer;

(C) Financial institution employees do not receive compensation for government securities activities other than clerical or ministerial functions unless such employees are associated persons (as defined in § 400.3(c) of this chapter) or registered representatives of the transacting government securities broker or dealer; and

(D) Such services are provided on a fully disclosed basis by the transacting government securities broker or dealer, i.e., the transacting government securities broker or dealer receives and maintains all required information concerning each customer, its trading and account.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of part 450 of this chapter concerning custodial holdings of government securities for customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section "financial institution" includes an insured credit union, as defined in 12 U.S.C. 1752(7).

§ 401.4 Exemption for financial institutions engaged in limited government securities dealer activities.

(a) Subject to the requirements of paragraph (b) of this section, a financial institution shall be exempt from the provisions of Sections 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter if its government securities dealer activities are limited to one or more of the following activities:

(1) Sales or purchases in a fiduciary capacity;

(2) The sale and subsequent repurchase and the purchase and subsequent resale of government securities pursuant to a repurchase or reverse repurchase agreement; and

(3) Such other activities as have been exempted by regulation under this subchapter.

(b)(1) A financial institution that relies on the exemption contained in paragraph (a) of this section is required to comply with:

(i) The regulations of part 450 of this chapter concerning custodial holdings of government securities for customers; and

(ii) Section 403.5(d) of this chapter concerning certain repurchase transactions with customers.

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section "financial institution" includes an insured credit union, as defined in 12 U.S.C. 1752(7).

§ 401.5 Exemption for corporate credit unions transacting limited government securities business with other credit unions.

(a)(1) Subject to the requirements of paragraph (b) of this section, a corporate credit union shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations thereunder if its government securities dealer activities are limited to the sale and subsequent repurchase and the purchase and subsequent resale, each pursuant to a repurchase or reverse repurchase agreement, of government securities to other credit unions and such other activities as have been exempted by regulation under this part.

(2) For the purposes of this section, "corporate credit union" means a credit union whose membership consists primarily of other credit unions and that is (i) a federal credit union as defined in 12 U.S.C. 1752(1), (ii) an insured credit union as defined in 12 U.S.C. 1752(7), or (iii) a member of the National Credit Union Administration Central Liquidity Facility.

(b) A credit union that relies on the exemption contained in paragraph (a) of this section is required to comply with:

(1) The regulations of part 450 of this chapter concerning custodial holdings of government securities; and

(2) Section 403.5(d) concerning certain repurchase transactions with customers.

§ 401.6 Exemption for branches and agencies of foreign banks that deal solely with non-United States citizens resident offshore.

(a) Subject to the requirements of paragraph (b) of this section, a branch or agency of a foreign bank shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter, if all the customers with or on behalf of whom it engages in government securities transactions are limited to foreign governments, agencies of foreign governments and other persons and entities who are not citizens of the United States and who reside or, in the case of a corporation, partnership or other entity, have their principal place of business, outside of the United States.

(b) A branch or agency that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of part 450 of this chapter concerning custodial holdings of government securities.

§ 401.7 Temporary exemption for certain government securities brokers and dealers terminating business on or before October 31, 1987.

During the period ending October 31, 1987, a government securities broker or dealer shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5(a), (b), (d)) and the regulations of this subchapter if:

(a) Its government securities broker or dealer activities are limited to the performance of contractual obligations entered into prior to July 25, 1987;

(b) It is the subsidiary or affiliate of a government securities broker or dealer that has registered or given notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o–5(a)(1)); and

(c) It ceases all government securities broker or dealer activities on or before October 31, 1987.

§ 401.8 Temporary exemption for government securities brokers and dealers that are futures commission merchants registered with the CFTC.

During the period ending October 31, 1987, a government securities broker or dealer that is a futures commission merchant shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o–5 (a), (b), (d)) and the regulations of this subchapter if:

(a) It is registered with the Commodity Futures Trading Commission under section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and the regulations thereunder; and

(b) It is not currently the subject of any disciplinary action by any federal or state entity regulating persons dealing in securities or commodities.

PART 402—FINANCIAL RESPONSIBILITY

Sec.

402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.

402.2 Capital requirements for registered government securities brokers and dealers.

402.2a Appendix A—Calculation of market risk haircut for purposes of § 402.2(g)(2).

402.2b [Reserved]

402.2c Appendix C—Consolidated calculation of liquid capital and total haircuts for certain subsidiaries and affiliates.

402.2d Appendix D—Modification of § 240.15c3–1d of this title, relating to satisfactory subordination agreements, for purposes of § 402.2.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(b)(1)(A), (b)(2)).

§ 402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.

(a) *Application of part.* This part applies to all government securities brokers and dealers, except as otherwise provided herein.

(b) *Registered brokers or dealers.* This part does not apply to a registered broker or dealer that is subject to § 240.15c3–1 of this title (SEC Rule 15c3–1).

(c) *Financial institutions.* This part does not apply to a government securities broker or dealer that is a financial institution and that is:

(1) Subject to the rules and regulations of its appropriate regulatory agency concerning capital requirements, or

(2) A branch or agency of a foreign bank subject to regulation, supervision, and examination by state or federal authorities having regulatory or supervisory authority over commercial bank and trust companies.

(d) *Futures commission merchants.* A futures commission merchant subject to § 1.17 of this title that is a government securities broker or dealer but is not a registered broker or dealer shall not be subject to the limitations of § 402.2 but rather to the capital requirement of § 1.17 or § 240.15c3–1 of this title, whichever is greater.

(e) *Government securities interdealer broker.* (1) A government securities interdealer broker, as defined in paragraph (e)(2) of this section, may, with the prior written consent of the Secretary, elect not to be subject to the limitations of § 402.2 but rather to be

subject to the requirements of § 240.15c3–1 of this title (SEC Rule 15c3–1) except paragraph (c)(2)(ix) thereof, and paragraphs (e) (3), (4), (5), (6), (7) and (8) of this section by filing such election in writing with its designated examining authority. A government securities interdealer broker may not revoke such election without the written consent of its designated examining authority.

(2)(i) "Government securities interdealer broker" means an entity engaged exclusively in business as a broker that effects, on an initially fully disclosed or identified group basis, transactions in government securities for counterparties that are government securities brokers or dealers who have registered or given notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o–5(a)(1)), and that promptly transmits all funds and delivers all securities received in connection with its activities as a government securities interdealer broker and does not otherwise hold funds or securities for or owe money or securities to its counterparties and, except as provided in paragraph (e)(2)(ii) of this section, does not have or maintain any government securities in its proprietary or other accounts. For the purpose of this paragraph (e)(2)(i), "identified group basis" means that a counterparty has consented to the identity of the specific group of entities from which the other counterparty is chosen.

(ii) A government securities interdealer broker may have or maintain government securities in its proprietary or other accounts only as a result of:

(A) Engaging in overnight reverse repurchase or securities borrowed transactions solely for the purpose of facilitating the process of clearing government securities transactions;

(B) Engaging in overnight repurchase or securities loaned transactions solely for the purpose of reducing its financing expense in connection with the clearance of government securities transactions;

(C) Subordinated loans subject to satisfactory subordination agreements pursuant to § 240.15c3–1(d) of this title;

(D) Collateral or depository requirements of a clearing corporation or association with which it participates in the clearance of government securities transactions; or

(E) The investment of its excess cash. The maturities of any government securities held or maintained under paragraphs (e)(2)(ii) (C), (D), or (E) of this section may not exceed one year.

(3) In order to qualify to operate under this paragraph (e), a government securities interdealer broker shall at all times have and maintain net capital, as defined in § 240.15c3–1(c)(2) of this title with the modifications of this paragraph (e), of not less than $1,000,000.

(4) For purposes of this paragraph (e), a government securities interdealer broker need not deduct loans to commercial banks for one business day of immediately available funds (commonly referred to as "sales of federal funds") held by the government securities interdealer broker in connection with the clearance of securities on the day the loan is made.

(5) For purposes of this paragraph (e), a government securities interdealer broker need not deduct net pair-off receivables and money differences until the close of business of the third business day following the day the funds are due and give-up receivables outstanding no more than 30 days from the billing date, which shall be no later than the last day of the month in which they arise, as otherwise would be required under § 240.15c3–1(c)(2)(iv)(B) of this title.

(6) For purposes of this paragraph (e), a government securities interdealer broker shall deduct from net worth ¼ of 1 percent of the contract value of each government securities failed-to-deliver contract which is outstanding 5 business days or longer. Such deduction shall be increased by any excess of the contract price of the failed-to-deliver contract over the market value of the underlying security.

(7) For purposes of this paragraph (e), a government securities interdealer broker may exclude from its aggregate indebtedness computation indebtedness adequately collateralized by government securities outstanding for not more than one business day and offset by government securities failed to deliver of the same issue and quantity. In no event may a government securities interdealer broker exclude any overnight bank loan attributable to the same government securities failed-to-deliver contract for more than one business day. A government securities interdealer broker need not deduct from net worth the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of those failed to receive as required by § 240.15c3–1(c)(2)(iv)(E) of this title.

(8)(i) For purposes of this paragraph (e), a government securities interdealer broker shall deduct from net worth 5 percent of its net exposure to each counterparty.

(ii) *Net exposure.* For purposes of this paragraph (e), net exposure shall equal:

(A) The sum of the dollar amount of funds, debt instruments, other securities, and other inventory at risk, in the first instance, to the government securities interdealer broker in the event of the counterparty's default,

(B) Reduced, but not to less than zero, by the sum of:

(*1*) The dollar amount of funds, debt instruments, other securities, and other inventory at risk, in the first instance, to the counterparty in the event of the government securities interdealer broker's default;

(*2*) The deductions taken from net worth for unsecured receivables, repurchase and reverse repurchase deficits, aged fails to deliver, and aged fails to receive arising from transactions with the counterparty;

(*3*) Demand deposits in the case where the counterparty is a commercial bank;

(*4*) Loans for one business day of immediately available funds (commonly referred to as "sales of federal funds") held by the government securities interdealer broker in connection with the clearance of securities on the day the loan is made in the case where the counterparty is a commercial bank;

(*5*) Custodial holdings of securities in the case where the counterparty is a clearing bank or clearing broker of the government securities interdealer broker; and

(*6*) Exposure to a counterparty due to holding marketable instruments subject to market risk haircuts under Appendix A to this section (§ 402.2a) for which the counterparty is the obligor.

(9) On the application of the government securities interdealer broker, the designated examining authority may extend the periods of time in this paragraph (e) if it determines that the extension is warranted because of exceptional circumstances and that the government securities interdealer broker is acting in good faith.

(f) *Effective date.* This part shall be effective July 25, 1987, *provided however,* that until the last business day in October 1987, registered government securities brokers and dealers need not comply with § 402.2 (a), (b), and (c) as long as:

(1) A registered government securities broker or dealer that acts solely as an introducing broker within the meaning of § 240.15c3–1(a)(2) of this title has and maintains liquid capital, as defined in § 402.2(d), in an amount of not less than $5,000; and

(2) Any other registered government securities broker or dealer has and maintains liquid capital, as defined in

§ 402.2(d), in an amount of not less than $50,000.

§ 402.2 Capital requirements for registered government securities brokers and dealers.

(a) *General rule.* No government securities broker or dealer shall permit its liquid capital to be below an amount equal to 120 percent of total haircuts as defined in paragraph (g) of this section.

(b) *Minimum liquid capital.* Notwithstanding the provisions of paragraph (a) of this section, a government securities broker or dealer shall have and maintain liquid capital in an amount not less than $25,000, after deducting total haircuts as defined in paragraph (g) of this section.

(c) *Minimum liquid capital for introducing brokers.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a government securities broker or dealer that acts solely as an introducing broker within the meaning of § 240.15c3–1(a)(2) of this title, shall maintain liquid capital in an amount not less than $5,000, after deducting total haircuts as defined in paragraph (g) of this section.

(d) *Liquid capital.* "Liquid capital" means net capital as defined in § 240.15c3–1(c)(2) of this title with the following modifications:

(1) The percentages used to calculate the deductions for failed to deliver contracts required by § 240.15c3–1(c)(2)(ix) of this title when the underlying instrument is a Treasury market risk instrument as defined in paragraph (e) of this section are the appropriate net position haircut factors specified in paragraph (f)(2) of this section;

(2) The percentages used to calculate deductions required by § 240.15c3–1(c)(2)(iv)(B) of this title for securities that are Treasury market risk instruments are the appropriate net position haircut factors specified in paragraph (f)(2) of this section;

(3) The deduction required by § 240.15c3–1(c)(2)(iv)(F)(*3*)(*i*) of this title relating to repurchase agreement deficits shall be determined without reference to § 240.15c3–1(c)(2)(iv)(F)(*3*)(*i*)(*B*) or § 240.15c3–1(c)(2)(iv)(F)(*3*)(*i*)(*C*);

(4) The deductions from net worth required by §§ 240.15c3–1 (c)(2)(vi) and (c)(2)(viii) of this title and the adjustments to net worth set forth in § 240.15c3–1a and § 240.15c3–1b of this title (Appendices A and B to SEC Rule 15c3–1) are omitted;

(5) Net pair-off receivables and money differences need not be deducted as otherwise would be required under § 240.15c3–1(c)(2)(iv)(B) of this title until the close of business of the third business day following the day the funds are due;

(6) Give-up receivables outstanding no more than 30 days from the billing date, which shall be no later than the last day of the month in which they arise, need not be deducted as otherwise would be required under § 240.15c3–1(c)(2)(iv)(B) of this title;

(7) Loans to commercial banks for one business day of immediately available funds (commonly referred to as "sales of federal funds") held by the government securities broker or dealer in connection with the clearance of securities on the day the loan is made need not be deducted; and

(8) In determining net worth, all long and short positions in unlisted options that are Treasury market risk instruments shall be evaluated in the manner set forth in § 240.15c3–1(c)(2)(i)(B)(*1*) and not in the manner set forth in § 240.15c3–1(c)(2)(i)(B)(*2*) of this title.

(e) *Treasury market risk instruments.* (1) For purposes of this part, the term "Treasury market risk instrument" means the following dollar-denominated securities, debt instruments, and derivative instruments:

(i) Government securities, except equity securities and those mortgage-backed securities described in paragraph (e)(2) of this section;

(ii) Zero-coupon receipts or certificates based on marketable Treasury notes or bonds;

(iii) Marketable certificates of deposit of no more than one year to maturity;

(iv) Bankers acceptances;

(v) Commercial paper of no more than one year to maturity rated in one of the three highest categories by at least two nationally recognized statistical rating organizations;

(vi) Futures, forwards, and listed options on Treasury market risk instruments described in paragraphs (e)(1)(i)–(v) of this section or on time deposits whose changes in yield are closely correlated with the Treasury market risk instruments described in paragraph (e)(1)(iii) of this section, settled on a cash or delivery basis;

(vii) Options on those futures contracts described in paragraph (e)(1)(vi) of this section, settled on a cash or delivery basis; and

(viii) Unlisted options on marketable Treasury bills, notes or bonds.

(2) "Treasury market risk instrument" does not include mortgage-backed securities that do not pass through to each security holder on a pro rata basis a distribution based on the monthly payments and prepayments of principal and interest on the underlying pool of mortgage collateral less fees and expenses.

(f)(1) *Haircut categories.* For purposes of this part, the applicable categories within which non-zero-coupon and zero-coupon Treasury market risk instruments are classified are:

Category	Term or type for non-zero-coupon instruments	Term for zero-coupon instruments
A	Less than 45 days	Less than 45 days.
B	At least 45 days but less than 135 days	At least 45 days but less than 135 days.
C	At least 135 days but less than 9 months	At least 135 days but less than 9 months.
D	At least 9 months but less than 1 year, 6 months	At least 9 months but less than 1 year, 6 months.
E	At least 1 year, 6 months but less than 3 years, 6 months	At least 1 year, 6 months but less than 3 years.
F	At least 3 years, 6 months but less than 7 years, 6 months	At least 3 years but less than 5 years, 6 months.
G	At least 7 years, 6 months but less than 15 years	At least 5 years, 6 months but less than 9 years.
H	15 years and over	At least 9 years but less than 12 years.
I		At least 12 years but less than 21 years
J		21 years and over.
MB	All fixed rate mortgage-backed securities that are Treasury market risk instruments.	
AR	All adjustable rate mortgage-backed securities that are Treasury market risk instruments.	

(2) *Haircut factors.* For purposes of this part, the applicable net position and offset haircut factors to be used in the calculation of the Treasury market risk haircut are as follows:

Category	Haircut factors	
	Net position haircuts (percent)	Offsets (percent)
A	None	None
B	0.12	0.02
C	0.20	0.03
D	0.45	0.07
E	1.10	0.22
F	2.20	0.44
G	3.30	0.50
H	4.50	0.90
I	7.75	1.55
J	11.25	3.38
MB	3.30	0.66
AR	1.10	0.22

(3) *Category pair hedging disallowance haircut factors.* For purposes of this part, the applicable category pair hedging disallowance haircut factors to be used in the calculation of the Treasury market risk haircut are as follows:

Category	Percent disallowed								
	C	D	E	F	G	H	I	J	MB
B	30	40							
C		20	30						
D			20	30	40				
E				20	30	40			
F					20	30	40		30
G						20	30		30
H							20	40	40
I								40	

(g) *Total haircuts.* "Total haircuts" equals the sum of the credit risk haircut and the market risk haircut.

(1) *Credit risk haircut.* The "credit risk haircut" equals the sum of the total counterparty exposure haircut, the total concentration of credit haircut and the credit volatility haircut.

(i) *Net credit exposure.* For purposes of this part, net credit exposure shall equal:

(A) The sum of the dollar amount of funds, debt instruments, other securities, and other inventory at risk to the government securities broker or dealer in the event of the counterparty's default and the market value of purchased unlisted options written by the counterparty that are Treasury market risk instruments,

(B) Reduced, but not to less than zero, by the sum of:

(*1*) The dollar amount of funds, debt instruments, other securities, and other inventory at risk to the counterparty in the event of the government securities broker's or dealer's default and the market value of unlisted options written by the government securities broker or dealer and held by the counterparty that are Treasury market risk instruments;

(*2*) The deductions taken from net worth for unsecured receivables, repurchase and reverse repurchase agreement deficits, aged fails to deliver, and aged fails to receive arising from transactions with the counterparty;

(*3*) Demand deposits in the case where the counterparty is a commercial bank;

(*4*) Loans for one business day of immediately available funds (commonly referred to as "sales of federal funds") held by the government securities broker or dealer in connection with the clearance of securities on the day the loan is made in the case where the counterparty is a commercial bank;

(*5*) Custodial holdings of securities in the case where the counterparty is a clearing bank or clearing broker of the government securities broker or dealer; and

(*6*) Exposure to a counterparty due to holding marketable instruments subject to market risk haircuts under Appendix A to this section (§ 402.2a) for which the counterparty is the obligor.

(ii) *Total counterparty exposure haircut.* The "total counterparty exposure haircut" equals the sum of the counterparty exposure haircuts taken for all counterparties except a Federal Reserve Bank, of the government securities broker or dealer. The "counterparty exposure haircut" equals the product of a counterparty exposure haircut factor of 5 percent and the net credit exposure to a single counterparty not in excess of 15 percent of the government securities broker's or dealer's liquid capital.

(iii) *Total concentration of credit haircut.* The "total concentration of credit haircut" equals the sum of the concentration of credit haircuts taken for all counterparties of the government securities broker or dealer. The "concentration of credit haircut" equals the product of a concentration of credit haircut factor of 25 percent and the amount by which the net credit exposure to a single counterparty is in excess of 15 percent of the government securities broker's or dealer's liquid capital.

(iv) *Credit volatility haircut.* The "credit volatility haircut" equals the product of a credit volatility haircut factor of 0.15 percent and the dollar amount of the larger of the gross long position or gross short position in those Treasury market risk instruments described in paragraphs (e)(1) (iii), (iv) and (v) of this section that have a term to maturity greater than 44 days, including futures and forwards thereon, settled on a cash or delivery basis.

(2) *Market risk haircut.* The "market risk haircut" equals the sum of the Treasury market risk haircut and the other securities haircut, calculated in accordance with the provisions of Appendix A of this section, § 402.2a.

(h) *Debt-equity requirements.* No government securities broker or dealer shall permit the total of outstanding principal amounts of its satisfactory subordination agreements as defined in § 240.15c3–1d of this title (Appendix D to SEC Rule 15c3–1) modified as

provided in Appendix D to this section, § 402.2d, to exceed the allowable levels set forth in § 240.15c3–1(d) of this title.

(i) *Limitation on withdrawal of equity capital.* No equity capital of the government securities broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C to this section, § 402.2c, may be withdrawn by action of a stockholder or partner, or by redemption or purchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee if, after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in § 240.15c3–1d of this title, Appendix D to SEC Rule 15c3–1, modified as provided in Appendix D to this section, § 402.2d) under satisfactory subordination agreements which are scheduled to occur within six months following such withdrawal, advance or loan, either:

(1) The ratio of liquid capital to total haircuts, determined as provided in § 402.2, would be less than 150 percent; or

(2) Liquid capital minus total haircuts would be less than 120 percent of the minimum capital required by § 402.2(b) or § 402.2(c) as applicable; or

(3) In the case of any government securities broker or dealer included in such consolidation, the total outstanding principal amounts of satisfactory subordination agreements of the government securities broker or dealer (other than such agreements which qualify as equity under § 240.15c3–1(d) of this title) would exceed 70% of the debt-equity total as defined in such § 240.15c3–1(d).

The term equity capital includes capital contributions by partners, par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts. The term equity capital does not include securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions. This provision shall not preclude a government securities broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation.

(j) *Modification of appendices to § 240.15c3–1 of this Title.* For purposes of this section, Appendix C to this section (§ 402.2c) is substituted for Appendix C to Rule 15c3–1 (§ 240.15c3–1c of this title), and Appendix D to Rule 15c3–1 (§ 240.15c3–1d of this title), relating to Satisfactory Subordination Agreements, is modified as provided in Appendix D to this section (§ 402.2d).

§ 402.2a Appendix A—Calculation of market risk haircut for purposes of § 402.2(g)(2).

The market risk haircut is the sum of the Treasury market risk haircut and the other securities haircut, calculated as follows.

(a) *Treasury market risk haircut.* The "Treasury market risk haircut" equals the sum of the total governments offset portion haircut, the total futures and options offset haircut, the total hedging disallowance haircut, and the residual net position haircut, calculated with respect to financings and positions in Treasury market risk instruments, except to the extent that a permissible election is made pursuant to paragraph (b)(1) of this section to include qualified positions in the calculation of the other securities haircut.

(1) *Total governments offset portion haircut.* The "total governments offset portion haircut" equals the sum of the governments offset portion haircuts calculated for each category in § 402.2(f)(1). The "governments offset portion haircuts" equal, for each category in § 402.2(f)(1), the product of the offset haircut factor for that category set out in § 402.2(f)(2) and the smaller of the absolute values of the gross long immediate position or gross short immediate position for that category. Schedules B and C in paragraph (c) of this section can be used to make this calculation.

(i)(A) The "gross long immediate position" for purposes of this part equals, for each category except categories MB and AR in § 402.2(f)(1), the sum of the market values of each long immediate position in Treasury market risk instruments with a term to maturity (or, in the case of a floating rate note, the time to the next scheduled interest rate adjustment or the term to maturity, whichever is less) corresponding to such category, the contract values of each reverse repurchase agreement with a term to maturity or time to the next scheduled interest rate adjustment, whichever is less, corresponding to that category, and the values of the cash collateral of each security borrowing with a term to maturity or time to next scheduled interest rate adjustment, whichever is less, corresponding to such category.

(B) In the case of category MB, the "gross long immediate position" equals the sum of the market values of all long immediate positions in fixed rate mortgage-backed securities which are Treasury market risk instruments.

(C) In the case of category AR, the "gross long immediate position" equals the sum of the market values of all long immediate positions in adjustable rate mortgage-backed securities which are Treasury market risk instruments.

(ii)(A) The "gross short immediate position" for purposes of this section equals, for each category except categories MB and AR in § 402.2(f)(1), the sum of the market values of each short immediate position in Treasury market risk instruments with a term to maturity (or, in the case of a floating rate note, the time to the next scheduled interest rate adjustment or the term to maturity, whichever is less) corresponding to such category, and the values of funds received from each financing transaction (including repurchase agreements, securities lending secured by cash collateral, and term financings, but excluding subordinated debt which meets the requirements of § 240.15c3–1d of this title modified as provided in § 402.2d) with a term to maturity or time to the next scheduled interest rate adjustment, whichever is less, corresponding to that category.

(B) In the case of category MB, the "gross short immediate position" equals the sum of the market values of all short immediate positions in fixed rate mortgage-backed securities which are Treasury market risk instruments.

(C) In the case of category AR, the "gross short immediate position" equals the sum of the market values of all short immediate positions in adjustable rate mortgage-backed securities which are Treasury market risk instruments.

(iii) The term "long immediate position" in a Treasury market risk instrument means, for purposes of this part:

(A) The net long position in a Treasury market risk instrument as of the trade date, except when the settlement date, in the case of a Treasury market risk instrument except a mortgage-backed security, is scheduled more than five business days in the future, and, in the case of a mortgage-backed security, more than thirty calendar days in the future;

(B) The net long when-issued position in a marketable U.S. Treasury security between announcement and issue date; and

(C) The net long when-issued position in a government agency or a government sponsored agency debt security between release date and issue date.

(iv) The term "short immediate position" on a Treasury market risk instrument means, for purposes of this part:

(A) The net short position in a Treasury market risk instrument as of the trade date, except when the settlement date, in the case of a Treasury market risk instrument except a mortgage-backed security, is scheduled more than five business days in the future, and, in the case of a mortgage-backed security, more than thirty calendar days in the future;

(B) The net short when-issued position in a marketable U.S. Treasury security between announcement and issue date; and

(C) The net short when-issued position in a government agency or a government sponsored agency debt security between release date and issue date.

(2) *Net immediate position interim haircut.* The "net immediate position interim haircut" equals, for each category in § 402.2(f)(1), the product of the net position haircut factor for that category and the sum of the gross long immediate position and the gross short immediate position for that category. For purposes of this part, a gross long immediate position shall be a positive number and a gross short immediate position shall be a negative number. Schedules B and C in paragraph (c) of this section can be used to make this calculation.

(3) *Total futures and options offset haircut.* The "total futures and options offset haircut" equals the sum of the futures and options offset haircuts calculated for each category in § 402.2(f)(1). The "futures and options offset haircut" equals, for each category in § 402.2(f)(1), the product of a futures and options offset factor of 20 percent and the smaller of the absolute values of the positive and negative aggregate interim haircuts for that category. Schedule D in paragraph (c) of this section can be used to make this calculation.

(i) *Positive aggregate interim haircut.* The "positive aggregate interim haircut" equals, for each category in § 402.2(f)(1), the sum of the positive net immediate position interim haircut (see paragraph (a)(2) of this section), the gross long futures and forward interim haircut, and the positive gross options interim haircut for that category. Schedule D in paragraph (c) of this section can be used to make this calculation.

(A) *Gross long futures and forward interim haircut.* The "gross long futures and forward interim haircut" equals, for each category in § 402.2(f)(1), the sum of the interim haircuts on each long futures position and long forward position placed, in the case of a futures or forward contract on Treasury market risk instruments except mortgage-backed securities, in the category corresponding to the sum of the term to maturity of the contract and the term to maturity of the underlying instrument at the time of the maturity of the contract or, in the case of a futures or forward contract on Treasury market risk mortgage-backed securities, the category corresponding to the type of Treasury market risk mortgage-backed security.

(*1*) For purposes of this part, the "interim haircut on each long futures position and each long forward position" is the product of the net position haircut factor for the category corresponding to, in the case of a futures or forward contract on Treasury market risk instruments except mortgage-backed securities, the maturity of the underlying instrument at the time of the maturity of the contract or, in the case of a futures or forward contract on Treasury market risk mortgage-backed securities, the type of Treasury market risk mortgage-backed security and the value of the long futures position or long forward position evaluated at the current market price for such contract.

(*2*) For purposes of this part, the gross long futures and forward interim haircut shall be a positive number.

(B) *Positive gross options interim haircut.* The "positive gross options interim haircut" equals, for each category in § 402.2(f)(1), the sum of the interim haircuts on each purchased call and sold put placed in the category in which the underlying instrument would be placed.

(*1*) For purposes of this part, the "interim haircut on each purchased call and sold put" equals the lesser of the market value of the option or, (*i*) in the case of an option on a cash instrument, the product of the net position haircut factor for the category to which the underlying cash instrument corresponds and the market value of the underlying cash instrument or, (*ii*) in the case of an option on a futures contract, the interim haircut on the underlying futures contract.

(*2*) For purposes of this part, the positive gross options interim haircut is a positive number.

(ii) *Negative aggregate interim haircut.* The "negative aggregate interim haircut" equals, for each category in § 402.2(f)(1), the sum of the negative net immediate position interim haircut (see paragraph (a)(2) of this section), the gross short futures and forward interim haircut, and the negative gross options interim haircut for that category. Schedule D in paragraph (c) of this section can be used to make this calculation.

(A) *Gross short futures and forward interim haircut.* The "gross short futures and forward interim haircut" equals, for each category in § 402.2(f)(1), the sum of the interim haircuts on each short futures position and short forward position placed, in the case of a futures or forward contract on Treasury market risk instruments except mortgage-backed securities, in the category corresponding to the sum of the term to maturity of the contract and the term to maturity of the underlying instrument at the time of the maturity of the contract or, in the case of a futures or forward contract on Treasury market risk mortgage-backed securities, in the category corresponding to the type of Treasury market risk mortgage-backed security.

(*1*) For purposes of this part, the "interim haircut on each short futures position and each short forward position" is the product of the net position haircut factor for the category corresponding to, in the case of a futures or forward contract on Treasury market risk instruments except mortgage-backed securities, the maturity of the underlying instrument at the time of the maturity of the contract or, in the case of a futures or forward contract on Treasury market risk mortgage-backed securities, the type of Treasury market risk mortgage-backed security and the value of the short futures position or short forward position evaluated at the current market price for such contract.

(*2*) For purposes of this part, the gross short futures and forward interim haircut is a negative number.

(B) *Negative gross options interim haircut.* The "negative gross options interim haircut" equals, for each category in § 402.2(f)(1), the sum of the interim haircuts on each sold call and purchased put placed in the category in which the underlying instrument would be placed.

(*1*) For purposes of this part, the "interim haircut on each sold call and purchased put" equals the lesser of the market value of the option or, (*i*) in the case of an option on a cash instrument, the product of the net position haircut factor for the category to which the underlying cash instrument corresponds and the market value of the underlying cash instrument or, (*ii*) in the case of an option on a futures contract, the interim haircut on the underlying futures contract.

(*2*) For purposes of this part, the negative gross options interim haircut is a negative number.

(4) *Total hedging disallowance haircut.* The "total hedging disallowance haircut" equals the sum of the hedging disallowance haircuts calculated pursuant to each netting of qualified

netting interim haircuts. The "hedging disallowance haircut" equals the absolute value of the product of the applicable category pair hedging disallowance haircut factor specified in § 402.2(f)(3) and the smaller in absolute value of any two qualified netting interim haircuts, netted in accordance with the provisions of this paragraph. Schedule E in paragraph (c) of this section can be used to make this calculation.

(i) *Qualified netting interim haircut.* The term "qualified netting interim haircut" means a residual position interim haircut or a net residual position interim haircut.

(A) *Residual position interim haircut.* The "residual position interim haircut" equals, for each category in § 402.2(f)(1), the sum of the positive aggregate interim haircut and the negative aggregate interim haircut corresponding to the category, calculated in accordance with the provisions of paragraph (a)(3) of this section.

(B)(*1*) *Net residual position interim haircut.* The "net residual position interim haircut" equals, for any two categories between which netting is permitted, the sum of (*i*) the residual position interim haircuts calculated for those categories, in the case of the category of the larger in absolute value of the two residual position interim haircuts being netted, and (*ii*) zero, in the case of the category of the smaller in absolute value of the two residual position interim haircuts being netted.

(*2*) For the purposes of this paragraph (a)(4), netting is permitted only between categories for which a category pair hedging disallowance haircut factor has been specified in paragraph § 402.2(f)(3).

(ii) Net residual position interim haircuts shall be substituted for the residual position interim haircuts in the respective categories in which they have been placed and shall be considered as if they were residual position interim haircuts. New net residual position interim haircuts may continue to be calculated until for each category pair for which netting is permitted at least one of the two qualified netting interim haircuts is zero or both qualified netting interim haircuts are of the same sign.

(5) *Residual net position haircut.* The "residual net position haircut" equals the sum of the absolute values of all qualified netting interim haircuts remaining in each category after the completion of the calculation of permissible nettings described in paragraph (a)(4) of this section. Schedule E in paragraph (c) of this section can be used to make this calculation.

(b) *Other securities haircut.* The "other securities haircut" equals the sum of all deductions specified in § 240.15c3–1 (c)(2)(vi) and (c)(2)(viii) of this title and §§ 240.15c3–1a and 240.15c3–1b of this title for long and short positions in securities, futures contracts, forward contracts, options, and other inventory which are not Treasury market risk instruments as defined in § 402.2(e).

(1) A registered government securities broker or dealer may elect to exclude from its calculation of the Treasury market risk haircut and include in its calculation of the other securities haircut long and short positions in Treasury market risk instruments if such positions form part of a hedge against long and short positions in securities, futures contracts, forward contracts, or options which are not Treasury market risk instruments. Only the portion of the total position in a Treasury market risk instrument that forms part of such hedge may be excluded from the calculation of the Treasury market risk haircut and included in the calculation of the other securities haircut.

(2) For purposes of this paragraph (b), a gross long or short position in Treasury market risk instruments shall be considered part of a hedge if the inclusion of such position in the calculation of the other securities haircut would serve to reduce said haircut.

(3) For purposes of this paragraph (b) as it relates to § 240.15c3–1(c)(2)(vi)(M) ("undue concentration"), references to "10 percent of the "net capital'" shall be understood to refer to 10 percent of the liquid capital and references to "Appendix (D) (17 CFR 240.15c3–1d)" shall be understood to refer to such section as modified by § 402.2d.

(c) *Schedules.* This paragraph sets forth schedules which may be used by government securities brokers or dealers in the calculation of total haircuts as required by this Part 402. The appropriate regulatory agency or designated examining authority may specify other substantially similar forms required to be used by government securities brokers or dealers in the calculation of such haircuts.

Schedule A.—Liquid Capital Requirement, Summary Computation

[In thousands of dollars]

1. Liquid capital [1]	———
2. Haircuts on security and financing positions including contractual commitments:	
a. Total governments offset portion haircut (Schedule C)	———
b. Total futures and options offset haircut (Schedule D)	———
c. Total hedging disallowance haircut (Schedule E)	———
d. Residual net position haircut (Schedule E)	———
e. Other securities haircut (use SEC factors)	———
3. Haircuts on credit exposure:	
a. Total counterparty exposure haircut	———
b. Total concentration of credit haircut	———
c. Credit volatility haircut	———
4. Total haircuts (sum of lines 2 a through e, 3 a, b, and c)	———
5. Capital-to-risk ratio (line 1 divided by line 4)	———

[1] Identical to the amount reported on line 3640 of the Report on Finances and Operations of Government Securities Brokers and Dealers, Form G–405.

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Schedule B

Calculation of Net Immediate Positions in Securities and Financings

	Maturity Category 1/	Financings Long 2/ (+)	Financings Short 2/ (-)	Securities Positions Long (+)	Securities Positions Short (-)	Total Securities and Financing Positions (+)	Total Securities and Financing Positions (-)	Offset Portions (+)	Net Immediate Positions (+/-)	
A	0-45 days									A
B	45-135 days									B
C	135 days-9 months									C
D	9-18 months									D
E	1.5-3.5 years (1.5-3 years)									E
F	3.5-7.5 years (3-5.5 years)									F
G	7.5-15 years (5.5-9 years)									G
H	15-30 years (9-12 years)									H
I	(12-21 years)									I
J	(21 years and over)									J
MB	mortgage-backed									MB
AR	adjustable rate mortgage-backed									AR
	Column Number	1	2	3	4	5 (1+3)	6 (2+4)	7# (Note 1)	8# (5+6)	

Carry forward to Schedule C.

Note 1: The offset portion (Column 7) is the smaller of Columns 5 and 6.

1/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in that category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

2/ Long financings are financings which provide securities to a broker or dealer; short financings are those which provide funds.

Schedule C

Governments Offset Portion and Net Immediate Position Interim Haircuts Calculation

	Maturity Category 1/	Governments Offset Portion			Net Immediate Position		
		$ Amounts (+)	Factors	Haircuts (+)	$ Amounts (+/-)	Factors	Interim Haircuts (+/-)
A	0-45 days		None			None	
B	45-135 days		0.0002			0.0012	
C	135 days-9 months		0.0003			0.0020	
D	9-18 months		0.0007			0.0045	
E	1.5-3.5 years (1.5-3 years)		0.0022			0.0110	
F	3.5-7.5 years (3-5.5 years)		0.0044			0.0220	
G	7.5-15 years (5.5-9 years)		0.0050			0.0330	
H	15-30 years (9-12 years)		0.0090			0.0450	
I	(12-21 years)		0.0155			0.0775	
J	(21 years and over)		0.0338			0.1125	
MB	mortgage-backed		0.0066			0.0330	
AR	adjustable rate mortgage-backed		0.0022			0.0110	
	Total Governments Offset Portion Haircut $_____						
Column Number		7 (Note 1)	9	10# (7x9)	8 (Note 1)	11	12## (8x11)

\# Carry to Schedule A, line 2a

\## Carry forward to Schedule D (or Schedule E, if no forwards, futures, or options).

Note 1: From Schedule B.

1/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in the category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

Schedule D

Consolidation of Net Immediate Position Interim Haircuts with Gross Futures and Options Interim Haircuts

(In thousands of dollars)

Maturity Category 1/	Net Immediate Position Interim Haircuts (+/-)	Gross Interim Haircuts: Futures & Forward (+)	Futures & Forward (-)	Options (+)	Options (-)	Aggregate Interim Haircuts (+)	Aggregate Interim Haircuts (-)	Futures & Options Offset Portions 2/ (+)	Residual Position Interim Haircuts (+/-)	
B 45-135 days										B
C 135 days-9 months										C
D 9-18 months										D
E 1.5-3.5 years (1.5-3 years)										E
F 3.5-7.5 years (3-5.5 years)										F
G 7.5-15 years (5.5-9 years)										G
H 15-30 years (9-12 years)										H
I (12-21 years)										I
J (21 years and over)										J
MB mortgage-backed										MB
AR adjustable rate mortgage-backed										AR

Total Futures and Options Offset Portion: $

Factor: x20%

Total Futures and Options Offset Haircut: $ #

Column Number	12 (Note 1)	13	14	15	16	17	18	19 (Note 2)	20## (17+18)

\# Carry to Schedule A, line 2b.

Carry forward to Schedule E.

Note 1: From Schedule C.

Note 2: Column 19 is the smaller of columns 17 and 18.

1/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in the category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year is always considered to be 6 months.

2/ The total futures and options haircut is calculated from the total of column 19.

Schedule E

Calculation of Hedging Disallowance Haircuts when Netting Haircuts Across Categories 1/

(In thousands of dollars)

Maturity Category 2/	Residual Position Interim Haircuts (+/-)	20% Disallowance: Hedging Disallowance Haircuts (+)	20% Disallowance: Net Residual Position Interim Haircuts (+/-)	30% Disallowance: Hedging Disallowance Haircuts (+)	30% Disallowance: Net Residual Position Interim Haircuts (+/-)	40% Disallowance: Hedging Disallowance Haircuts (+)	40% Disallowance: Net Residual Position Interim Haircuts (+/-)	Hedging Disallowance Haircuts (+)	Qualified Netting Interim Haircuts (+)
B 45-135 days									
C 135 days-9 months									
D 9-18 months									
E 1.5-3.5 years (1.5-3 years)									
F 3.5-7.5 years (3-5.5 years)									
G 7.5-15 years (5.5-9 years)									
H 15-30 years (9-12 years)									
I (12-21 years)									
J (21 years and over)									
MB mortgage-backed									
AR adjustable rate mortgage-backed									
B									
C									
D									
E									
F									
G									
H									
I									
J									
MB									
AR									

Total Hedging Disallowance Haircut: $_____

Residual Net Position Haircut: $_____

Column Number	20 (Note 1)	21	22 (Note 2)	23	24 (Note 2)	25	26 (Note 2)	27# (Note 3)	28##

\# Column 27 carries forward to Schedule A, line 2c.

\## Column 28 total carries forward to Schedule A, line 2d.

Note 1: From Schedule D (or Schedule C, if no forwards, futures, or options).

Note 2: Net of two offsetting haircuts of paired maturity categories.

Note 3: For every entry in column 20 there should be an entry in either column 27 or 28 (but never both).

1/ See Sec 402.2(f)(3) for category pair hedging disallowance haircut factors.

2/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in the category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

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Instructions to Schedules A through E

Schedules A through E may be used by government securities brokers or dealers subject to 17 CFR 402 to determine the firm's capital-to-risk ratio. Section 402.2 provides that a government securities broker or dealer must meet the applicable minimum dollar liquid capital requirement and that the firm's ratio of liquid capital to risk (total haircuts) must be at least 1.2:1; liquid capital must exceed risk by at least 20 percent. Total haircuts is the risk measure used in the ratio; it is made up of measures of market risk and measures of credit risk. The market risk of a government securities broker's or dealer's positions is accounted for through the Treasury market risk haircut and the other securities haircut. Credit risk is accounted for in the counterparty exposure, concentration of credit, and credit volatility haircuts and in the computation of liquid capital through the various deductions and charges.

Only positions in Treasury market risk instruments and financings may be used in the calculation of the Treasury market risk haircut. Treasury market risk instruments and financings are described in 17 CFR 402.2 and in the instructions to the schedule where they are to be first entered. All other types of financial instruments are to be included in the calculation of the other securities haircut. Calculation of the other securities haircut is based on the SEC's Rule 15c3–1 (17 CFR 240.15c3–1).

Treasury market risk instruments may be excluded from the calculation of the Treasury market risk haircut if they are included in the calculation of the other securities haircut as part of a hedge against long and short positions in securities, futures contracts, forward contracts, or options that are not Treasury market risk instruments. Only the portion of the total position in a Treasury market risk instrument that forms part of such a hedge may be excluded, and the result of this transfer of the Treasury market risk instruments must be a reduction in the other securities haircut.

The categories for classifying Treasury market risk instruments are designated in 17 CFR 402.2(f)(1). The categories, which are designated by a maturity range, contain all securities with remaining terms to maturity greater than or equal to the lower end of the range but less than the higher. A half year is always considered to be 6 months. In categories A through D, zero-coupon instruments are to be treated in the same manner as all other instruments. In categories E through J, the maturity designations in parentheses give the maturities of the zero-coupon instruments to be placed in that category. All mortgage-backed securities that are Treasury market risk instruments are to be placed in category MB or category AR, depending on whether they are backed by conventional or adjustable-rate mortgages.

All haircuts may be calculated to the nearest hundred dollars, unless such rounding would materially affect the liquid capital calculation.

Appendix A to the Preamble published with the temporary regulations for 17 CFR Part 402 (52 FR 19669, May 26, 1987) contains an example of the capital calculation. It may also be used as an aid in completing these schedules.

Schedule A—Liquid Capital Requirement Summary Computation

Schedule A is used to determine the capital-to-risk ratio by comparing liquid capital to total haircuts. Schedule A will be the last schedule completed as many of the haircuts entered on Schedule A are calculated on Schedules B through E.

Line 1—Enter liquid capital, which is identical to the amount reported on line 3640 of the Report on Finances and Operations of Government Securities Brokers and Dealers, Form G–405.

Line 2—Haircuts on "Security and Financing Positions" including contractual commitments:

a. Enter the Total Governments Offset Portion Haircut from column 10 of Schedule C.

b. Enter the Total Futures and Options Offset Haircut from column 19 of Schedule D.

c. Enter the Total Hedging Disallowance Haircut as calculated in Schedule E, column 27.

d. Enter the Residual Net Position Haircut as given in column 28 of Schedule E.

e. Enter the other securities haircut as determined by applying the SEC haircut factors to securities, futures contracts, forward contracts, options and other inventory that are not Treasury market risk instruments as defined in 17 CFR 402.2(e). The other securities haircut is the sum of all applicable deductions as specified in 17 CFR 240.15c3–1 (c)(2)(vi) and (c)(2)(viii) and in 17 CFR 240.15c3–1a and 240.15c3–1b. Any position(s) in Treasury market risk instruments that have been excluded from the calculation of the Treasury market risk haircut because they are part of a hedge with these other instruments are to be included in the calculation of this haircut.

Line 3—Haircuts on credit exposure:

a. Enter the total counterparty exposure haircut which is the sum of the counterparty exposure haircut with each counterparty, except a Federal Reserve Bank. A counterparty exposure haircut is equal to 5 percent of the net credit exposure to a single counterparty which is not in excess of 15 percent of the government securities broker's or dealer's liquid capital. If the net credit exposure to a counterparty does exceed 15 percent of liquid capital, the excess will be used in calculating the total concentration of credit haircut on line 3b.

Net credit exposure equals the difference between the government securities broker's or dealer's credit exposure to a single counterparty and that counterparty's credit exposure to the government securities broker or dealer. The government securities broker's or dealer's credit exposure to a counterparty is equal to the sum of the dollar amount of funds, debt instruments, other securities, and other inventory at risk to the government securities broker or dealer in the event of the counterparty's default and the market value of purchased unlisted options that are Treasury market risk instruments and were written by the counterparty. It does not include, however, (1) the deduction taken from net worth for unsecured receivables, repurchase and reverse repurchase agreement deficits, aged fails to deliver, and aged fails to receive arising from transactions with the counterparty; (2) demand deposits in the case where the counterparty is a commercial bank; (3) loans of immediately available funds (commonly referred to as "sales of federal funds") held by the government securities broker or dealer in connection with the clearance of securities on the day the loan is made in the case where the counterparty is a commercial bank; (4) custodial holdings of securities in the case where the counterparty is a clearing bank or clearing broker of the government securities broker or dealer; or (5) credit exposure to the counterparty due to holding marketable instruments for which the counterparty is the obligor.

The counterparty's credit exposure to the government securities broker or dealer equals the dollar amount of funds, debt instruments, other securities, and other inventory at risk to the counterparty in the event of the government security broker's or dealer's default and any unlisted options written by the government securities broker or dealer and held by the counterparty.

b. Enter the total concentration of credit haircut which is the sum of all

concentration of credit haircuts applied in cases where the net credit exposure (as defined above) to a single counterparty is in excess of 15 percent of the government securities broker's or dealer's liquid capital. The concentration of credit haircut is 25 percent of the amount of net credit exposure in excess of 15 percent of the government securities broker's or dealer's liquid capital.

c. Enter the credit volatility haircut which equals a factor of 0.15 percent applied to the larger of the gross long or gross short position in money market instruments qualifying as Treasury market risk instruments which mature in 45 days or more, and in futures and forwards on these instruments that are settled on a cash or delivery basis. Money market instruments qualifying as Treasury market risk instruments are (1) certificates of deposit with no more than one year to maturity, (2) bankers acceptances, and (3) commercial paper which has no more than one year to maturity and is rated in one of the three highest categories by at least two nationally recognized statistical rating organizations.

Line 4—Enter total haircuts which is the sum of lines 2 a through e, and 3 a, b, and c.

Line 5—Enter the capital-to-risk ratio which is found by dividing line 1, "Liquid capital," by line 4, "Total haircuts." The capital-to-risk ratio must be at least equal to 1.2:1.

Schedule B—Calculation of Net Immediate Position in Securities and Financings

Schedule B is used to calculate the net immediate position in and offset portion of securities and financings. The results are then carried over to Schedule C for initial haircut calculations. Futures, forwards, and options which are Treasury market risk instruments are to be entered on Schedule D.

Positions in and financings on debt instruments other than mortgage-backed or adjustable rate mortgage-backed securities should be placed in the category corresponding to their remaining term to maturity. In the case of a floating rate note, however, the note should be placed in the category corresponding to the time to the next scheduled interest rate adjustment or remaining term to maturity, whichever is less.

Column 1—Under "Financings-Long" report in the appropriate category the contract value of reverse repurchase agreements and the value(s) of cash collateral on security borrowings. Financings so reported should be placed in the category corresponding to the remaining term to maturity or time to the next scheduled interest rate adjustment, whichever is less.

Column 2—Under "Financings-Short" report in the appropriate category as a negative number the values of funds received from financing transactions. Include repurchase agreements, securities lending secured by cash collateral, and term financings, but exclude subordinated debt which meets the requirements of 17 CFR 240.15c3–1d as modified by 17 CFR 402.2d. Financings so reported should be placed in the category corresponding to the remaining term to maturity or time to the next scheduled interest rate adjustment, whichever is less.

Columns 3 and 4—Report in the appropriate column by maturity or type of mortgage-backed security under "Securities Positions" the sum of the market values of immediate positions in Treasury market risk instruments. The net position in each individual Treasury market risk instrument is to be appropriately reported as a long (+) or short (−) position in summation with all other positions of the same category (long/short). Short positions are assigned a negative value. Treasury market risk instruments are defined in 17 CFR 402.2(e). Those to be reported in Schedule B are:

(1) Government securities as defined in 17 CFR 400.3(m) except equity securities and mortgage-backed securities which do not pass through to the security holder on a pro rata basis a distribution based on the monthly payments and prepayments of principal and interest on the underlying pool of mortgage collateral less fees and expenses;

(2) Zero-coupon receipts or certificates based on marketable Treasury notes or bonds;

(3) Marketable certificates of deposit of no more than one year to maturity;

(4) Bankers acceptances; and

(5) Commercial paper of no more than one year to maturity rated in one of the three highest categories by at least two nationally recognized statistical rating organizations.

Report all positions as of the trade date. If the settlement date is scheduled for more that five business days in the future (or, in the case of a mortgage-backed security, more than thirty calendar days in the future), then report the position as a forward contract on Schedule D. Also, under "Securities Positions" in the appropriate column and category, report any when-issued position in a marketable Treasury security between announcement and issue date and any when-issued position in a government agency or a government sponsored agency debt security between release date and issue date.

Exclude positions in Treasury market risk instruments which form part of a hedge against long and short positions in securities, futures contracts, forward contracts, or options that are not Treasury market risk instruments and are to be included in the calculation of the other securities haircut. Only that portion of the total position in a Treasury market risk instrument that forms part of such a hedge may be excluded, and the inclusion of the Treasury market risk instruments must reduce the other securities haircut.

Column 5—Under "Total Securities and Financing Positions (+)" report in the appropriate category the sum of the long financings (column 1) and long securities positions (column 3).

Column 6—Under "Total Securities and Financing Positions (−)" report in the appropriate category the sum of the short financings (column 2) and short securities positions (column 4).

Column 7—Under "Offset Portions" report in the appropriate category the lesser of the absolute values of the positive (column 5) or negative (column 6) total securities and financing positions.

Column 8—Under "Net Immediate Positions" report in the appropriate category the sum, or net value, of the positive (column 5) and negative (column 6) total securities and financing positions.

Columns 7, "Offset Portions," and 8, "Net Immediate Positions," are to be carried to Schedule C.

Schedule C—Governments Offset Portion and Net Immediate Position Interim Haircuts Calculation

Schedule C is used to calculate the total governments offset portion haircut and net immediate position interim haircuts by applying offset and net position haircut factors to the offset portions and net immediate positions in Treasury market risk instruments and financings. The total governments offset portion haircut is then carried to Schedule A, and the net immediate position interim haircuts are carried to Schedule D or E.

Column 7—Transfer to column 7, "Governments Offset Portion—$ Amounts," column seven from Schedule B, "Offset Portions."

Column 9—These are the governments offset portion haircut factors given at 17 CFR 402.2(f)(2). They may be updated from time to time.

Column 10—Under "Governments Offset Portion—Haircuts" report in the appropriate category the product of the

corresponding values in column 7, "$ Amounts," and in column 9, "Factors."

To determine the total governments offset portion haircut, sum the values under "Governments Offset Portion—Haircuts" in column 10, and enter this number in the appropriate space. Carry this value to Schedule A, line 2a, converting, if necessary, to thousands of dollars.

Column 8—Transfer to column 8, "Net Immediate Positions—$ Amounts," column eight from Schedule B, "Net Immediate Positions."

Column 11—These are the net immediate position haircut factors given at 17 CFR 402.2(f)(2). They may be updated from time to time.

Column 12—Under "Net Immediate Positions—Interim Haircuts" place in the appropriate category the product of the corresponding values in column 8, "$ Amounts," and in column 11, "Factors." A haircut on a short position remains negative.

Carry column 12 to Schedule D, or, if there are no futures, forwards, or options positions, to Schedule E.

Schedule D—Consolidation of Net Immediate Position Interim Haircuts with Gross Futures and Options Interim Haircuts

Schedule D is used to enter haircuts on futures, forwards and options positions and to calculate the total futures and options offset haircut and the residual position interim haircuts as needed for Schedules A and E respectively. If there are no futures and options positions, it is not necessary to fill out Schedule D.

Report on Schedule D futures, forwards, and options which are Treasury market risk instruments as defined in 17 CFR 402.2(e). These futures, forwards, and listed option contracts may be based on any of the Treasury market risk instruments described in the instructions to columns 3 and 4 on Schedule B or on time deposits whose changes in yield are closely correlated with certificates of deposit which are Treasury market risk instruments. Options on Treasury market risk futures contracts and unlisted options on marketable Treasury bills, notes, and bonds are also to be included. Futures contracts may settle on a cash or delivery basis. Any of these contracts which are being included as part of a hedge in the calculation of the other securities haircut must be excluded from Schedule D.

Report as a forward contract any position for which the time between trade date and settlement date is more than five business days (30 calendar days for a mortgage-backed security). Any when-issued position in a marketable Treasury security established between announcement and issue date and any when-issued position in a government agency or a government sponsored agency debt security established between release date and issue date is reported in the appropriate category on Schedule B under "Securities Positions."

Column 12—Transfer to column 12, "Net Immediate Position Interim Haircuts," column 12 from Schedule C, "Net Immediate Positions—Interim Haircuts," converting, if necessary, to thousands of dollars.

Columns 13 and 14—Under "Gross Interim Haircuts—Futures and Forward" enter in the appropriate category the sum of the interim haircuts on the futures or forward positions belonging to that category. The interim haircut on a futures or forward position equals the product of the value of the position evaluated at the current market price for such contract and the net position haircut factor that corresponds to either the term to maturity of the underlying instrument or, for mortgage-backed securities, the type of security. The term to maturity of the underlying instrument is the term to maturity of the deliverable security at the time of the maturity of the futures or forward contract. The haircut on a futures or forward position on a non-mortgaged-backed instrument is to be entered in the category corresponding to the sum of the remaining time to maturity of the futures or forward contract and the maturity of the underlying instrument. Haircuts on futures and forwards on mortgage-backed securities are to be entered in the appropriate mortgage-backed securities category. The interim haircuts on long futures and forwards are positive (column 13), and on short futures and forwards, negative (column 14).

Columns 15 and 16—Under "Gross Interim Haircuts—Options" enter, in the category in which the instrument directly underlying the contract would be entered, the lesser of (1) the market value of the option or (2) the net immediate position interim haircut on the underlying cash instrument or gross futures interim haircut on the underlying futures contract. Note that in the case of an option on a futures contract the category in which the option contract is to be entered is the sum of the remaining time to maturity of the futures or forward contract and the maturity of the instrument underlying the futures or forward contract. The haircut factor used to determine the gross futures interim haircut is that factor corresponding to the term to maturity of the deliverable security at the time of the maturity of the futures or forward contract. Gross option haircuts on purchased calls and sold puts are positive, those on sold calls and purchased puts are negative.

Column 17—Under "Aggregate Interim Haircuts (+)" enter in the appropriate category, the sum of any positive net immediate position interim haircut (column 12) and the positive gross option (column 15) and gross futures and forward (column 13) interim haircuts for that category.

Column 18—Under "Aggregate Interim Haircuts (−)" enter in the appropriate category, the sum of any negative net immediate position interim haircut (column 12) and the negative gross option (column 16) and gross futures and forward (column 14) interim haircuts for that category.

Column 19—Under "Futures and Options Offset Portions" enter, in the appropriate category, the lesser of the absolute values of the positive and negative aggregate interim haircuts (columns 17 and 18) for that category.

The total futures and options offset portion is the sum of the values in column 19 under "Futures and Options Offset Portions."

The total futures and options offset haircut is the total futures and options offset portion multiplied by a factor of 20 percent and is carried to line 2b, Schedule A.

Column 20—Enter in the appropriate category under "Residual Position Interim Haircuts" the sum, or net value, of the positive and negative aggregate interim haircuts. Carry this to column 20 on Schedule E.

Schedule E—Calculation of Hedging Disallowance Haircuts When Netting Haircuts Across Categories

Schedule E is used to calculate the hedging disallowance and residual net position haircuts which are then carried to Schedule A. The purpose of Schedule E is to hedge positions in different categories in order to reduce total haircuts. Netting the residual position interim haircuts reflects the risk reduction inherent in hedges between positions in different categories where the price volatility is reasonably well correlated.

Section 402.2(f)(3) of the rule specifies the hedging disallowance haircut factors for the category pairs. Netting of residual position interim haircuts is permitted only between any two categories for which a hedging disallowance haircut factor is specified. Hedging disallowance haircuts are similar to offset haircuts in that they are

applied to the smaller of the two residual position interim haircuts and represent the portion of the hedge being "disallowed." A hedging disallowance haircut is determined each time two residual position interim haircuts are netted.

There are three levels of permissible netting corresponding to the three hedging disallowance haircut factors: The 20 percent, 30 percent, and 40 percent levels. It is not necessary to net all possible pairs at any one level. A greater reduction in total haircuts can sometimes be obtained by choosing not to net a pair at one level (e.g., the 20 percent level) so that one element of the pair can be netted against a third category at another level (e.g., the 30 percent level).

Column 20—Transfer column 20, "Residual Position Interim Haircuts," from Schedule D. If there are no futures or options positions, transfer instead column 12, "Net Immediate Positions—Interim Haircuts," from Schedule C.

Column 21—Use the matrix at 17 CFR 402.2(f)(3) to determine the categories from which the residual position interim haircuts may be paired at the 20 percent level. For each pair multiply the smaller of the absolute values of the two residual position interim haircuts by the hedging disallowance haircut factor of 20 percent, and, in the category of the smaller, enter the resulting hedging disallowance haircut.

Column 22—For each pair being netted at this level, enter under "Net Residual Position Interim Haircuts" (1) the sum, or net value, of the two residual position interim haircuts (and/or net residual position interim haircuts) in the category of the larger (in absolute value) of the two interim haircuts that were netted, and (2) a zero in the category of the smaller.

These net residual position interim haircuts replace the residual position interim haircuts (or net residual position interim haircuts) from which they were derived. Net residual position interim haircuts can in turn be used in any other allowable netting exactly as residual position interim haircuts would be. If further netting of that category at the same level is permissible and possible, it will be necessary to replace the net residual position interim haircut involved with a new (and smaller) net residual position interim haircut in column 22.

Since the net residual position interim haircut in any category containing a hedging disallowance haircut is zero, further netting with any such category is impossible.

After all netting has been completed for category pairs with a 20 percent hedging disallowance haircut factor, move on to column 23.

Column 23—Use the matrix at 17 CFR 402.2(f)(3) to determine the categories from which the residual position interim haircuts and/or net residual position interim haircuts may be paired at the 30 percent level. In each category, the newest (and smallest) net residual position interim haircut determined by netting at the 20 percent level replaces the old value and must be used in hedging in that category at higher levels. For each pair being netted, multiply the smaller of the absolute values of the two (net) residual position interim haircuts by the hedging disallowance haircut factor of 30 percent, and in the category of the smaller, enter the resulting hedging disallowance haircut.

Column 24—For each pair being netted at this level, enter under "Net Residual Position Interim Haircuts" (1) the sum, or net value, of the two residual position interim haircuts and/or net residual position interim haircuts in the category of the larger (in absolute value) of the two interim haircuts that were netted, and (2) a zero in the category of the smaller.

These net residual position interim haircuts replace the residual position interim haircuts (or net residual position interim haircuts) from which they were derived. Net residual position interim haircuts can in turn be used in any other allowable netting exactly as residual position interim haircuts would be. If further netting of that category at the same level is permissible and possible, it will be necessary to replace the net residual position interim haircut involved with a new (and smaller) net residual position interim haircut.

After all netting has been completed for category pairs with a 30 percent hedging disallowance haircut factor, continue to column 25.

Column 25—Use the matrix at 17 CFR 402.2(f)(3) to determine the categories from which the residual position interim haircuts and/or net residual position interim haircuts may be paired at the 40 percent level. In each category, any new net residual position interim haircut determined by netting at the 20 or 30 percent level replaces the old value and must be used in hedging with that category at the 40 percent level. For each pair being netted, multiply the smaller of the absolute values of the two (net) residual position interim haircuts by the hedging disallowance haircut factor of 40 percent and, in the category of the smaller, enter the resulting hedging disallowance haircut.

Column 26—For each pair being netted at this level, enter under "Net Residual Position Interim Haircuts" (1) the sum, or net value, of the two (net) residual position interim haircuts in the category of the larger (in absolute value) of the two interim haircuts that were netted, and (2) a zero in the category of the smaller. If further netting of that category at the same level is permissible and possible, it will be necessary to replace the net residual position interim haircut involved with a new (and smaller) net residual position interim haircut.

Column 27—When all possible (net) residual position interim haircuts have been netted, enter under "Hedging Disallowance Haircuts" all hedging disallowance haircuts calculated in the netting procedures, each in its appropriate category.

Enter under "Total Hedging Disallowance Haircut" the sum of all the hedging disallowance haircuts entered in column 27. Carry to Schedule A, line 2c.

Column 28—Under "Qualified Netting Interim Haircuts" enter in the appropriate category the absolute value of the haircut given under "Net Residual Position Interim Haircut" at the highest hedging disallowance factor used for that category (columns 26, 24, or 22). This value will also be the smallest of the net residual position interim haircuts in that category. If the position in a given category was not used in hedging then enter the absolute value of the residual position interim haircut from column 20.

Sum the qualified netting interim haircuts, enter this value under "Residual Net Position Haircut," and carry to Schedule A, line 2d.

§ 402.2b [Reserved]

§ 402.2c Appendix C—Consolidated computations of liquid capital and total haircuts for certain subsidiaries and affiliates.

(a) *Consolidation.* (1) A government securities broker or dealer (the "parent broker or dealer"), in computing its liquid capital and total haircuts pursuant to § 402.2:

(i) Shall consolidate in a single computation of liquid capital the assets and liabilities of any subsidiary or affiliate for which the parent broker or dealer guarantees, endorses, or assumes directly or indirectly the obligations or liabilities if the parent broker or dealer has obtained the opinion of counsel described in paragraph (b) of this section with respect to such subsidiary or affiliate;

(ii) May not consolidate in a single computation of liquid capital the assets and liabilities of any subsidiary or affiliate for which the parent broker or

dealer guarantees, endorses, or assumes directly or indirectly the obligations or liabilities if the parent broker or dealer has not obtained the opinion of counsel described in paragraph (b) of this section with respect to such subsidiary or affiliate, but in that event, the parent broker or dealer shall compute its total haircuts by adding the total haircuts of each such subsidiary or affiliate computed in accordance with the provisions of § 402.2 to the haircuts of the parent broker or dealer computed separately in accordance with the provisions of § 402.2; and

(iii) May consolidate in its computation of liquid capital the assets and liabilities of any majority owned and controlled subsidiary or affiliate for which the parent broker or dealer does not guarantee, endorse or assume directly or indirectly the obligations or liabilities if the parent broker or dealer has obtained the opinion of counsel described in paragraph (b) of this section with respect to such subsidiary or affiliate.

(2) With respect to any subsidiary or affiliate whose assets and liabilities are consolidated in the parent broker's or dealer's computation of liquid capital according to the provisions of paragraph (a)(1)(i) or (a)(1)(iii) of this section, the parent broker or dealer shall compute its haircuts in accordance with the provisions of § 402.2 as if the consolidated entity were one firm, or, in the alternative, shall add the total haircuts of each consolidated subsidiary or affiliate computed in accordance with the provisions of § 402.2 to the haircuts of the parent broker or dealer computed separately in accordance with the provisions of § 402.2.

(b) *Required counsel opinion.* The opinion of counsel referred to in paragraph (a) of this section shall demonstrate to the satisfaction of the Commission, through the Designated Examining Authority, that net asset values, or the portion thereof related to the parent broker's or dealer's ownership interest in a majority owned and controlled subsidiary or affiliate, may be caused by the parent broker or dealer or an appointed trustee to be distributed to the parent broker or dealer within 30 calendar days. Such opinion shall also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholder employees, litigants and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the Commission or the Designated Examining Authority by rule or interpretation may require. Such opinion shall be current and periodically renewed in connection with the parent broker's or dealer's annual audit pursuant to § 240.17a–5 of this title, as made applicable to government securities brokers or dealers by § 405.2 of this chapter, or upon any material change in circumstances.

(c) *Principles of consolidation.* The following minimum and non-exclusive requirements shall govern the consolidation of a subsidiary or affiliate in the computation of total liquid capital and total haircuts of a government securities broker or dealer pursuant to this section:

(1) The total liquid capital of the government securities broker or dealer shall be reduced by the estimated amount of any taxes reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.

(2) Liabilities of a consolidated subsidiary or affiliate that are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall not be added to consolidated net worth unless such subordination extends also to the claims of present or future creditors of the parent broker or dealer and all consolidated subsidiaries.

(3) Subordinated liabilities of a consolidated subsidiary or affiliate that are consolidated in accordance with paragraph (c)(2) of this section may not be prepaid, repaid or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provision of § 240.15c3–1d of this title, as modified by § 402.2d.

(4) Each government securities broker or dealer included within the consolidation shall at all times be in compliance with the liquid capital or net capital requirement to which it is subject.

(d) *Certain Precluded Acts.* Even if consolidation is not required or allowed under paragraph (a) of this section, no parent broker or dealer shall guarantee, endorse or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the parent broker's or dealer's computation of liquid capital.

§ 402.2d Appendix D—Modification of § 240.15c3–1d of this title, relating to satisfactory subordination agreements, for purposes of § 402.2.

Section 240.15c3–1d of this title shall apply to government securities brokers and dealers subject to the requirements of § 402.2 with the following modifications.

(a) References to "broker or dealer" include government securities brokers and dealers.

(b) References to "17 CFR 240.15c3–1" mean § 402.2.

(c) Section 240.15c3–1d(a)(2)(iii) is modified to read as follows:

"(iii) The term "Collateral Value" of any securities pledged to secure a secured demand note shall mean the market value of such securities after giving effect to the haircuts specified in § 402.2a of this title.".

(d) References to "17 CFR 240.15c3–1d" mean that section as modified by this section.

(e) Section 240.15c3–1d(b)(6)(iii) is modified to read as follows:

"(iii) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender, with the prior written consent of the government securities broker or dealer and the Examining Authority for such broker or dealer, may reduce the unpaid principal amount of the secured demand note. After giving effect to such reduction, the liquid capital, as defined in § 402.2(d) of this title, of the government securities broker or dealer may not be less than 150% of the government securities broker's or dealer's total haircuts, as defined in § 402.2(g) of this title. No single secured demand note shall be permitted to be reduced by more than 15% of its original principal amount and after such reduction no excess collateral may be withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, liquid capital after deducting total haircuts would be less than 120% of the minimum dollar amount required by § 402.2(b) or § 402.2(c) of this title as applicable.".

(f) Section 240.15c3–1d(b)(7) is modified to read as follows:

"(7) A government securities broker or dealer at its option but not at the option of the lender may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the

scheduled maturity date of such Payment Obligation (hereinafter referred to as a "Prepayment"), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective. This restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this section. No Prepayment shall be made if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturities or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the government securities broker or dealer, the liquid capital, as defined in § 402.2(d) of this title, of the government securities broker or dealer would be less than 150% of the government securities broker's or dealer's total haircuts, as defined in § 402.2(g) of this title. Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such government securities broker or dealer.".

(g) Section 240.15c3–1d(b)(8) is modified to read as follows:

"(i) The Payment Obligation of the government securities broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation), either the liquid capital, as defined in § 402.2(d) of this title, of the government securities broker or dealer would be less than 150% of the government securities broker's or dealer's total haircuts, as defined in § 402.2(g) of this title, or the government securities broker's or dealer's liquid capital after deducting total haircuts would be less than 120% of the minimum dollar amount required by § 402.2(b) or § 402.2(c) of this title, as applicable. The subordination agreement may provide that if the Payment Obligation of the government securities broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the government securities broker or dealer shall thereupon commence the rapid and orderly liquidation of its business but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of 17 CFR 240.15c3–1 and 240.15c3–1d.".

(h) Section 240.15c3–1d(b)(10)(ii)(B) is modified to read as follows:

"(B) The liquid capital, as defined in § 402.2(d) of this title, of the government securities broker or dealer being less than 120% of total haircuts, as defined in § 402.2(g) of this title, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the government securities broker or dealer, or the Examining Authority or the Commission first determines and notifies the government securities broker or dealer of such fact;".

(i) Section 240.15c3–1d(c)(2) is modified to read as follows:

"(2) *Notice of Maturity or Accelerated Maturity.* Every government securities broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer, the liquid capital, as defined in § 402.2(d) of this title, of such government securities broker or dealer, would be less than 150% of total haircuts, as defined in § 402.2(g) of this title.".

(j) Section 240.15c3–1d(c)(5)(i) is modified to read as follows:

"(i) For the purpose of enabling a government securities broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the capital requirements of § 402.2 of this title, a government securities broker or dealer shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a government securities broker or dealer if, at such time, it is subject to any of the reporting provisions of § 405.3 of this title, irrespective of its compliance with such provisions or if immediately prior to entering into such subordination agreement, the liquid capital, as defined in § 402.2(d) of this title, of such broker or dealer would be less than 150% of total haircuts, as defined in § 402.2(g) of this title, or the amount of its then outstanding subordination agreements exceeds the limits specified in § 240.15c3–1(d). Such temporary subordination agreement shall be subject to all other provisions of this Appendix D.".

(k) Section 240.15c3–1d(c)(5)(ii)(A) is modified to read as follows:

"(A) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the government securities broker or dealer, the liquid capital, as defined in § 402.2(d) of this title, of such broker or dealer, would be less than 180% of total haircuts, as defined in § 402.2(g) of this title.".

PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

Sec.

403.1 Application of part to registered brokers and dealers.
403.2 Hypothecation of customer securities.
403.3 Use of customers' free credit balances.
403.4 Customer protection—reserves and custody of securities.
403.5 Custody of securities held by financial institutions that are government securities brokers or dealers.
403.6 Compliance with part by futures commission merchants.
403.7 Effective dates.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(b)(1)(A), (b)(2)).

§ 403.1 Application of part to registered brokers and dealers.

With respect to their activities in government securities, compliance by registered brokers or dealers with § 240.8c–1 of this title (SEC Rule 8c–1), as modified by § 403.2 (a), (b) and (c), with § 240.15c2–1 of this title (SEC Rule 15c2–1), with § 240.15c3–2 of this title (SEC Rule 15c3–2) as modified by § 403.3, and with § 240.15c3–3 of this title (SEC Rule 15c3–3) as modified by § 403.4(a)–(i) constitutes compliance with this part.

§ 403.2 Hypothecation of customer securities.

Every registered government securities broker or dealer shall comply with the requirements of § 240.8c–1 of this title concerning hypothecation of customer securities with the following modifications:

(a) In § 240.8c–1(a), the words "no government securities broker or dealer" shall be substituted for the words "no member of a national securities exchange, and no broker or dealer who transacts a business in securities through the medium of such member."

(b) Section 240.8c–1(d) is modified to read as follows:

"(d) *Exemption for clearing liens.* The provisions of paragraphs (a)(2), (a)(3) and (f) of this section shall not apply to any lien or claim of a clearing bank, or the clearing corporation (or similar department or association) of a national securities exchange or a registered national securities association, for a loan made to acquire any securities subject to said lien and to be repaid on the same calendar day, which loan is incidental to the clearing of transactions in securities or loans through such bank, corporation, department or association; *provided, however,* that for the purpose of paragraph (a)(3) of this section, 'aggregate indebtedness of all customers in respect of securities carried for their accounts' shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph."

(c) References to "member, broker or dealer" mean "government securities broker or dealer."

§ 403.3 Use of customers' free credit balances.

Every registered government securities broker or dealer shall comply with the requirement of § 240.15c3–2 of this title concerning the use of customer free credit balances. For purposes of this section, all references to "broker or dealer" in § 240.15c3–2 shall include government securities brokers and dealers.

§ 403.4 Customer protection—reserves and custody of securities.

Every registered government securities broker or dealer shall comply with the requirements of §§ 240.15c3–3 and 240.15c3–3a of this title (SEC Rule 15c3–3 and Exhibit A thereto), with the following modifications:

(a) References to "broker or dealer" include government securities brokers and dealers.

(b) "Fully paid securities," as defined in § 240.15c3–3(a)(3) of this title, includes all securities held by a government securities broker or a government securities dealer for the account of a customer who has made full payment for such securities.

(c) "Margin securities," as defined in § 240.15c3–3(a)(4) of this title, includes any securities for which a customer has not made full payment and for which the customer has received an extension of credit by a government securities broker or government securities dealer for a portion of the purchase price.

(d) "Excess margin securities," as defined in § 240.15c3–3(a)(5) of this title, includes margin securities carried for the account of a customer having a market value in excess of 140 percent of the total of the debit balances in the customer's account or accounts with the broker or dealer.

(e) For purposes of this section, § 240.15c3–3(b) of this title shall include a new paragraph (4) as follows:

"(4)(i) Notwithstanding paragraph (k)(2)(i) of this section, a broker or dealer that retains custody of securities that are the subject of a repurchase agreement between the broker or dealer and a counterparty shall:

"(A) Obtain the repurchase agreement in writing;

"(B) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at the end of the trading day on which the transaction is initiated and at the end of any other day during which other securities are substituted if the substitution results in a change to issuer, maturity date, par amount or coupon rate as specified in the previous confirmation;

"(C)(*1*) For registered brokers and dealers, advise the counterparty in the repurchase agreement that the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 do not protect the counterparty with respect to the repurchase agreement;

"(*2*) For registered government securities brokers and dealers, advise the counterparty in the repurchase agreement that the Securities Investor Protection Act of 1970 will not provide protection to the counterparty with respect to the repurchase agreement.

"(D) Maintain possession or control of securities that are the subject of the agreement.

"(ii) For purposes of this paragraph (4), securities are in the broker's or dealer's control only if they are in the control of the broker or dealer within the meaning of §§ 240.15c3–3 (c)(1), (c)(3), (c)(5), (c)(6), or § 403.4(f) of this title.

"(iii) A broker or dealer shall not be in violation of the requirement to maintain possession or control pursuant to paragraph (b)(4)(i)(D) during the trading day if:

"(A) In the written repurchase agreement, the counterparty grants the broker or dealer the right to substitute other securities for those subject to the agreement; and

"(B) The provision in the written repurchase agreement governing the right, if any, to substitute is immediately preceded by the following disclosure statement, which must be prominently displayed:

'Required Disclosure

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer's] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer's] securities will likely be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy the clearing lien or to obtain substitute securities.'.

"(iv)(A) A confirmation issued in accordance with paragraph (b)(4)(i)(B) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (b)(4)(iv), the market value of any security that is the subject of the repurchase transaction shall be the most recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

"(B) A person that is a non-U.S. citizen residing outside of the United States or a foreign corporation, partnership, or trust may waive, but only in writing, the right to receive the confirmation required by paragraph (b)(4)(i)(B) of this section.

"(v) This paragraph (b)(4) shall not apply to a repurchase agreement

between the broker or dealer and another broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a general partner or director or principal officer of the broker or dealer or any person to the extent that his claim is explicitly subordinated to the claims of creditors of the broker or dealer.".

(f)(1) Securities under the control of a broker or dealer, as described in § 240.15c3–3(c) of this title, shall include securities maintained by a broker or dealer in an account at a depository institution, as defined in section 19(b)(A)(i)–(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)–(vi)), which depository institution has a book-entry securities account at a Federal Reserve Bank through which it provides clearing services ("clearing bank"), provided the securities are maintained in a Segregated Account of the government securities broker or dealer. For purposes of this paragraph (f)(1) and paragraph (h) of this section, a Segregated Account is an account (other than a clearing account) of the government securities broker or dealer maintained on the books of a clearing bank pursuant to a written clearing agreement with such clearing bank which provides that:

(i) Such account is established for the purpose of segregating securities of counterparties or customers of such broker or dealer from proprietary securities of the broker or dealer;

(ii) The broker or dealer is entitled to direct the disposition of the securities; and

(iii) The clearing bank does not have, and will not assert, any claim or lien against such securities nor will the clearing bank grant any third party, including any Federal Reserve Bank, any interest in such securities so long as they are maintained in the segregated account.

(2) For purposes of this section, § 240.15c3–3(c)(2) of this title is redesignated as paragraph (c)(2)(i) and new paragraph (c)(2)(ii) is added to read as follows:

"(ii) Are carried for the account of any customer by a government securities broker or dealer in an account designated exclusively for customers of the government securities broker or dealer with a registered broker or dealer or another registered government securities broker or dealer (the "carrying broker or dealer") in compliance with instructions of the registered government securities broker or dealer to the carrying broker or dealer that the securities are to be maintained free of any charge, lien or claim of any kind in favor of the carrying broker or dealer or any persons claiming through such carrying broker or dealer; or".

(g) For purposes of this section, the operation of § 240.15c3–3(d)(2) is suspended until further notice with respect to mortgage-backed securities.

(h) In addition to the notification required by § 240.15c3–3(i) of this title, whenever any government securities broker or dealer instructs its clearing bank to place securities in a Segregated Account (as defined in paragraph (f)(1) of this section), and the clearing bank refuses to do so as of the close of business on that day, the broker or dealer shall, in accordance with § 240.17a–11(f) of this title, give telegraphic notice of the notification by the clearing bank within 24 hours and within 48 hours of the telegraphic notice, file a report stating what steps are being taken to correct the situation.

(i) For purposes of this section, § 240.15c3–3(l) of this title is modified to read as follows:

"(l) *Delivery or disposition of securities.* Nothing stated in this section shall be construed as affecting the absolute right of a customer of a government securities broker or dealer, unless otherwise agreed in writing, in the normal course of business operations following demand made on the broker or dealer, to receive the physical delivery of certificates if the securities are issued in certificated form, or to direct a transfer of or otherwise to exercise control over any securities if they are:

"(1) Fully-paid securities to which the customer is entitled;

"(2) Margin securities upon full payment by such customer to the broker or dealer of the customer's indebtedness to the broker or dealer; or

"(3) Excess margin securities not reasonably required to collateralize such customer's indebtedness to the broker or dealer.".

(j) Except with respect to a government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) and a registered government securities broker or dealer that is a futures commission merchant registered with the CFTC, § 240.15c3–3(e)(3) is modified for purposes of this section to read as follows:

"(3) Computations necessary to determine the amount required to be deposited as specified in paragraph (e)(1) of this section shall be made weekly, as of the close of the last business day of the week, and the deposit so computed shall be made no later than 1 hour after the opening of banking business on the second following business day; provided, however, a government securities broker or dealer registered pursuant to section 15C(a)(1)(A) of the Act (15 U.S.C. 78o–5 (a)(1)(A)) which has a ratio of liquid capital to total haircuts (calculated in accordance with Part 402 of this chapter) of 1.8 or greater and which carries aggregate customer funds (as defined in paragraph (a)(10) of this section), as computed at the last required computation pursuant to this section, not exceeding $1 million, may in the alternative make the computation monthly, as of the close of the last business day of the month, and, in such event, shall deposit not less than 105 percent of the amount so computed no later than 1 hour after the opening of banking business on the second following business day. If a registered government securities broker or dealer, computing on a monthly basis, has, at the time of any required computation, a ratio of liquid capital to total haircuts of less than 1.8, such broker or dealer shall thereafter compute weekly as aforesaid until four successive weekly computations are made, none of which were made at a time when its ratio of liquid capital to total haircuts was less than 1.8. Computations in addition to the computation required in this paragraph (3), may be made as of the close of any other business day, and the deposits so computed shall be made no later than 1 hour after the opening of banking business on the second following business day. The registered government securities broker or dealer shall make and maintain a record of each such computation made pursuant to this paragraph (3) or otherwise and preserve such record in accordance with § 240.17a–4.".

(k) Except with respect to a government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) and a registered government securities broker or dealer that is a futures commission merchant registered with the CFTC, Note E(5) of § 240.15c3–3a of this title is modified for purposes of this section to read as follows:

"(5) Debit balances in margin accounts (other than omnibus accounts) shall be reduced by the amount by which any single customer's debit balance exceeds 25% (to the extent such amount is greater than $50,000) of the government securities broker's or dealer's liquid capital unless such broker or dealer can demonstrate that

the debit balance is directly related to credit items in the Reserve Formula. Related accounts (*e.g.*, the separate accounts of an individual, accounts under common control or subject to cross guarantees) shall be deemed to be a single customer's accounts for purposes of this provision.".

§ 403.5 Custody of securities held by financial institutions that are government securities brokers or dealers.

(a) A government securities broker or dealer that is a financial institution shall:

(1) Comply with Part 450 with respect to all government securities held for the account of customers of the financial institution in its capacity as a fiduciary or custodian (unless otherwise exempt pursuant to § 450.3); and

(2) Comply with Part 450 and with paragraphs (b), (c) and (d) of this section with respect to all fully paid and excess margin government securities held for customers of the financial institution in its capacity as government securities broker or dealer, and government securities that are the subject of a repurchase agreement between the financial institution and certain counterparties as described in paragraph (d) of this section.

(b) A financial institution shall not be in violation of the possession or control requirements of paragraphs (c) and (d) of this section if, solely as the result of normal business operations, temporary lags occur between the time when a security is first required to be in the financial institution's possession or control and the time when it is actually placed in possession or control, provided that the financial institution takes timely steps in good faith to establish prompt possession or control. In the event that a financial institution has accepted funds from a customer for the purchase of securities and the financial institution does not initiate the purchase of the specified securities by the close of the next business day after receipt of such customer's funds, the financial institution shall immediately deposit or redeposit the funds in an account belonging to such customer and send the customer notice of such deposit or redeposit.

(c)(1) On each business day a financial institution shall determine the quantity and issue of such securities, if any, that are required to be but are not in the financial institution's possession or control. As appropriate to bring such securities into possession or control, the financial institution shall:

(i) Promptly obtain the release of any lien, charge, or other encumbrance against such securities;

(ii) Promptly obtain the return of any securities loaned;

(iii) Take prompt steps to obtain possession or control of securities failed to receive for more than 30 days, except in the case of mortgage-backed securities; or

(iv) Take prompt steps to buy in securities as necessary to the extent any shortage of securities in possession or control cannot be resolved as required by any of the above procedures.

(2) The financial institution shall prepare and maintain a current and detailed description of the procedures and internal controls that it utilizes to comply with the possession or control requirements of this paragraph (c), which shall be made available upon request to its appropriate regulatory agency.

(3) Nothing stated in this section shall be construed as affecting the absolute right of a customer of a government securities broker or dealer, unless otherwise agreed in writing, in the normal course of business operations following demand made on the broker or dealer, to receive the physical delivery of certificates if the securities are issued in certificated form, or to direct a transfer of or otherwise to exercise control over any securities if they are:

(i) Fully-paid securities to which the customer is entitled;

(ii) Margin securities upon full payment by such customer to the broker or dealer of the customer's indebtedness to the broker or dealer; or

(iii) Excess margin securities not reasonably required to collateralize such customer's indebtedness to the broker or dealer.

(d)(1) If a financial institution retains custody of securities, other than in safekeeping as defined in paragraph (f)(3) of this section, that are the subject of a repurchase transaction, or if a financial institution retains custody of such securities, whether or not in safekeeping, and retains the right to substitute other securities for such securities, the financial institution shall:

(i) Obtain the repurchase agreement in writing;

(ii) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at the end of the day of initiation of the transaction and at the end of any other day during which other securities are substituted if the substitution results in a change to issuer, maturity date, par amount or coupon rate specified in the previous confirmation;

(iii) Advise the counterparty in the repurchase agreement that the funds held by the financial institution pursuant to a repurchase transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable;

(iv) If the counterparty agrees to grant the financial institution the right to substitute securities, include in the written repurchase agreement the provision by which the financial institution retains the right to substitute securities;

(v) If the counterparty agrees to grant the financial institution the right to substitute securities, include in the written repurchase agreement the following disclosure statement, which must be prominently displayed in the written repurchase agreement immediately preceding the provision governing the right to substitution:

"Required Disclosure

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer's] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer's] securities will likely be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they may be subject to liens granted by the [seller] to third parties and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy any lien or to obtain substitute securities."; and

(vi) Maintain possession or control of securities that are the subject of the agreement in accordance with § 450.4(a) of this chapter, except when exercising its right of substitution in accordance with the provisions of the agreement and paragraph (d)(1)(iv) of this section.

(2)(i) A confirmation issued in accordance with paragraph (d)(1)(ii) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (d)(2), the market value of any security that is the subject of the repurchase transaction shall be the most

recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

(ii) A person that is a non-U.S. citizen residing outside of the United States or a foreign corporation, partnership, or trust may waive, but only in writing, the right to receive the confirmation required by paragraph (d)(1)(ii) of this section.

(3) This paragraph (d) shall not apply to a repurchase agreement between the financial institution and a broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a director or principal officer of the financial institution or any person to the extent that his claim is explicitly subordinated to the claims of creditors of the financial institution.

(e)(1) A government securities broker or dealer that is a branch or agency of a foreign bank shall keep on deposit with an insured bank (as that term is defined in 12 U.S.C. 1813(h)) an amount equal to the amount that would be required to be set aside pursuant to § 240.15c3–3(e)(1) of this title with respect to government securities of customers of such branch or agency that are citizens or residents of the United States. The amount required to be deposited pursuant to this § 403.5(e)(1) may be reduced by the amount of assets pledged or deposited by the branch or agency pursuant to regulations promulgated by a Federal or State banking regulatory agency that are attributable to liabilities to customers which are included both in the calculation of the required pledge or deposit of assets and in the calculation of the amount to be set aside pursuant to § 240.15c3–3(e)(1) of this title.

(2) The amount deposited in accordance with this section shall be pledged to the appropriate regulatory agency of the branch or agency making the deposit for the exclusive benefit of the customers to whom the credit balances are owed.

(3) For purposes of making the calculation pursuant to § 240.15c3–3(e)(1) of this title, the terms "free credit balances," "other credit balances" and "credit balances" shall not include any funds placed in deposits or accounts enumerated at 12 CFR 204.2.

(4) For purposes of making the calculation pursuant to § 240.15c3–3(e)(1) of this title, the formula set forth at § 240.15c3–3a of this title shall be modified as follows:

(i) For purposes of this section, references to "securities account," "cash account," "margin account", or other customer accounts for purposes of this section shall not include any deposits or accounts enumerated at 12 CFR 204.2;

(ii) References to "security or "securities shall mean U.S. government securities;

(iii) References to net capital shall be inapplicable;

(iv) Item 2 is modified to read as follows:

"2. Monies borrowed by the branch or agency collateralized by securities carried for the account of customers. (See Note B.)";

(v) Item 4 is modified to read as follows:

"4. Customers' securities failed to receive only with respect to transactions for which payment has been received by and is under the control of the branch or agency. (See Note D.)";

(vi) Note B is modified to read as follows:

"Note B. Item 2 shall include the principal amount of Restricted Letters of Credit obtained by members of Options Clearing Corporation which are collateralized by customers' securities. Item 2 shall not include bank loans to customers in the ordinary course collateralized by the customers' U.S. government securities."; and

(vii) Note C is modified to read as follows:

"Note C. Item 3 shall include in addition to monies payable against customers' securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities. Item 3 shall exclude cash collateral received pursuant to a written securities lending agreement that complies fully with the supervisory guidelines of its appropriate regulatory agency that expressly govern securities lending practices.".

(f)(1) For purposes of this section, the terms "fully paid securities," "margin securities," and "excess margin securities" shall have the meanings described in § 403.4 (b), (c) and (d).

(2) For purposes of this section, the term "customer" shall include any person from whom or on whose behalf a financial institution that is a government securities broker or dealer has received or acquired or holds securities for the account of that person or funds resulting from transactions in securities for or with such person or that represent principal, interest, or other proceeds of such securities. The term shall not include a broker or dealer that is registered pursuant to section 15, 15B or 15C (a)(1)(A) of the Act (15 U.S.C. 78o, 78o–4, 78o–5(a)(1)(A)) or that has filed notice of its status as a government securities broker or dealer pursuant to section 15C(a)(1)(B) of the Act (15 U.S.C. 78o–5(a)(1)(B)) except with respect to securities maintained by such broker or dealer in a Segregated Account as defined in § 403.4(f)(1) and with respect to securities otherwise identified by such broker or dealer as customer securities for purposes of maintaining possession or control of such securities as required by this part. The term "customer" shall not include a director or principal officer of the financial institution or any other person to the extent that that person has a claim for property or funds, which by contract, agreement or understanding, or by operation of law, is part of the capital of the financial institution or is subordinated to the claims of creditors of the financial institution.

(3) For purposes of paragraph (d)(1) of this section, securities will be deemed to be in safekeeping if the employees responsible for the safekeeping of the securities:

(i) Have no direct involvement in the purchase and sale of securities, including the transfer of interests in securities pursuant to repurchase transactions;

(ii) Are not subject to the control of any employees that have responsibility for the purchase and sale of securities, including the transfer of interests in securities pursuant to repurchase transactions; and

(iii) Have the affirmative responsibility for maintaining the books and records of customer securities transferred into their possession or control, including government securities held in book-entry form, that provide the basis for the securities count required by § 450.4(d) of this chapter.

(g) The appropriate regulatory agency of a financial institution that is a government securities broker or dealer may extend the period specified in paragraph (c)(1)(iii) of this section on application of the financial institution for one or more limited periods commensurate with the circumstances, provided the appropriate regulatory agency is satisfied that the financial institution is acting in good faith in making the application and that exceptional circumstances warrant such action. Each appropriate regulatory agency shall make and preserve for a period of not less than three years a record of each extension granted pursuant to this paragraph, which shall contain a summary of the justification for the granting of the extension.

§ 403.6 Compliance with part by futures commission merchants.

A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the provisions of this Part with respect to all customer funds and securities except

those that are incidental to the broker's or dealer's futures-related business, as defined in § 240.3a43–1(b) of this title. For purposes of the preceding sentence, the term "customer" shall have the meaning set forth in § 240.15c3–3(a)(1) of this title.

§ 403.7 Effective dates.

(a) *General.* Except as provided in paragraphs (b) through (e) of this section, this Part shall be effective on the last business day in October 1987.

(b) *Confirmations.* The requirement of §§ 403.4(e) and 403.5(d) to describe the specific securities that are the subject of a repurchase transaction, including the market value of such securities, on a confirmation at the initiation of a repurchase transaction or on substitution of other securities shall be effective January 31, 1988.

(c) *Written repurchase agreements.* The requirement to obtain a repurchase agreement in writing with the provisions described in §§ 403.4(c) and 403.5(d) shall be effective October 31, 1987 in the case of new customers of a government securities broker or dealer and shall be effective January 31, 1988 in the case of existing customers of a government securities broker or dealer. For purposes of this paragraph, an "existing customer" of a government securities broker or dealer is any counterparty with whom the government securities broker or dealer has entered into a repurchase transaction on or after January 1, 1986, but before July 25, 1987. For purposes of this paragraph, a "new customer" of a government securities broker or dealer is any counterparty other than an existing customer.

(d) *Disclosures.* (1) Before a written repurchase agreement has been entered into in accordance with paragraph (c) of this section, a government securities broker or dealer that is subject to § 403.4(e) shall furnish the counterparty with a separate interim disclosure document containing: (i) The disclosure referred to in § 403.4(e) concerning the Securities Investor Protection Act of 1970, and (ii) if applicable, the following disclosure:

"Required Disclosure

Unless the [buyer] and the [seller] have agreed to the contrary, the [buyer's] securities are likely to be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy the clearing lien or to obtain substitute securities.".

(2) Before a written repurchase agreement has been entered into in accordance with paragraph (c) of this section, a financial institution that is subject to § 403.5(d) shall furnish the counterparty with a separate interim disclosure document containing: (i) The disclosure referred to in § 403.5(d) concerning the inapplicability of deposit insurance, and (ii) if applicable, the following disclosure:

"Required Disclosure

Unless the [buyer] and the [seller] have agreed to the contrary, the [buyer's] securities are likely to be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to third parties and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy any lien or to obtain substitute securities.".

(3) In the case of hold-in-custody repurchase transactions initiated before August 31, 1987 and terminating on or after August 31, 1987, the disclosure document described in this paragraph (d) must be mailed to the counterparties involved on or before August 31, 1987. In the case of a hold-in-custody repurchase transaction initiated on or after August 31, the disclosure document described in this paragraph (d) must be provided to the counterparty involved no later than the day on which the first hold-in-custody repurchase transaction is initiated on or after August 31, 1987, unless the disclosure has already been provided to the counterparty in accordance with the preceding sentence.

(e) *Existing term repurchase transactions.* Notwithstanding paragraphs (b), (c) and (d) of this section, the requirements of §§ 403.4(e) and 403.5(d), with the exception of the requirements to confirm the substitution of securities subject to a repurchase transaction, shall not be applicable to any repurchase transaction initiated on or before August 31, 1987 that, by its terms, matures on a specific date after August 31, 1987.

PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS

Sec.
404.1 Application of part to registered brokers and dealers.
404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.
404.3 Records to be preserved by registered government securities brokers and dealers.
404.4 Records to be made and preserved by government securities brokers and dealers that are financial institutions.
404.5 Securities counts by registered government securities brokers and dealers.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(2)).

§ 404.1 Application of part to registered brokers and dealers.

Compliance by a registered broker or dealer with § 240.17a–3 of this title (pertaining to records to be made), § 240.17a–4 of this title (pertaining to preservation of records), § 240.17a–13 of this title (pertaining to quarterly securities counts) and § 240.17a–7 of this title (pertaining to records of non-resident brokers or dealers) shall constitute compliance with this part.

§ 404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer shall comply with the requirements of § 240.17a–3 of this title (SEC Rule 17a–3), with the following modifications:

(1) References to "broker or dealer" and "broker or dealer registered pursuant to Section 15 of the Act" include registered government securities brokers or dealers.

(2) References to §§ 240.17a–3, 240.17a–4, 240.17a–5, and 240.17a–13 mean such sections as modified by this Part and Part 405 of this chapter.

(3) (i) Except in the case of a government securities interdealer broker who is subject to the financial responsibility rules of § 402.1(e) of this chapter and a registered government securities broker or dealer that is a futures commission merchant registered with the CFTC, paragraph 240.17a–3(a)(11) is modified to read as follows:

"(11) A record of the proof of money balances of all ledger accounts in the form of trial balances, and a record of the computation of liquid capital and total haircuts, as of the trial date,

determined as provided in § 402.2 of this title; *provided however,* that such computation need not be made by any registered government securities broker or dealer unconditionally exempt from Part 402 of this title. Such trial balances and computations shall be prepared currently at least once a month.".

(ii) For a government securities interdealer broker who is subject to the financial responsibility rules of § 402.1(e) of this chapter, references to § 240.15c3–1 include modifications contained in § 402.1(e) of this chapter.

(4) Paragraph 240.17a–3(b)(1) is modified to read as follows:

"(1) This section shall not be deemed to require a government securities broker or dealer registered pursuant to Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o–5(a)(1)(A)) to make or keep such records of transactions cleared for such government securities broker or dealer as are customarily made and kept by a clearing broker or dealer pursuant to the requirements of §§ 240.17a–3 and 240.17a–4: *Provided,* that the clearing broker or dealer has and maintains net capital of not less than $25,000 (or, in the case of a clearing broker or dealer that is a registered government securities broker or dealer, liquid capital less total haircuts, determined as provided in § 402.2 of this title, of not less than $50,000) and is otherwise in compliance with § 240.15c3–1, § 402.2 of this title, or the capital rules of the exchange of which such clearing broker or dealer is a member if the members of such exchange are exempt from § 240.15c3–1 by paragraph (b)(2) thereof.".

(5) The undertaking in § 240.17a–3(b)(2) is modified to read as follows:

"The undersigned hereby undertakes to maintain and preserve on behalf of [registered government securities broker or dealer] the books and records required to be maintained by [registered government securities broker or dealer] pursuant to 17 CFR 404.2 and 404.3 and Rules 17a–3 and 17a–4 under the Securities Exchange Act of 1934 and to permit examination of such books and records at any time or from time to time during business hours by examiners or other representatives of the Securities and Exchange Commission, and to furnish to said Commission at its principal office in Washington, D.C., or at any regional office of said Commission specified in a demand made by or on behalf of said Commission for copies of books and records, true, correct, complete, and current copies of any or all, or any part, of such books and records. This undertaking shall be binding upon the undersigned, and the successors and assigns of the undersigned.".

(6) Section 240.17a–3(c) is modified to read as follows:

"(c) This section shall not be deemed to require a government securities broker or dealer to make or keep such records as are required by paragraph (a) reflecting the sale and redemption of United States Savings Bonds, United States Savings Notes and United States Savings Stamps.".

(b) (1) Every non-resident government securities broker or dealer registered or applying for registration pursuant to section 15C of the Act shall comply with § 240.17a–7 of this title, *provided that* in such section references to "broker or dealer" shall include government securities brokers or dealers.

(2) The term "non-resident government securities broker or dealer" means: (i) In the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; and (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(c) *Effective date.* Paragraph (a) of this section shall be effective on October 31, 1987, *except that* registered government securities brokers and dealers are required to maintain the records specified in § 240.17a–3(a) (12), (13), (14) and (15) beginning July 25, 1987.

(Approved by the Office of Management and Budget under control number 1505–0100)

§ 404.3 Records to be preserved by registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, except a government securities interdealer broker subject to the financial responsibility rules of § 402.1(e) and a registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a–4 of this title (SEC Rule 17a–4), with the following modifications:

(1) References to "broker or dealer" and "broker and dealer registered pursuant to Section 15 of the Act" include registered government securities brokers or dealers.

(2) References to §§ 240.17a–3, .17a–4, and .17a–5 mean such sections as modified by this part and Part 405 of this chapter.

(3) References to § 240.15c3–1, relating to net capital, and "Computation for Net Capital" thereunder mean § 402.2 of this chapter and the computation of the ratio of liquid capital to total haircuts required thereunder.

(4) References to § 240.15c3–3, relating to possession or control of customer securities and balances, mean § 403.4 of this chapter.

(5) References to Form X–17A–5 mean Form G–405 (§ 449.5 of this chapter).

(6) The computation described in § 240.17a–4(b)(8)(x) is not required.

(b) A government securities interdealer broker subject to the financial responsibility rules of § 402.1(e) and a registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a–4 of this title (SEC Rule 17a–4), with the following modifications:

(1) References to "broker or dealer" and "broker and dealer" include registered government securities brokers or dealers.

(2) References to §§ 240.17a–3, 240.17a–4, and 240.17a–5 mean such sections as modified by this part and Part 405 of this chapter.

(3) With respect to a government securities interdealer broker subject to the financial responsibility rules of § 402.1(e) of this chapter, references to § 240.15c3–1, relating to net capital, and "Computation for Net Capital" thereunder include the modifications contained in § 402.1(e) of this chapter.

(4) References to § 240.15c3–3, relating to possession or control of customer securities and balances, mean § 403.4 of this chapter.

(c) This section shall be effective on July 25, 1987.

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§ 404.4 Records to be made and preserved by government securities brokers and dealers that are financial institutions.

(a) *Records to be made and kept.* Every financial institution that is a government securities broker or dealer and that is not exempt from this part pursuant to Part 401 of this chapter shall comply with the requirements of §§ 404.2 and 404.3 unless such financial institution:

(1) Is subject to 12 CFR Part 12 (relating to national banks), 12 CFR Part 208 (relating to state member banks of the Federal Reserve System) or 12 CFR Part 344 (relating to state banks that are

not members of the Federal Reserve System), or is a United States branch or agency of a foreign bank and complies with 12 CFR Part 12 (for federally licensed branches and agencies of foreign banks) or 12 CFR Part 208 (for uninsured state-licensed branches and agencies of foreign banks) or 12 CFR Part 344 (for insured state licensed branches and agencies of foreign banks), *provided however,* that the records required to be made and kept by those regulations shall be made or kept without regard to the exemptions for transactions in U.S. government or federal agency obligations provided in 12 CFR 12.7(a), 12 CFR 208.8(k)(6)(i), and 12 CFR 344.7(a);

(2) Complies with the recordkeeping requirements of § 450.4(c), (d)(3) and (f) of this chapter; and

(3) Makes and keeps current:

(i)(A) A securities record or ledger reflecting separately for each government security as of the settlement dates all "long" or "short" positions (including government securities that are the subjects of repurchase or reverse repurchase agreements) carried by such financial institution for its own account or for the account of its customers or others (except securities held in a fiduciary capacity) and showing the location of all government securities long and the offsetting position to all government securities short, including long security count differences and short security count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried;

(B) A complete and current Form G–FIN–4 (§ 449.3 of this chapter) or Form U–4 (promulgated by a self-regulatory organization) or Form MSD–4 (as required for associated persons of bank municipal securities dealers) for each associated person as defined in § 400.3(c) of this chapter;

(C) A Form G–FIN–5 (§ 449.4 of this chapter) or Form U–5 (promulgated by a self-regulatory organization) or Form MSD–5 (as required for associated persons of bank municipal securities dealers) for each associated person whose association has been terminated as provided in § 400.4(d)(2) of this chapter; and

(D) A complete and current Form G–FIN (§ 449.1 of this chapter) and, if applicable, a Form G–FINW (§ 449.2 of this chapter).

(ii) For purposes of paragraph (a)(3)(i)(A) of this section, "safekeeping" may be shown as a location of any securities long as long as the financial institution complies with the requirements of Part 450 of this chapter with respect to such securities.

(b) *Preservation of records.* (1) The records required by paragraph (a)(3)(i)(A) of this section shall be preserved for not less than six years, the first two years in an easily accessible place.

(2) The records required by paragraphs (a)(3)(i) (B) and (C) of this section shall be preserved for at least three years after the person who is the subject of the record has terminated his employment and any other association with the government securities broker or dealer function of the financial institution.

(3) The records required by paragraph (a)(3)(i)(D) of this section shall be preserved for at least three years after the financial institution has notified the appropriate regulatory agency that it has ceased to function as a government securities broker or dealer.

(c) *Effective date.* This section shall be effective on July 25, 1987, *except that* until October 31, 1987, a financial institution government securities broker or dealer is not required to make and keep current the securities position record required by paragraph (a)(3)(i)(A) of this section.

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§ 404.5 Securities counts by registered government securities brokers and dealers.

(a) *Securities counts.* Every registered government securities broker or dealer shall comply with the requirements of § 240.17a–13 of this title (Commission Rule 17a–13), with the modification that references to "broker or dealer" and "broker and dealer registered pursuant to Section 15 of the Act" include registered government securities brokers or dealers.

(b) *Effective date.* This section shall be effective on October 31, 1987.

(Approved by the Office of Management and Budget under control number 1505–0100)

PART 405—REPORTS AND AUDIT

Sec.

405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.
405.2 Reports to be made by registered government securities brokers and dealers.
405.3 Supplemental current financial and operational reports to be made by certain registered government securities brokers and dealers.
405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(b)(1)(B), (b)(1)(C), (b)(2)).

§ 405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.

(a) Compliance by registered brokers or dealers with §§ 240.17a–5, 240.17a–8, and 240.17a–11 of this title (Commission Rules 17a–5, 17a–8 and 17a–11) constitutes compliance with this part.

(b) A government securities broker or dealer that is a financial institution and is subject to financial reporting rules of its appropriate regulatory agency is exempt from the provisions of §§ 405.2 and 405.3.

(c) This part shall be effective July 25, 1987, *provided however,*

(1) That registered government securities brokers or dealers shall first be required to file the reports required by § 240.17a–5(a), by virtue of § 405.2, for the month and the quarter during which they were first required to comply with Part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f); but that

(2) For any quarter ending prior to the quarter during which they were first required to comply with Part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f), registered government securities brokers or dealers shall file with the designated examining authority for such registered broker or dealer, within 17 business days after the close of the quarter, an unaudited balance sheet (with appropriate notes) for such quarter, prepared in accordance with generally accepted accounting principles.

§ 405.2 Reports to be made by registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, except a government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter and a government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a–5 of this title (SEC Rule 17a–5), with the following modifications:

(1) References to "broker or dealer" include registered government securities brokers and dealers.

(2) References to "rules of the Commission" or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to Form X–17A–5 mean Form G–405 (§ 449.5 of this chapter).

(4) For the purposes of § 240.17a–5(a)(4) of this title, the Commission may, on the terms and conditions stated in

that subparagraph, declare effective a plan with respect to Form G–405, in which case, that plan shall be treated the same as a plan approved with respect to Form X–17A–5.

(5) References to "net capital" mean "liquid capital" as defined in § 402.2(d) of this chapter.

(6) References to § 240.15c3–1, relating to net capital, mean § 402.2 of this chapter.

(7) Paragraph 240.17a–5(c)(2)(ii) is modified to read as follows:

"(ii) A footnote containing a statement of the registered government securities broker's or dealer's liquid capital, total haircuts, and ratio of liquid capital to total haircuts, determined in accordance with § 402.2 of this title. Such statement shall include summary financial statements of subsidiaries consolidated pursuant to § 402.2c of this title, where material, and the effect thereof on the liquid capital, total haircuts and ratio of liquid capital to total haircuts of the registered government securities broker or dealer.".

(8) References to § 240.15c3–3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(9) The reference to § 240.15b1–2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2–2.

(10) The supplemental report described in § 240.17a–5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(11) The statement described in § 240.17a–5(f)(2) of this title shall be headed "Notice Pursuant to Section 405.2," and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(12) References in § 240.17a–5(h)(2) of this title to § 240.17a–11 mean § 405.3(a) of this chapter.

(b) A government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter shall comply with the requirements of § 240.17a–5 of this title (SEC Rule 17a–5), with the following modifications:

(1) References to "broker or dealer" include government securities interdealer brokers;

(2) References to "rules of the Commission" or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to "net capital" mean net capital calculated as provided in § 402.1(e) of this chapter.

(4) References to § 240.15c3–1, relating to net capital, include the modifications contained in § 402.1(e) of this chapter.

(5) References to § 240.15c3–3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(6) The reference to § 240.15b1–2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2–2.

(7) The supplemental report described in § 240.17a–5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(8) The statement described in § 240.17a–5(f)(2) of this title shall be headed "Notice Pursuant to Section 405.2" and shall be filed within 30 days following the effective date of registration as a government securities broker.

(9) References in § 240.17a–5(h)(2) of this title to § 240.17a–11 mean § 405.3(b) of this chapter.

(c) A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the requirements of § 240.17a–5 of this title (SEC Rule 17a–5), with the following modifications:

(1) References to "broker or dealer" include registered government securities brokers and dealers.

(2) References to "rules of the Commission" or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to § 240.15c3–3 and the exhibits thereto, relating to possession or control of customer securities and reserve requirements, mean § 403.4 of this chapter.

(4) The reference to § 240.15b1–2 of this title, relating to financial statements to be filed upon registration, means § 240.15Ca2–2.

(5) The supplemental report described in § 240.17a–5(e)(4) of this title, concerning the Securities Investor Protection Act, is not required.

(6) The statement described in § 240.17a–5(f)(2) of this title shall be headed "Notice Pursuant to § 405.2," and shall be filed within 30 days following the effective date of registration as a government securities broker or dealer.

(7) References in § 240.17a–5(h)(2) of this title to § 240.17a–11 mean § 405.3(c) of this chapter.

(Approved by the Office of Management and Budget under control number 1505–0100)

§ 405.3 Supplemental current financial and operational reports to be made by certain registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer, other than a government securities interdealer broker that is subject to the financial responsibility requirements of § 402.1(e) and a government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a–11 of this title (SEC Rule 17a–11), with the following modifications:

(1) References to "broker or dealer" include registered government securities brokers and dealers.

(2) References to § 240.15c3–1, relating to net capital, mean § 402.2 of this chapter.

(3) References to "net capital" mean "liquid capital" as defined in § 402.2 of this chapter.

(4) References to § 240.15c3–1d, relating to subordination agreements, mean that section as modified by § 402.2d of this chapter.

(5) References to Form X–17A–5 mean Form G–405 (§ 449.5 of this chapter).

(6) References to § 240.17a–5, relating to reports and audit, mean § 405.2(a) of this chapter.

(7) Section 240.17a–11(b)(1), for the purposes of this section, is modified to read as follows:

"(1) If a computation made by a registered government securities broker or dealer pursuant to the requirements of § 402.2 of this title shows, at any point during the month, that his liquid capital is less than 150 percent of total haircuts, determined in accordance with § 402.2 of this title, such person shall file a report on Part II or Part IIA of Form G–405 (§ 449.5 of this title) as determined in accordance with the standards set forth in § 240.17a–5(a)(2) (ii) and (iii), within 15 calendar days after the end of each month thereafter until 3 successive months shall have elapsed during which liquid capital does not fall below 150 percent of total haircuts.".

(8) References to § 240.17a–3, relating to records, mean § 404.2 of this chapter.

(b) A government securities interdealer broker that is subject to the financial responsibility requirements of § 402.1(e) of this chapter shall comply with the requirements of § 240.17a–11 of this title (SEC Rule 17a–11), with the following modifications:

(1) References to "broker or dealer" include government securities interdealer brokers;

(2) References to § 240.15c3–1, relating to net capital, include the modifications contained in § 402.1(e) of this chapter.

(3) References to "net capital" mean net capital calculated as provided in § 402.1(e) of this chapter.

(4) References to § 240.17a–5, relating to reports and audit, mean § 405.2(b) of this chapter.

(5) References to § 240.17a–3, relating to records, mean § 404.2 of this chapter.

(c) A registered government securities broker or dealer that is also a futures commission merchant registered with the CFTC shall comply with the requirements of § 240.17a–11 of this title (SEC Rule 17a–11), with the following modifications:

(1) References to "broker or dealer" include government securities brokers and dealers.

(2) References to § 240.15c3–1, relating to net capital, mean either § 240.15c3–1 or § 1.17 of this title, depending on which computation results in the higher net capital requirement.

(3) References to "net capital" mean the higher of net capital calculated under § 240.15c3–1 or § 1.17 of this title.

(4) References to § 240.17a–5, relating to reports and audit, mean § 405.2(c) of this chapter.

(5) A new paragraph § 240.17a–5(b)(5) is added, to read as follows:

"(5) If a computation made by a government securities broker or dealer that is not a registered broker or dealer but that is also a futures commission merchant registered with the Commodity Futures Trading Commission shows that:

"(i) The adjusted net capital of such entity is less than the greater of:

"(A) 150 percent of the appropriate minimum dollar amount required by § 1.17(a)(1)(i);

"(B) 6 percent of the following amount: The customer funds required to be segregated pursuant to section 4d(2) of the Commodity Exchange Act and § 1.17 of this title, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or

"(ii) At any point during the month, aggregate indebtedness is in excess of 1200 percent of net capital or total net capital is less than 120 percent of the minimum net capital required, then such person shall file a report on Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as determined in accordance with the standards set forth in § 240.17a–5(a)(2) (ii) and (iii), within 15 calendar days after the end of each month thereafter until three successive months have elapsed during which none of the conditions described in this paragraph (b)(5) shall have occurred.".

(Approved by the Office of Management and Budget under control number 1505–0100)

§ 405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

Every registered government securities broker or dealer who is subject to the requirements of the Currency and Foreign Transactions Reporting Act of 1970 shall comply with the reporting, recordkeeping and record retention requirements of 31 CFR Part 103. Where 31 CFR Part 103 and § 404.3 of this chapter require the same records to be preserved for different periods of time, such records or reports shall be preserved for the longer period of time.

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

Sec.

449.1 Form G–FIN, notification by financial institutions of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.

449.2 Form G–FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.6 of this chapter.

449.3 Form G–FIN–4, notification by persons associated with financial institutions that are government securities brokers and dealers pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

449.4 Form G–FIN–5, notification of termination of association with a financial institution that is a government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

449.5 Form G–405, information required of registered government securities brokers and dealers pursuant to section 15C of the Securities Exchange Act of 1934 and §§ 405.2 and 405.3 of this chapter.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(a), (b)(1)(B), (b)(2)).

§ 449.1 Form G–FIN, notification by financial institutions of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.

This form is to be used by financial institutions that are government securities brokers or dealers not exempt under Part 401 of this chapter to notify their appropriate regulatory agency of their status. The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the SEC.

§ 449.2 Form G–FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.6 of this chapter.

This form is to be used by financial institutions that are government securities brokers or dealers to notify their appropriate regulatory agency that they have ceased to function as a government securities broker or dealer. The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the SEC.

§ 449.3 Form G–FIN–4, notification by persons associated with financial institutions that are government securities brokers and dealers pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

This form is to be used by associated persons of financial institutions that are government securities brokers or dealers to provide certain information to the financial institution and the appropriate regulatory agency concerning employment, residence, and statutory disqualification. The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the SEC.

§ 449.4 Form G–FIN–5, notification of termination of association with a financial institution that is a government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

This form is to be used by financial institutions that are government securities brokers or dealers to notify the appropriate regulatory agency of the fact that an associated person is no longer associated with the government securities broker or dealer function of the financial institution. The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance

Corporation, the Federal Home Loan Bank Board and the SEC.

§ 449.5 Form G-405, information required of registered government securities brokers and dealers pursuant to section 15C of the Securities Exchange Act of 1934 and §§ 405.2 and 405.3 of this chapter.

This form is to be used by registered government securities brokers and dealers to make the monthly, quarterly and annual financial reports required by Part 405 of this chapter. The form is promulgated by the Department of the Treasury and is available from the SEC and the designated examining authorities.

Subchapter B—Regulations Under Title II of the Government Securities Act of 1986

PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS

Sec.

450.1 Scope of regulations; office responsible.
450.2 Definitions.
450.3 Exemption for holdings subject to fiduciary standards.
450.4 Custodial holdings of government securities.
450.5 Effective date.

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(b)(1)(A), (b)(2), (b)(3)(B)); Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110).

§ 450.1 Scope of regulations; office responsible.

(a) This part applies to depository institutions that hold government securities as fiduciary, custodian, or otherwise for the account of a customer, and that are not government securities brokers or dealers, as defined in sections 3(a)(43) and 3(a)(44) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(43)–(44)). Depository institutions exempt under Part 401 of this chapter from the requirements of Subchapter A of this chapter must comply with this part. Certain depository institutions that are government securities brokers or dealers must also comply with this part, as well as with additional requirements set forth in § 403.5.

(b) The regulations in this subchapter are promulgated by the Assistant Secretary (Domestic Finance) pursuant to a delegation of authority from the Secretary of the Treasury. The office responsible for the regulations is the Office of the Commissioner, Bureau of the Public Debt.

§ 450.2 Definitions.

For purposes of this subchapter:

(a) "Appropriate regulatory agency" has the meaning set out in section 3(a)(34)(G) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(G)), except that the appropriate regulatory agency for—

(1) An institution insured by the Federal Savings and Loan Insurance Corporation is the Federal Home Loan Bank Board;

(2) A federal credit union as defined in 12 U.S.C. 1752(1) and an insured credit union as defined in 12 U.S.C. 1752(7) is the National Credit Union Administration; and

(3) Any depository institution for whom an appropriate regulatory agency is not explicitly specified by either section 3(a)(34)(G) or this paragraph, is the SEC;

(b) "Customer" includes, but is not limited to, the counterparty to a transaction pursuant to a repurchase agreement for whom the depository institution retains possession of the security sold subject to repurchase, but does not include a broker or dealer that is registered pursuant to section 15, 15B or 15C(a)(1)(A) of the Act (15 U.S.C. 78o, 78o–4, 78o–5(a)(l)(A)) or that has filed notice of its status as a government securities broker or dealer pursuant to section 15C(a)(1)(B) of the Act (15 U.S.C. 78o–5(a)(1)(B)) except as provided in § 450.4.

(c) "Depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A) (i)–(vi)) and also includes a foreign bank, an agency or branch of a foreign bank and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607);

(d) "Fiduciary capacity" includes trustee, executor, administrator, registrar, transfer agent, guardian, assignee, receiver, managing agent, and any other similar capacity involving the sole or shared exercise of discretion by a depository institution having fiduciary powers that is supervised by a federal or state financial institution regulatory agency; and

(e) "Government securities" means those obligations described in subparagraphs (A), (B), or (C) of section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)(A)–(C)).

§ 450.3 Exemption for holdings subject to fiduciary standards.

(a) The Secretary has determined that the rules and standards of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation governing the holding of government securities in a fiduciary capacity by depository institutions subject thereto are adequate. Accordingly, such depository institutions are exempt from this part with respect to their holdings of government securities in a fiduciary capacity and their holdings of government securities in a custodial capacity provided that (1) such institution has adopted policies and procedures that would apply to such custodial holdings all the requirements imposed by its appropriate regulatory agency that are applicable to government securities held in a fiduciary capacity, and (2) such custodial holdings are subject to examination by the appropriate regulatory agency for compliance with such fiduciary requirements.

(b) The Secretary expects that each appropriate regulatory agency will notify the Department if it materially revises its rules and standards governing the holding of government securities in a fiduciary capacity.

§ 450.4 Custodial holdings of government securities.

Depository institutions that are subject to this Part shall observe the following requirements with respect to their holdings of government securities for customer accounts:

(a)(1) Except as otherwise provided in this section, a depository institution shall maintain possession or control of all government securities held for the account of customers by segregating such securities from the assets of the depository institution and keeping them free of any lien, charge or claim of any third party granted or created by such depository institution.

(2)(i) Where customer securities are maintained by a depository institution at another depository institution, including but not limited to a correspondent bank or a trust company ("custodian institution"), the depository institution shall be in compliance with paragraph (a)(1) of this section if:

(A) The depository institution notifies the custodian institution that such securities are customer securities;

(B) The custodian institution maintains such securities in an account that is designated for customers of the depository institution and that does not contain proprietary securities of the depository institution; and

(C) The depository institution instructs the custodian institution to maintain such securities free of any lien, charge, or claim of any kind in favor of such custodian institution or any persons claiming through it.

(ii) To the extent that a custodian institution holds securities that have been identified as customer securities by a depository institution in accordance with paragraph (a)(2)(i) of this section, the custodian institution shall treat such securities as customer securities separate from any other securities held for the account of the depository institution.

(3)(i) Where securities that a depository institution is required, pursuant to this Part 450, to keep free of all liens, charges, or other claims ("customer securities") are maintained by a depository institution at a Federal Reserve Bank, the depository institution shall be in compliance with paragraph (a)(1) of this section if any lien, charge or other claim of such Federal Reserve Bank or any person claiming through it against securities of the depository institution expressly excludes customer securities.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, a depository institution described in that paragraph shall be in compliance with paragraph (a)(1) of this section if a Federal Reserve Bank retains a lien on securities received during the day that are subsequently determined to be customer securities, *provided that,*

(A) On that day, the depository institution:

(*1*) Because of extraordinary circumstances, at the end of that day either requests a discount window advance or is unable to eliminate an overdraft with its Federal Reserve Bank and the Federal Reserve Bank extends credit to the depository institution in order to assure the safety and soundness or liquidity of the depository institution; and

(*2*) After reasonable efforts, is unable to provide the Federal Reserve Bank with an adequate security interest in other collateral that is clearly identifiable as pledgeable by the depository institution sufficient to fully collateralize such extension of credit; and

(B) The depository institution diligently pursues with the Federal Reserve Bank the substitution of other collateral for securities determined to be customer securities; and

(C) The Federal Reserve Bank agrees that to the extent the lien extends to collateral of a value greater than the outstanding balance on the loan, customer securities will be the first collateral released from the lien.

(4)(i) To the extent that a depository institution holds securities that have been identified to such depository institution as customer securities by a government securities broker or dealer, or that the government securities broker or dealer has instructed the depository institution to place in a segregated account, in accordance with Part 403 of subchapter A of this chapter, the depository institution shall treat such securities as customer securities separate from any other securities held for the account of the government securities broker or dealer and shall comply with all of the provisions of this section with respect to such customer securities, except as provided in paragraph (a)(4)(ii) of this section.

(ii) A clearing bank that provides clearing services for a government securities broker or dealer and that maintains a segregated account as described in § 403.4 of this chapter shall not be required to transfer securities to such account upon the instruction of the broker or dealer for whom such account is maintained if the clearing bank determines that such securities continue to be required as collateral for an extension of clearing credit to such dealer. Whenever a clearing bank does not segregate securities as of the close of business upon the instruction of such broker or dealer, it shall send a notification to the appropriate regulatory agency of the broker or dealer for whom such account is maintained. Such securities shall thereafter be segregated pursuant to the instruction of the broker or dealer as soon as they are no longer required by the clearing bank as collateral for the extension of clearing credit.

(5) A depository institution that is subject to Part 403 is not required to maintain possession or control of margin securities as that term is defined in § 403.5(f)(1).

(6) Notwithstanding the requirement of paragraph (a)(1) to maintain possession or control of customer securities, a depository institution may lend such securities to a third party pursuant to the written agreement of the customer, if such loan of securities is carried out in full compliance with supervisory guidelines of its appropriate regulatory agency that expressly govern securities lending practices.

(b)(1) Except as otherwise provided in paragraph (b)(2) of this section, a depository institution shall issue a confirmation or a safekeeping receipt for each security held for a customer in accordance with this section with the exception of securities that are the subject of repurchase transactions which are subject to the requirements of § 403.5(d) of this chapter. The confirmation or safekeeping receipt shall identify the issuer, maturity date, par amount and coupon rate of the security being confirmed. The confirmation may be supplied to the customer in any manner that complies with applicable federal banking regulations.

(2) A depository institution shall not be required to send the confirmation or safekeeping receipt required by paragraph (b)(1) of this section to a customer that is a non-U.S. citizen residing outside the United States or a foreign corporation, partnership, or trust, if such customer expressly waives in writing the right to receive such confirmation or safekeeping receipt.

(c) Records of government securities held for customers shall be maintained and shall be kept separate and distinct from other records of the depository institution. Such records shall:

(1) Provide a system for identifying each customer, and each government security (or the amount of each issue of a government security issued in book-entry form) held for the customer;

(2) Describe the customer's interest in the government security;

(3) Indicate all receipts and deliveries of government securities and all receipts and disbursements of cash by the depository institution in connection with such securities;

(4) Include a copy of the safekeeping receipt or a confirmation issued for each government security held; and

(5) Provide an adequate basis for audit of such information.

(d) Counts of government securities held for customers in both definitive and book-entry form shall be conducted at least annually and such counts shall be reconciled with customer account records.

(1) Counts of book-entry securities and of definitive securities held outside the possession of the depository institution shall be made by reconciliation of the records of the depository institution with those of any depository, depository institution, or Federal Reserve Bank on whose books the depository institution has securities accounts.

(2) The depository institution conducting the count shall also verify any such securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, failed to deliver, subject to repurchase or reverse repurchase agreements or otherwise subject to the depository institution's control or direction that are not in its physical possession, where the securities have been in such status for longer than thirty days.

(3) The dates and results of such counts and reconciliations shall be documented with differences noted in a security count difference account not

later than seven business days after the date of each required count and verification as provided in this paragraph (d).

(e) For purposes of this section, a depository institution shall treat a government securities broker or dealer as a customer with respect to securities maintained by such government securities broker or dealer in a Segregated Account as defined in § 403.4(f)(1) of this chapter and with respect to securities otherwise identified to the depository institution as customer securities for purposes of maintaining possession or control of such securities as required by Part 403 of this chapter. The recordkeeping requirements of paragraph (c) of this section require the depository institution to treat such securities as customer securities separate from any other securities held for the account of the government securities broker or dealer, but do not require the depository institution to keep records identifying individual customers of the government securities broker or dealer.

(f) The records required by paragraphs (c) and (d)(3) of this section shall be preserved for not less than six years, the first two years in an easily accessible place.

(Approved by the Office of Management and Budget under control number 1505–0100.)

§ 450.5 Effective date.

This part shall be effective October 31, 1987.

Charles O. Sethness,

Assistant Secretary for Domestic Finance.

[FR Doc. 87–16779 Filed 7–23–87; 8:45 am]

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federal register

Friday
July 24, 1987

Part IV

Securities and Exchange Commission

17 CFR Part 240

Implementation of the Government Securities Act of 1986; Adoption of Final Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-24726; File No. S7-5-87]

Implementation of the Government Securities Act of 1986

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rules.

SUMMARY: The Commission is adopting previously proposed rules to implement provisions of the Government Securities Act of 1986 that authorize the Commission, after consultation with the Commodity Futures Trading Commission ("CFTC"), to except from the definitions of government securities broker and government securities dealer certain persons directly or indirectly regulated by the CFTC whose government securities activities are incidental to their futures business. The first proposed rule defines as incidental certain transactions for customers by futures commission merchants, primarily as agent, subject to conditions designed to assure that customer funds and securities are safeguarded and that government securities transactions in general are not advertised and in some cases certain other conditions. The second proposed rule defines as incidental certain principal transactions by CFTC-regulated persons, including transactions to effect delivery on futures contracts, certain exchange of futures for physicals transactions, certain investment transactions, certain proprietary hedging and arbitrage transactions, and certain proprietary matched book repurchase transactions.

EFFECTIVE DATE: July 25, 1987.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Esq., Senior Counsel to the Director, (202) 272-2790 or Lynne G. Masters, Esq. at (202) 272-2848, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 28, 1986, the Securities Exchange Act of 1934 (the "Exchange Act") was amended by Pub. L. No. 99-571, the Government Securities Act of 1986 (the "Government Securities Act"). The Government Securities Act provides for the regulation of government securities brokers and government securities dealers. The regulatory system to be established under the Government Securities Act is a limited one in that it does not provide generally for regulation that would affect particular transactions in government securities, *e.g.*, margin or suitability regulation.[1] Instead, the Government Securities Act requires the Secretary of the Treasury (the "Treasury") to adopt rules concerning the financial responsibility, protection of securities and funds, recordkeeping, reporting, and audit of government securities brokers and government securities dealers. The Commission is to provide for the registration of government securities brokers and government securities dealers that are not financial institutions or registered broker-dealers. Financial institutions and registered broker-dealers are required to file notice of their government securities broker or government securities dealer status with their appropriate regulatory agency.

Under the Government Securities Act, the terms government securities broker[2] and government securities dealer[3] do not include any person registered with the Commodity Futures Trading Commission ("CFTC"), any contract market designated by the CFTC, such a contract market's affiliated clearing organization,[4] or any floor trader on such a contract market (hereinafter collectively referred to as "CFTC-regulated persons") solely because such person effects transactions in government securities that the Commission, after consultation with the CFTC, has determined to be incidental to such person's futures-related business.

After consulting with the CFTC,[5] the Commission on February 25, 1987, proposed two rules, Rule 3a43-1 and 3a44-1, defining activities it preliminarily believed were incidental to the futures-related business of certain CFTC-regulated persons. (*See* Securities Exchange Act Rel. No. 24135 (February 25, 1987) 52 FR 6340 (March 3, 1987) ("Proposing Release")).

Twenty-five comment letters were received from 25 commenters on the proposed rules.[6] In addition, three letters were received from the CFTC and its staff.[7] As discussed more fully below, numerous comments criticized Rules 3a43-1 and 3a44-1 as too restrictive in their attempt to define those activities that are "incidental transactions." In response to commenters' concerns, the Commission has narrowed the preliminary requirements of the rules and has broadened the types of transactions in government securities and accounts for which such transactions are permitted.

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[1] Section 15C(b)(1) of the Government Securities Act explicitly requires the Secretary of the Treasury to adopt regulations related to the transfer and control of securities in repurchase transactions.

[2] New section 3(a)(43) of the Exchange Act defines a government securities broker as: any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include—

(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

[3] New section 3(a)(44) of the Exchange Act defines a government securities dealer as: any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection;

(C) any bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise; or

(D) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

[4] The CFTC Division of Trading and Markets has advised the Commission's staff that many commodities clearing corporations are not legally controlling, controlled by, or under common control with designated contract markets ("exchanges"). Nevertheless, in this context, the Commission interprets the term "affiliated clearing organization" to include those clearing organizations that have a contractual or customary arrangement to clear futures contracts traded on a particular futures exchange.

[5] The CFTC Division of Trading and Markets reviewed and submitted preliminary comments on each of the proposed exceptions. Letter from Kevin M. Foley, Chief Counsel, Division of Trading and Markets, CFTC, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated February 18, 1987.

[6] The letters of comment and Commission staff summary thereof are available for public inspection and copying at the Commission's Public Reference Room. *See* File No. S7-5-87.

[7] Letter from Jean A. Webb, Secretary, CFTC, to Jonathan G. Katz, Secretary, SEC, dated April 3, 1987; *see infra* text following notes 15 and 22; letter from Andrea M. Corcoran, Director, Division of Trading and Markets, CFTC, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated May 20, 1987; *see infra* text and accompanying note 10; letter from Andrea M. Corcoran, Director, Division of Trading and Markets, CFTC, to Richard G. Ketchum, dated June 30, 1987 (recommending technical changes to the rules).

Consistent with the Commission's responsibility under the Exchange Act, the rules contain conditions and provide safeguards that the Commission believes are necessary to further the goals of investor protection as intended by the Government Securities Act. As required in sections 3(a)(43) and 3(a)(44), the Commission has continued to consult with the CFTC concerning these rules. In its June 30 letter, the staff of the CFTC indicated that it believed the rules to be generally responsive to CFTC and commenters' concerns.

II. Rule 3a43–1: Customer-related Transactions

A. Preliminary Conditions

Rule 3a43–1 concerns customer-related transactions that, but for the Commission's determination, might cause a futures commission merchant regulated by the CFTC to be considered a government securities broker or government securities dealer. Futures commission merchants take orders for execution on futures exchanges and carry customer accounts. In connection with this business, they may act as agent for futures customers in effecting transactions in government securities or engage as principal in certain combination transactions that involve both futures and government securities.

The legislative history of these exceptions suggests that, in determining whether such customer activity is futures-related, the Commission should assure that the government securities activities of such customers are protected by the regulatory scheme administered by the CFTC.[8] The proposed rule, therefore, contained a requirement that the funds and securities involved in the government securities transactions proposed to be determined to be incidental to the futures-related business be held in a customer segregation account subject to the CFTC's rules at 17 CFR 1.20–1.30.

Several commenters stated that that condition would unfairly restrict investments on behalf of proprietary accounts (e.g. affiliates and other insiders) in government securities and argued that such accounts should be entitled to the same treatment as segregated customer accounts. Other commenters noted that futures commission merchants should be permitted to execute government securities transactions with funds deposited to margin or guarantee foreign futures and options contracts.[9] In addition, commenters including the staff of the Division of Trading and Markets of the CFTC noted that CFTC regulations applicable to segregation of funds associated with "dealer options" are codified at 17 CFR 32.6 rather than in the referenced sections.[10] Finally, the CFTC staff advised that the definition of customer should be revised to include a reference to foreign futures and options on futures customers. The staff further advised that it would be inappropriate to require segregation of funds and securities associated with effecting delivery pursuant to a futures contract. CFTC staff explained that commodities exchange rules permit delivery through a delivery account as well as the segregation account.

The rule has been modified to address the concerns raised by commenters. Accordingly, the definition of customer has been expanded to include proprietary accounts, foreign futures and options on futures customers, and options on physicals customers by defining the term to mean any person for whom the futures commission merchant effects or intends to effect transactions in futures, options on futures, or any other instruments subject to CFTC jurisdiction.[11] The definitions of futures and options on futures contracts have been expanded to include contracts traded on or subject to the rules of any board of trade located outside the United States, its territories, and possessions.[12]

The rule as adopted contains a definition of regulated account that is defined as a customer segregation account subject to CFTC regulations [13] except where CFTC regulations do not permit segregation or require maintenance of a separate regulated account. The rule provides that where CFTC rules require maintenance of a separate regulated account, the term means such an account. The CFTC staff has indicated that it will recommend CFTC consideration of a requirement for such an account for customer funds and securities related to trading of foreign instruments. The regulations applicable to such an account would require segregation of the funds in such an account from proprietary funds, and would not permit comingling such funds with customer funds related to domestically traded instruments. The rule also provides that where CFTC regulations do not permit segregation,[14] the term means any other account subject to CFTC recordkeeping regulations. Proprietary accounts are not permitted to be kept in customer segregation accounts. Nevertheless, these accounts are subject to the general recordkeeping regulations of the CFTC. Finally, the rule excepts from the preliminary condition that requires funds and securities associated with such transactions to be maintained in a regulated account transactions to effect delivery of securities pursuant to a futures contract.

Solicitation

As proposed, Rule 3a43–1 contained a second condition that required that the transactions in government securities be unsolicited. The purpose of that condition was to ensure that the transactions proposed to be excepted were truly incidental to a futures commission merchant's business. Commenters believed that such a prohibition would not permit legitimate recommendations of combination transactions to customers and was likely to have anticompetitive effects. They believed that futures commission merchants should be able to solicit transactions that were otherwise incidental to the futures business. In view of these concerns, the Commission has determined not to impose as a preliminary condition to the availability of the exception a prohibition against solicitation. Accordingly, the rule as adopted permits specified transactions by a futures commission merchant to be solicited.[15]

[8] Report of the Senate Committee on Banking, Housing and Urban Affairs to accompany S. 1416, S. Rep. No. 426, 99th Cong. 2d. Sess. 19 (1986) [hereinafter cited as Senate Report].

[9] CFTC rules do not currently permit such funds to be placed in a customer segregation account. In addition, the definitions of futures and options on futures contracts in the proposed rules referred to contracts traded on a contract market designated by the CFTC, *i.e.*, a U.S. futures exchange.

[10] The CFTC uses the term "dealer options" to distinguish a class of options on physicals authorized to be traded off-exchange from those traded on or subject to the rules of a contract market.

[11] In particular, options on physicals are included in the phrase "other instruments subject to CFTC jurisdiction."

[12] Subject to certain limited exceptions, the domestic offer and sale of foreign options on futures and foreign options on physicals are currently prohibited.

[13] This change addresses the dealer options problem raised by the commenters by deleting the reference to specific CFTC segregation requirements.

[14] The Commission has not adopted the suggestion of some commenters that segregation not be required if it is not required by the CFTC. Where CFTC rules permit segregation, segregation is required unless there is a separate regulated account.

[15] As discussed below, the prohibition on solicitation has been retained for certain transactions relating to the investment of customer margin and excess funds. *See infra* text at n. 30.

Advertising

Proposed Rule 3a43–1 also contained a condition prohibiting a futures commission merchant from advertising that it is in the business of effecting transactions in government securities. That condition was designed to assure further that the enumerated transactions are incidental and to avoid the use of the exceptions to circumvent securities self-regulatory organization authority to regulate government securities advertising. Commenters including the CFTC argues that the prohibition placed futures commission merchants at a competitive disadvantage to futures commission merchants that are also registered as broker-dealers. They believed that futures commission merchants that are not registered broker-dealers would be required to stop advertising the services they offer their customers or incur the additional expense of registering as broker dealers, whereas registered broker-dealer futures commission merchants would only be required to file notice with the Commission of their government securities activities.

The Commission is sympathetic to these concerns and has modified the condition to permit limited advertising. Limiting a futures commission merchant's advertisement of a general government securities business is appropriate in order to assure that the futures commission merchant's government securities transactions are truly incidental to its futures-related business. However, advertising of government securities transactions in connection with futures-related trading would be permitted under the revised rule. This revision is intended to allow futures commission merchants to inform their customers of the types of government securities services they provide in connection with futures trading and investment of excess customer funds. For instance, it would allow futures commission merchants to advertise that they may purchase government securities on behalf of customers so as to permit customers to receive interest on customer segregated funds, that they can execute certain hedging and arbitrage strategies in government securities and futures contracts, and that they effect exchange of futures for physicals transactions involving futures on government securities. However, it would not allow futures commission merchants to advertise their willingness to execute trades in government securities alone.

B. Excepted Transactions

Agency Transactions

The first section of the rule excepts agency transactions relating to delivery pursuant to a futures contract or for risk reduction or arbitrage of existing or contemporaneously created futures positions. One commenter suggested that the Commission clarify what the commenter perceived as a definitional ambiguity with regard to permitted "agency" investments by futures commission merchants. The commenter noted that "[t]he government securities market is virtually exclusively a dealer market. Thus, if a futures commission merchant is instructed by its customer to purchase a U.S. Treasury Bill or other government security, the futures commission merchant will purchase the security in its name as principal. The futures commission merchant will then resell the security to its customer."

As the Treasury Department noted in its discussion of its exemption for agency transactions by financial institutions, it may be appropriate to consider a futures commission merchant acting as principal with a counterparty in the government securities market to be acting as agent vis-a-vis its customer. In the context of this rule, the Commission recognizes as indicia of an agency transaction the key factors identified by the Treasury Department. Specifically, the Treasury Department stated:

> Two major characteristics of [an agency] transaction are that the transacting broker purchases or sells a security on the order of the customer, not from or to its own inventory, and that the customer is charged an explicit transaction-based fee or commission. It should be noted that the counterparty of the transacting broker need not and indeed usually does not know that the transaction is a brokerage rather than a dealer transaction except perhaps by the size of the order.[16]

Thus, where a futures commission merchant acts as agent for a customer, and as part of this relationship purchases a security in the futures commission merchant's own name on behalf of its customer, it will be acting as agent for purposes of this rule.

Delivery Transactions. The first excepted transaction is an agency transaction in government securities to effect delivery pursuant to a futures contract. Currently, three commodities exchanges actively trade contracts on government securities.[17] Futures commission merchants regularly make and take delivery of the securities underlying these contracts at expiration as agent for customers. In addition, futures commission merchants may purchase a government security as agent for a customer for the purpose of making delivery. These activities are integral to the operation of the futures markets. As noted above, the Division of Trading and Markets of the CFTC supported this exception and urged that the preliminary condition requiring segregation not be applicable to this type of transaction. Accordingly, the Commission has made that change and has otherwise adopted this part of the rule as proposed.

Risk Reduction and Arbitrage. The second type of agency transactions excepted by the rule are those for risk reduction or arbitrage of existing or contemporaneously created futures or options on futures positions. In the Proposing Release the Commission proposed to except transactions in government securities for bona fide hedging or arbitrage of futures or options on futures positions. Although the Commission did not define the terms bona fide hedging and arbitrage, the Commission stated that it believed these terms comprehend the purchase or sale of government securities to reduce the risk of a futures position or to take advantage of pricing disparities between the government securities and futures contracts for government securities. The Commission acknowledges that bona fide hedging and arbitrage transactions may involve government securities of a different type, maturity, or coupon than the government security that is the subject of the futures contract and that there may be residual basis risk in a hedging or arbitrage position.[18]

The Commission solicited comment on whether a definition was needed.

Two commenters believed that these terms should be expanded to include risk management strategies other than transactions merely intended to reduce the risk of futures or options on futures positions as suggested in the Proposing Release.[19] One commenter suggested

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[16] 52 FR 19646 (May 26, 1987).

[17] The Chicago Board of Trade ("CBT") trades Treasury bond futures and options on the those futures, Treasury note futures and options on those futures, and GNMA futures; the Chicago Mercantile Exchange ("Merc") trades Treasury bill futures and options on those futures; the MidAmerica Commodity Exchange also trades Treasury bill futures and Treasury bond futures, but the size of the contracts is one-half the size of the contracts traded on the CBT and the Merc respectively.

[18] Proposing Release at n. 13.

[19] The Commission has declined to adopt this recommendation because such an essentially unbounded provision would undermine the purpose of the exception and would be inconsistent with its interpretation of those terms as stated in the Proposing Release.

that the Commission avoid a definition that would limit the activities of futures commission merchants or refrain from adopting a definition altogether in view of the CFTC's current review of its definition. Another commenter proposed an exception for agency transactions for risk reduction or arbitrage of futures or options on futures positions. One commenter recommended that the Commission clarify that, for purposes of the exception, these activities should relate to existing futures and options on futures positions and not to situations where the futures or options on futures are purchased to hedge an existing government securities position.

Consistent with these comments, the Commission has not adopted a definition of bona fide hedging and arbitrage transactions. The rule as adopted provides an exception for transactions in government securities for the purpose of risk reduction [20] or arbitrage of existing or contemporaneously created futures or options on futures poisitions.[21] The rule would not permit taking of cash positions in anticipation of reducing the risk of futures or options on futures positions to be established in the future. The purposes of these limitations are to assure that transactions in government securities effected by a futures commission merchant on behalf of a customer in reliance upon this exception are directly related to a customer's hedge or arbitrage of a futures or options on futures position and that such agency transactions are truly incidental to the futures commission merchant's futures-related business.

Margin and Excess Customer Funds

The second section of the rule provides exceptions for investment of margin and excess customer funds. As proposed, Rule 3a43–1 excepted agency transactions for the purchase of government securities by a futures commission merchant for deposit as initial margin. As discussed in the Proposing Release, the Division of Trading and Markets of the CFTC submitted a comment letter suggesting that the scope of this exception was too narrow because it did not provide for the investment of other types of margin and excess customer funds on deposit for futures or options on futures trading (collectively "excess customer funds"). Accordingly, the Commission specifically requested comment on the need for such an exception. In particular, the Commission solicited comment on whether to use objective standards that could be formulated either in terms of the number of transactions, dollar amount of compensation received for effecting agency transactions in government securities, or percentage of firm revenues that are derived from effecting agency transactions in government securities, or in terms of the securities, issuers, maturities, or arrangements that are customarily utilized for these purposes.

Commenters including the CFTC uniformly objected to the limitation of the proposed exception to initial margin as too narrow. These comments were not part of a general theme that deemed the rules as too restrictive in listing "incidental transactions". Commenters generally recommended that the Commission abandon the "list" approach and generally grant CFTC-regulated persons greater latitude in their government securities transactions.[22] The CFTC and others observed that transactions in securities for segregated customer accounts are already highly regulated by the CFTC and futures self-regulatory organizations and believed this regulation provides sufficient protection to the customer. The CFTC and other commenters noted that excess customer funds are invested as an accommodation to customers who desire to have their funds invested and to receive interest on those investments.[23] Several commenters including the CFTC believed that granting an exception for transactions only for initial margin would place sole futures commission merchants at a competitive disadvantage to futures commission merchants that are also registered broker-dealers. One commenter suggested that customers funds would be channeled possibly to less desirable investments such as commercial paper, certificates of deposit, and bankers acceptances. The CFTC and other commenters also observed that these services often are provided at cost.

Most commenters argued that the use of objective criteria such as those proposed was unnecessary, and hence they failed to supply any empirical data on the relevance of the criteria suggested by the Commission. Commenters generally agreed, however, that if a standard had to be imposed, they would recommend one based on a percentage of revenues.[24] Some commenters argued against a standard based on a dollar limit or on the number of agency transactions in the belief that such limitation could place futures commission merchants with a large customer base at a competitive disadvantage.

Several commenters observed that futures commission merchants purchase primarily Treasury bills for their customers for the investment of excess customer funds. One commenter suggested a standard that provided for investment of excess funds for a period of up to 91 days; another recommended a similar provision permitting investments in repurchase agreements and transactions in Treasury bills or other Treasury securities maturing within a short term from the date of the investment. Others suggested that a standard based on the short-term nature of the investment was an unreliable measure of whether a transaction was incidental.

Some commenters argued that no restrictions should be placed on the investment of excess customer funds if it was done at cost as an accommodation to that customer. These commenters suggested that firms generally did not seek to recover more than their costs in effecting government securities transactions for their customers.

The Commission continues to believe that an unlimited exception for the

[20] The Commission notes that it will interpret the term "risk reduction transactions" independently from the CFTC definition of "bona fide hedging."

[21] Under this standard, positions resulting from market orders entered simultaneously would be considered contemporaneously created even if market conditions resulted in the cash market order being executed prior to the related futures or option on futures order.

[22] Several commenters argued that all government securities transactions routinely affected by CFTC-regulated persons whose primary business is in the futures industry are incidental to such futures business. Two commenters argued that additional regulation of futures commission merchants and other CFTC-regulated persons is warranted only when their primary business ceases to be futures-related or when their government securities activities deviate from the normal and legitimate business practices in the futures industry. The Commission, they suggested, should make that determination after consultation with the CFTC on a case-by-case basis.

[23] Commenters indicated that these types of transactions are traditionally done on an agency basis, although one commenter who focused on this provision specifically suggested that futures commission merchants be permitted to engage in sales from inventory for initial margin purposes.

[24] One commenter letter suggested establishing a standard of incidental transactions based on revenue derived from any government securities activities that amounted to a percentage of total revenue. Another recommended that the Commission adopt a safe harbor provision to each rule providing that in addition to the types of transactions specified in the rules, a CFTC-regulated person could engage in a limited amount of government securities transactions as long as the revenues derived from the additional transactions compose only a small part (ten percent) of the CFTC-regulated person's total revenue. Other commenters suggested that the limitations advertising and solicitation would eliminate the potential for abuse that might occur with the investment of excess customer funds.

investment of excess customer funds may permit futures commission merchants to engage in a substantial government securities business that cannot fairly be categorized as merely "incidental" to its futures business.[25] In response to the comment letters, however, the Commission has added subparagraph (2) which provides futures commission merchants with greater flexibility to meet the various needs of their customers. Subparagraph (2) provides for agency transactions for the investment of margin and excess customer funds [26] in government securities under conditions designed to ensure that such trading is an accommodation to the futures commission merchant's customers without permitting these accounts effectively to be converted into accounts primarily for the purpose of effecting government securities transactions.[27] Under this section, futures commission merchants may effect agency transactions in government securities provided that these transactions satisfy any one of the three alternatives discussed below.

The first alternative permits futures commission merchants to engage in unlimited agency transactions involving Treasury securities with a maturity of less than 93 days at the time of the transaction.[28] This condition permits purchases and sales of short-term Treasury securities such as Treasury bills. As noted above, several commenters indicated that futures commission merchants customarily invest excess customer funds in Treasury bills. This provision will permit a futures commission merchant to invest as agent excess customer funds temporarily in short-term Treasury securities pending consummation of futures and options transactions without registering as a government securities broker. As noted above, a futures commission merchant will be permitted to solicit these transactions and to advertise these services as available in connection with futures or options on futures accounts.

The second alternative is that the transactions generate no monetary profit for the futures commission merchant in excess of the costs of executing such transactions. This responds to comments of futures commission merchants that these transactions are truly accommodations to customers done at no profit. It permits a futures commission merchant to invest customer funds as agent as an accommodation to its customers provided that the fee charged the customer does not include a commission higher than the cost of executing the transaction.[29] Accordingly, the futures commission merchant may pass on the customer the incremental cost of providing the service to the customer.

The third alternative under the rule is intended to provide futures commission merchants with a safe harbor for government securities transactions relating to excess customer funds based on a percentage of revenues and is primarily designed to permit futures commission merchants to accommodate the various needs of their customers. Because of its breadth, the alternative is available only for unsolicited transactions.[30] The alternative requires that gross income from executing government securities transactions under this alternative (including transactional fees passed through to the customer) cannot exceed 2% of the futures commission merchant's total commission revenues.[31] Commenters generally agreed that if the Commission adopted a general limitation on government securities transactions then an appropriate standard would be one based on a percentage of revenues.[32] The Commission believes a standard of 2% of total commission revenues from unspecified incidental agency transactions for customers will enable futures commission merchants to continue to serve their futures customers' related government securities needs but will prevent futures commission merchants from employing this exception to operate a substantial government securities business without registration.

The Commission expects that the futures commission merchant will retain in its records information to document compliance with the alternatives provided by this section. The courts and the Commission have consistently held that the person claiming an exemption under provisions of the federal securities laws has the burden of proving the exemption is available to it.[33] Accordingly, any CFTC-regulated person who relies on the rule has the burden of establishing that it has satisfied the conditions of the rule.

Exchange of Futures for Physicals Transactions

The third section of the rule provides an exception for exchange of futures for physicals transactions. This exception also is subject to the two preliminary requirements concerning segregation and advertising.[34] This section, containing the only exception for transactions as principal with customers in the Rule 3a43–1, has been adopted essentially as proposed. An exchange of futures for physicals transaction is a type of combination cash and futures transaction that is exempt from the Commodity Exchange Act's requirements for competitive execution on a futures exchange floor. CFTC rules, by reference to contract market rules, permit such off-exchange transactions.[35]

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[25] The suggestions by some commenters that no firm would accept the pervasive regulation under the Commodity Exchange Act in order to avoid registration as a government securities broker misses the point. The Commission's concern is that an existing futures commission merchant would engage in a substantial government securities business over and above its existing futures business.

[26] This provision applies to margin and excess funds on any investment subject to CFTC jurisdiction, such as options on physicals as well as futures and options on futures.

[27] Because this rule is intended to permit agency transactions, no provision has been made for a futures commission merchant to sell government securities to its customers from its own inventory or to engage in repurchase transactions directly with its customers; *see supra* n. 16.

[28] Once a year Treasury issues a security that has a maturity of 92 days.

[29] The Commission believes that cost recovery for brokerage execution services should be measured by the incremental costs directly attributable to providing that service.

[30] As defined in the rule, "unsolicited transaction" means a transaction that is not recommended to a customer or effected in a discretionary account by the futures commission merchant, an associated person of the futures commission merchant, a business affiliate that is controlled by, controlling, or under common control with the futures commission merchant, or an introducting broker that is guaranteed by the futures commission merchant. As discussed in the Proposing Release, futures commission merchants could generally acquaint customers of their willingness to invest excess customer funds in government securities without any resulting transactions being deemed solicited. Proposing Release at note 9.

[31] Income received in connection with transactions in Treasury securities under subparagraph (b)(2)(i) or in connection with transactions that generate no monetary profit under subparagraph (b)(2)(ii) of the rule would be excluded from the 2% ceiling.

[32] Suggestions for an appropriate standard without the unlimited exception for revenues from short-term securities or futures commission merchant costs ranged from .05% to 10%. The only quantitative information, however, was submitted to Mocatta which indicated that revenues from agency transactions in government securities accounted for less than .05% of its total revenues. *See* Letter from Gary Alan DeWaal, General Counsel, Mocatta Futures Corporation, to Jonathan G. Katz, Secretary, SEC, dated March 27, 1987.

[33] See e.g., SEC v. Netelkos, 592 F. Supp. 906 (S.D.N.Y. 1984).

[34] See supra text at notes 8 through 15.

[35] 17 CFR 1.38, Chicago Mercantile Exchange Rule 538, Chicago Board of Trade Rule 444.01(c).

Generally, these transactions involve one party who simultaneously buys a government security and sells a (or gives up a long) futures contract while the other party to the transaction simultaneously sells a government security and buys a (or receives a long) futures contract, at a price difference mutually agreed upon. Among other uses, these transactions permit the establishment, transfer, or close-out of hedged or arbitrage positions.[36] Because the futures commission merchant is often the counterparty to such a transaction, this type of transaction may be done as principal with a customer and as agent for a customer.

Exemptive Authority

One commenter proposed that the Commission provide that CFTC-regulated entities could apply to the Commission for determination that additional government securities activities are incidental futures-related business. Accordingly, the rule contains a fourth section that authorizes the Commission to exempt as incidental to futures-related business certain transactions of an individual or group of futures commission merchants. The Commission intends to continue to consult with the CFTC in determining what activities are incidental to a futures-related business for purposes of exemptions under the rules.

III. Principal Transactions

A. Preliminary Conditions

Rule 3a44–1 concerns principal activities that, but for the Commission's determination, might cause a person regulated by the CFTC to be considered a government securities dealer. Because Congress intended that the Commission except CFTC-regulated persons only where their government securities activities are closely related to their futures activities, the rule applies only to persons who do not hold themselves out or advertise as government securities dealers.[37] This rule does not apply to transactions with customers other than CFTC-regulated persons except for making or taking delivery of a government security pursuant to a futures contract. The Commission is adopting Rule 3a44–1 essentially as proposed. As discussed below, however, the rule has been modified in some respects in response to issues raised by commenters.

B. Excepted Transactions

Delivery Transactions

The first excepted activity, consistent with proposed Rule 3a43–1(b)(1)(i), is the sale or purchase of government securities for delivery pursuant to a futures contract. As noted above, physical delivery pursuant to a futures contract is integral to the trading of government securities futures contracts, and hence clearly is incidental to the functioning of the futures market.

Exchange of Futures for Physicals Transactions

The second excepted activity is exchange of futures for physicals transactions between CFTC-regulated persons. This exception permits floor brokers, floor traders, and futures commission merchants to engage in such transactions with one another.[38] In response to suggestions of commenters, the rule has been amended to clarify that exchange of futures for physicals transactions as principal may be done with government securities brokers or dealers that have registered or provided notice pursuant to section 15C(a) of the Exchange Act. Thus, for example, the rule permits a futures commission merchant to solicit as principal a trade directly with a CFTC-regulated person or a government securities broker or government securities dealer that has registered with the Commission or filed notice pursuant to section 15C(a) of the Exchange Act in order to permit a combination cash and futures position taken in a customer initiated principal transaction to be offset with a professional transaction.

Transactions in Segregated Funds

The third excepted activity is transactions, including transactions involving repurchase agreements and reverse repurchase agreements, by futures commission merchants for investment of customer segregation funds or by a clearing organization for investment of funds it holds. These transactions are excepted if they are done with a bank[39] or with a government securities broker or government securities dealer that has registered or filed notice with its appropriate regulatory agency. The exception specifically permits transactions with banks as well as with those who will be subject to the Government Securities Act regulations because current CFTC interpretations on the investment of customer funds require some of such investments to be with banks,[40] and the Treasury Department has exempted certain banks from the requirement to file notice as a government securities dealer.[41]

Commenters asserted that the paragraph should be expanded to include futures commission merchants as acceptable counterparties. The Commission has declined to include futures commission merchants within the scope of this exception. As a practical matter, the efficient investment of customer segregated funds requires the services of a person whose business it is to buy and sell government securities rather than a person whose sales and purchases are based on its own cash management and futures trading strategies. Where a futures commission merchant stands ready regularly to engage in government securities transactions for the investment of customer segregated funds of other futures commission merchants, it is engaged in a government securities business and accordingly should be registered as a government securities broker or goverment securities dealer.

Risk Reduction and Arbitrage Transactions

The fourth exception has been revised to refer to risk reduction and arbitrage transactions consistent with and for the reasons set forth above with respect to Rule 3a43–1(b)(1)(iii). Commenters also believed that futures commission merchants should be included as counterparties under the rule because risk reduction and arbitrage transactions would be incidental to both parties' futures business. The rule has been modified accordingly and allows these transactions to be with a CFTC-regulated person as well as a government securities broker or government securities dealer who has registered or filed notice with its appropriate regulatory agency.

[36] A futures commission merchant that engages in a series of transactions with a customer that are structured to result in a purchase or sale of a government security without the establishment, transfer, or close-out of a related futures position would not be eligible for this exception from the definitions of government securities broker and government securities dealer.

[37] A futures commission merchant that runs a matched repurchase agreement book in accordance with the provisions of subparagraph (b)(5) would not be deemed holding itself out as a government securities dealer for purposes of the rule.

[38] A futures commission merchant's transactions with customers as agent or principal are also excepted under rule 3a43–1(b)(2).

[39] The term "bank" is defined in section 3(a)(6) of the Exchange Act.

[40] See e.g., Financial and Segregation Interpretation No. 2—Use of Customer's Funds for the Purchase of Obligations Under Repurchase Agreements, ¶ 7112 CCH Commodity Futures Law Reports (1975).

[41] 17 CFR 401.4, 52 FR 1986 (May 26, 1987).

Certain Repurchase Transactions

The rule contains a fifth exception that provides for repurchase and reverse repurchase agreement transactions between a futures commission merchant acting in a proprietary capacity and another CFTC-regulated person acting in a proprietary capacity with contemporaneous offsetting transactions by the futures commission merchant with certain other regulated entities. This exception was added at the suggestion of a commenter. It permits a futures commission merchant to act as principal in matched book repurchase transactions for investment of excess funds of floor broker and floor trader customers through repurchase and reverse repurchase transactions with regulated government securities dealers, banks, or other CFTC-regulated persons on the other side.[42] The requirement that the futures commission merchant be acting in a proprietary capacity assures that segregated customer funds and clearing funds cannot be used in these transactions except by CFTC-regulated entity customers as to whom those funds are proprietary.

Cash Management

Commenters suggested that the rule be amended to make clear that a futures commission merchant's investment of its own capital in government securities for each management and other trading purposes should be permitted. These commmenters observed that this activity was cited by Congress as the type of activity that should be expected from government securities regulation. These commenters requested the rule be clarified to permit explicitly this type of activity. Others suggested that the adopting release make it clear that the limitations in the rule are inapplicable to those who are not "regularly engaged in the business."

The legislative history to the Government Securities Act suggests that whether a firm's activities bring it within the definition of a government securities dealer is to be largely determined based on traditional interpretations of the definitions of dealer. The definition of dealer excludes any person who buys and sells securities for his own account but not as part of a regular business.[43] As the legislative history suggests, commodities professionals, as an incidental part of their futures business, may buy and sell government securities for cash management purposes. These transactions generally would not bring such professionals within the definition of government securities dealer because they would not be considered to be "engaged in the business". Accordingly, the Commission does not believe any explicit exemption is necessary for incidental cash management investment activities.

Exemptions

At the suggestions of one commenter, the rule contains a new section that provides the Commission with general authority to exempt other transactions by CFTC-regulated persons that it finds to be incidental to their futures-related business either upon its own motion or upon request. This section parallels the exemptive authority in Rule 3a43–1.

IV. Commodity Pool Operations and Commodity Pools

Although commodity pool operators are excepted from the definition of government securities dealer under Rule 3a44–1, the Commission did not propose to except commodity pool operators from the definition of government securities broker because the Commission understands that commodity pool operators are not separately compensated for effecting transactions for the commodity pools they operate. Therefore, the Commission believes generally that their activities would not come within the traditional interpretation of the term broker.[44] In addition, commodity pool operators, generally, do not directly hold funds and securities or effect transactions with persons who are not government securities brokers or government securities dealers.

One commenter observed, however, that it was unclear whether commodity pool operators "generate income from commissions on government securities transactions effected on behalf of the pools they manage." The comment believed, that "[t]o the extent that government securities transactions engaged in by commodity pool operators would bring them within the definition of 'broker,' a similar exclusion from the definition of government securities broker is appropriate."

Receipt of transaction-related compensation is one of the key factors that distinguishes a broker from an investment adviser. Absent data suggesting that this form of compensation is customary in the futures industry, the Commission believes that this would be a key factor in distinguishing commodity pool operators who are also government securities brokers from those whose activities are incidental to their futures-related business. Accordingly, the Commission has not adopted the commenter's suggestion.

One commenter also suggested that the Commission staff exercise its no-action or interpretive authority to make it clear that commodity pools themselves that actively trade government securities are not required to register as government securities dealers. That commenter suggested that all government securities transactions are executed through regulated government securities broker-dealers or financial institutions. The Commission believes that a separate exception for commodity pools is unnecessary because the activities described above generally do not fall within the traditional interpretation of the definition of dealer.[45]

V. Competition Findings, Effective Date, and Statutory Basis

Section 23(a)(2) of the Exchange Act requires the Commission, in adopting rules under that Act, to consider the anticompetitive effect of such rules, if any, and to balance this effect against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered proposed Rules 3a43–1 and 3a44–1 and believes that adopting the rules will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. Indeed the Commission believes that by defining a variety of government securities transactions as incidential to a futures-related business, the rules relieve potentially burdensome registration and regulatory requirements for certain CFTC-regulated persons. At the same time, the rules provide for a fair playing field by assuring that CFTC-regulated persons who are competing directly with government securities brokers and government securities dealers must register.

[42] The requirement that transctions with banks and government securities brokers and government securities dealers be contemporaneously offsetting transactions contemplates repurchase transactions on the same day in securities of the same type, coupon, and maturity as are the subject of the transaction with the CFTC-regulated entity. The repurchase obligation in such transactions would be for the same or shorter period as the transaction with the CFTC-regualted person.

[43] *See, e.g.* letter from Robert L.D. Colby, Chief Counsel, Division of Market Regulation, SEC, to Elizabeth J. Tolmach, Esq. Caplan & Drysdale, dated April 2, 1987 (publicly available April 2, 1987); letter from Susan J. Walters, Branch Chief, Division of Market Regulation, SEC to Martin E. Lybecker, Esq., Drinker Biddle & Reath, dated June 26, 1986 (publicly available July 26, 1986).

[44] *See* L. Loss, Securities Regulation, Vol. II, at 1299 (2d. ed. 1961).

[45] See supra letters cited note 43.

Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d) provides that the "required publication or service of a substantive rule shall be made not less than 30 days before its effective date except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction . . . or . . . as otherwise provided by the agency for good cause found and published with the rule." Because Rules 3a43–1 and 3a44–1 except certain CFTC regulated-persons from the definitions of government securities brokers and government securities dealers, they have the effect of removing restrictions in that they relieve such persons from the requirements of registration and regulation under the Exchange Act that would otherwise be imposed by the operation of the Government Securities Act.

The Government Securities Act directs that by July 25, 1987, the Commission shall provide final regulations as are initially required to implement the Government Securities Act. Futures commission merchants that are government securities brokers or dealers are currently operating under a temporary exemption from registration and other requirements that expires October 31, 1987. The Commission believes good cause exists for the rules to become effective July 25, 1987, so that futures commission merchants and other CFTC-regulated persons can determine whether they must register by October 31, 1987. Accordingly, Rules 3a43–1 and 3a44–1 will become effective as final rules on July 25, 1987.

VI. Regulatory Flexibility Act Considerations

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") and a Final Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. 603 and 604 respectively regarding proposed Rules 3a43–1 and 3a44–1. No comments were received on the Commission IRFA although several commenters raised issues involving considerations addressed by the Regulatory Flexibility Act.

The intent of and the possible costs and benefits of each rule proposal is also discussed in the Analysis. The Analysis notes that the objective of the rules is to implement the provisions of the Government Securities Act. The rules except from the definition of government securities broker and government securities dealer certain persons subject to CFTC oversight by defining as incidental to their futures-related business certain activities in government securities. Therefore, the rules reduce cost burdens on small futures commission merchants and other small CFTC-regulated entities. A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Lynne G. Masters, Esq., Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549, (202) 272–2848.

VII. Statutory Authority

Pursuant to the Securities Exchange Act of 1934 and particularly sections 3 and 23 thereof, 15 U.S.C. 78c and 78w, the Commission adopts §§ 240.3a43–1 and 3a44–1 of Title 17 of the Code of Federal Regulations, in the manner set forth below.

VIII. List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Government securities, Futures commission merchant, Customer funds.

IX. Text of Amendments

In accordance with the foregoing, 17 CFR Part 240 is amended as follows:

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

1. The authority citation for Part 240 is amended by adding the following citations:

Authority: Sec. 23; 48 Stat. 901, as amended; 15 U.S.C. 78w; * * * Sections 240.3a43–1 and 240.3a44–1 also issued under Sec. 3; 15 U.S.C. 78c; * * *

2. By adding § 240.3a43–1 and § 240.3a44–1 as follows:

§ 240.3a43–1 Customer-related government securities activities incidental to the futures-related business of a futures commission merchant registered with the Commodity Futures Trading Commission.

(a) A futures commission merchant registered with the Commodity Futures Trading Commission ("CFTC") is not a government securities broker or government securities dealer solely because such futures commission merchant effects transactions in government securities that are defined in paragraph (b) of this section as incidental to such person's futures-related business.

(b) Provided that the futures commission merchant maintains in a regulated account all funds and securities associated with such government securities transactions (except funds and securities associated with transactions under paragraph (b)(1)(i) of this section and does not advertise that it is in the business of effecting transactions in government securities otherwise than in connection with futures or options on futures trading or the investment of margin or excess funds related to such trading or the trading of any other instrument subject to CFTC jurisdiction, the following transactions in government securities are incidental to the futures-related business of such a futures commission merchant:

(1) Transactions as agent for a customer—

(i) To effect delivery pursuant to a futures contract; or

(ii) For risk reduction or arbitrage of existing or contemporaneously created postions in futures or options on futures;

(2) Transactions as agent for a customer for investment of margin and excess funds related to futures or options on futures trading or the trading of other instruments subject to CFTC jurisdiction, provided further that,

(i) Such transactions involve Treasury securities with a maturity of less than 93 days at the time of the transation.

(ii) Such transactions generate no monetary profit for the futures commission merchant in excess of the costs of executing such transactions, or

(iii) Such transactions are unsolicited, and commissions and other income generated on transactions pursuant to this paragraph (b)(2)(iii) (including transactional fees paid by the futures commission merchant and charged to its customer) do not exceed 2% of such futures commission merchant's total commission revenues;

(3) Exchange of futures for physicals transactions as agent for or as principal with a customer; and

(4) Any transaction or transactions that the Commission exempts, either unconditionally or on specified terms and conditions, as incidental to the futures-related business of a specified futures commission merchant, a specified category of futures commission merchants, or futures commission merchants generally.

(c) Definitions. (1) "Customer" means any person for whom the futures commission merchant effects or intends to effect transactions in futures, options on futures, or any other instruments subject to CFTC jurisdiction.

(2) "Regulated account" means a customer segregation account subject to the regulations of the CFTC; provided, however, that, where such regulations do not permit to be maintained in such an account or require to be maintained in a separate regulated account funds or securities in proprietary accounts or funds or securities used as margin for or excess funds related to futures contracts, options on futures or any other instruments subject to CFTC

jurisdiction that trade outside the United States, its territories, or possessions, the term "regulated account" means such separate regulated account or any other account subject to record-keeping regulations of the CFTC.

(3) "Unsolicited transaction" means a transaction that is not effected in a discretionary account or recommended to a customer by the futures commission merchant, an associated person of a futures commission merchant, a business affiliate that is controlled by, controlling, or under common control with the futures commission merchant, or an introducing broker that is guaranteed by the futures commission merchant.

(4) "Futures" and "futures contracts" mean contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market designated by the CFTC or traded on or subject to the rules of any board of trade located outside the United States, its territories, or possessions.

(5) "Options on futures" means puts or calls on a futures contract traded on or subject to the rules of a contract market designated by the CFTC or traded or subject to the rules of any board of trade located outside the United States, its territories, or possessions.

§ 240.3a44-1 Proprietary government securities transactions incidental to the futures-related business of a CFTC-regulated person.

(a) A person registered with the Commodity Futures Trading Commission ("CFTC"), a contract market designated by the CFTC, such a contract market's affiliated clearing organization, or any floor trader or such a contract market (hereinafter referred to collectively as a "CFTC-regulated person") is not a government securities dealer solely because such person effects transactions for its own account in government securities that are defined in paragraph (b) of this section as incidental to such person's futures-related business.

(b) Provided that a CFTC-regulated person does not advertise or otherwise hold itself out as a government securities dealer except as permitted under rule 3a43-1 (§ 240.3a43-1) the following transactions in government securities for its own account are incidental to the futures-related business of such a CFTC-regulated person:

(1) Transactions to effect delivery of a government security pursuant to a futures contract;

(2) Exchange of futures for physicals transactions with (i) a government securities broker or government securities dealer that has registered with the Commission or filed notice pursuant to section 15C(a) of the Act or (ii) a CFTC-regulated person;

(3) Transactions (including repurchase agreements and reverse repurchase agreements) involving segregated customer funds and securities or funds and securities held by a clearing organization with (i) a government securities broker or government securities dealer that has registered with the Commission of filed notice pursuant to section 15C(a) of the Act or (ii) a bank;

(4) Transactions for risk reduction or arbitrage of existing or contemporaneously created positions in futures or options on futures with (i) a government securities broker or government securities dealer that has registered with the Commission or filed notice pursuant to section 15C(a) of the Act or (ii) a CFTC-regulated person;

(5) Repurchase and reverse repurchase agreement transactions between a futures commission merchant acting in a proprietary capacity and another CFTC-regulated person acting in a proprietary capacity and contemporaneous offsetting transactions between such a futures commission merchant and (i) a government securities broker or government securities dealer that has registered with the Commission or filed notice pursuant to section 15C(a) of the Act, (ii) a bank, or (iii) a CFTC-regulated person acting in a proprietary capacity; and

(6) Any transaction or transactions that the Commission exempts, either unconditionally or on specified terms and conditions, as incidental to the futures related business of a specified CFTC-regulated person, a specified category of CFTC-regulated persons, or CFTC-regulated persons generally.

(c) Definitions. (1) "Segregated customer funds" means funds subject to CFTC segregation requirements.

(2) "Futures" and "futures contracts" means contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market designated by the CFTC or traded on or subject to the rules of any board of trade located outside the United States, its territories, or possessions.

(3) "Options on futures" means puts or calls on a futures contract traded on or subject to the rules of a contract market designated by the CFTC or traded on or subject to the rules of any board of trade located outside the United States, its territories, or possessions.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

July 22, 1987.

[FR Doc. 87-16917 Filed 7-23-87; 8:45 am]

BILLING CODE 8010-01-M

federal register

Friday
July 24, 1987

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Alteration of Airport Radar Service Area; March Air Force Base, CA; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-1]

Proposed Alteration of the March Air Force Base, CA, Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the March Air Force Base, CA, Airport Radar Service Area (ARSA). This proposal would adjust the lateral limits of the ARSA to remove that airspace in the immediate vicinity of Lake Mathews from regulatory status. The proposal additionally would create a subarea to the southeast which would facilitate containment of military jet arrivals within ARSA airspace.

DATES: Comments must be received on or before November 2, 1987.

The informal airspace meeting date is September 30, 1987.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 87-AWA-1, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The informal airspace meeting place is as follows:

Time: 7:00 p.m.

Location: Moreno Valley High School Gym, 23300 Cottonwood Avenue, Moreno Valley, CA 92388.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Laser, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold an informal airspace meeting in order to receive additional input with respect to the proposal. Persons who plan to attend the meeting should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meeting will be open to all persons on a space available basis. The FAA representative may accelerate the meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will not be recorded. A summary of the comments made at the meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted. Participants submitting handout materials should present an original and two copies to the presiding officer. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meeting should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the March AFB ARSA as follows:

1. Eliminate the area between five and ten miles in the immediate vicinity of Lake Mathews. This lake provides an excellent landmark for visual flight rule (VFR) aircraft, and this area has been actively utilized by various users for many years. During user forums and feedback sessions since the original implementation of this ARSA, substantial comment has been received supporting exclusion of this area. This area is clear of traffic patterns and the exclusion would not adversely impact the overally safety enhancements of ARSA airspace.

2. Lower the floor of the airspace between five and ten miles southeast of March AFB which is coincidental with the primary arrival path serving the airport. The present floor of ARSA airspace in this area is approximately 2,500 feet above terrain. The proposal would adjust this altitude to approximately 1,500 feet above terrain thereby encompassing the descent profiles into March AFB, and retain sufficient maneuvering altitudes for transit operations and flights to and from Perris Valley (private) Airport.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation

is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The proposed modifications to the March AFB ARSA are intended to improve both the safety and utility of the affected airspace. The proposal to lower the floor of the ARSA from approximately 2,500 feet AGL to approximately 1,500 feet AGL, along a corridor of airspace between five and ten miles southeast of the airport, is intended to enclose and protect the primary arrival path to March AFB. The benefits of this improvement in safety can be achieved without imposing any appreciable costs on other users of the adjacent airspace, primarily the operations out of Perris Valley Airport, located just outside the western boundary of the corridor. Following implementation of the original ARSA, a local agreement was established to accommodate the soaring, hang gliding, and parachuting operations based at Perris Valley. The provisions of this agreement will not be affected by the proposed modification. Further, the proposed 1,500 foot AGL floor of the ARSA would provide sufficient access to the Perris Valley traffic pattern to ensure that the operations of powered aircraft to and from this airport would not be adversely impacted.

The proposal to eliminate from the ARSA a small amount of airspace located between five and ten miles from March AFB in the vicinity of Lake Mathews is not expected to result in any costs associated with a reduction in safety because the affected airspace is clear of the traffic patterns of March AFB and other local airports. Further, various users will benefit from the restoration of this airspace.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at one location within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by the proposed modifications to the ARSA are the soaring, hang gliding, parachuting, and flight training operations that use the airspace in the vicinity of March AFB. Throughout the ARSA program the FAA has attempted to eliminate potentially adverse impacts on flight training, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. Such an agreement was made with the small entities at Perris Valley Airport following initial establishment of the March AFB ARSA, and this agreement will not be altered by the proposed modification. Further, these users will have an additional amount of airspace over Lake Mathews made available to them by this amendment.

For these reasons, the FAA certifies that the proposed amendment, if adopted, will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

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

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

§ 71.501 [Amended]

2. Section 1.501 is amended as follows:

March AFB, CA [Revised]

That airspace exending upward from the surface to and including 5,500 feet MSL within a 5-mile radius of March AFB (lat. 33°53'01" N., long. 117°15'38" W.) and that airspace extending upward from 3,900 feet MSL to and including 5,500 feet MSL between the 5- and 10-mile radius of March AFB from the centerline of V–16/V–370 east of the airport clockwise to the 216°T(202°M) bearing from March AFB, except that airspace 2 miles either side of the 150°T(136°M) bearing from March AFB extending upward from 2,900 feet MSL to 5,500 feet MSL.

Issued in Washington, DC, on July 20, 1987.

Daniel J. Peterson,

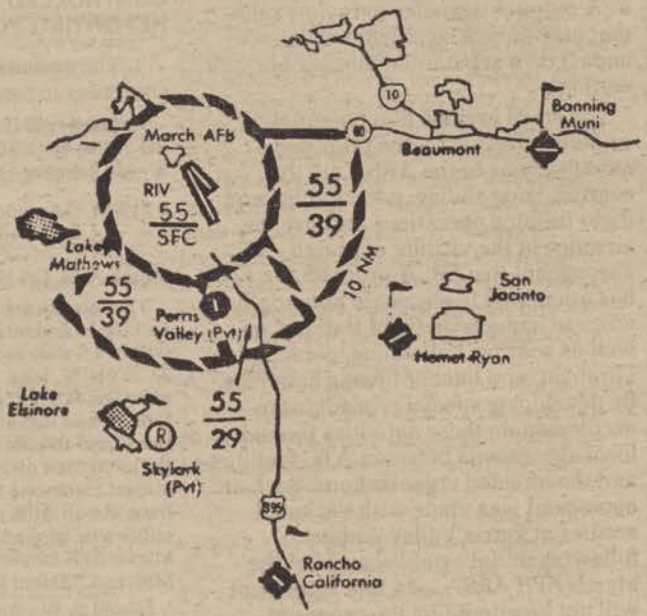
Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

MARCH AFB, CALIFORNIA
FIELD ELEV. 1538



LEGEND

VFR CHECK POINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

[FR Doc. 87-16854 Filed 7-23-87; 8:45 am]
BILLING CODE 4910-13-C

federal register

Friday
July 24, 1987

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Area; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 87-AWA-23]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish an Airport Radar Service Area (ARSA) at five locations: Abilene Municipal Airport, TX; Amarillo International Airport, TX; Dyess AFB, TX; Lexington Blue Grass Airport, KY, and Roanoke Regional/Woodrum Field, VA. Except for Dyess AFB, each location is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Dyess AFB, although not contained within a TRSA surface area, is beneath the Abilene TRSA. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before November 2, 1987. Informal airspace meeting dates are as follows: Abilene Municipal Airport, TX—September 24, 1987; Amarillo International Airport, TX—October 1, 1987; Dyess AFB, TX—September 24, 1987; Lexington Blue Grass Airport, KY—September 24, 1987, and Roanoke Regional/Woodrum Field, VA—September 29, 1987.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 87-AWA-23, 800 Independence Avenue SW., Washington, DC 20591.

The informal airspace meeting places are as follows:

Abilene Municipal Airport, TX, ARSA and Dyess AFB, TX, ARSA.

Time: 7:00 p.m.

Location: Abilene Municipal Airport Terminal, Press Room, Lower Floor, Airport Road, Abilene, TX.

Amarillo International Airport, TX, ARSA.

Time: 7:00 p.m.

Location: Amarillo College, Concert Hall Theater, 22nd and Van Buren, Amarillo, TX.

Lexington Blue Grass Airport, KY, ARSA.

Time: 7:00 p.m.

Location: Van Duesen Aviation Service, Hangar 5, Blue Grass Field, Lexington, KY.

Roanoke Regional/Woodrum Field, VA, ARSA.

Time: 7:30 p.m.

Location: William Flemming High School Auditorium, 3649 Ferncliff Avenue Northwest, Roanoke, VA.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

The informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert L. Laser, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice involves five locations. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing data for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for the proposed ARSA locations in order to receive additional input with respect to the proposal. The dates, times, and places for these meetings are listed above. Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of the meetings is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at these meetings will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants submitting handout materials should present an original and two copies to the presiding officer. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda:

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1–2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended that these criteria take into account, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 89 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's or locations without TRSA's which warrant implementation of an ARSA.

Related Rulemaking

This notice proposes ARSA designation at five locations identified as candidates for an ARSA in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register**.

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at four of the locations at which ARSA's are proposed in this notice. Dyess AFB is within the lateral boundary of the Abilene TRSA. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a shared feeling among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

Certain provisions of FAR § 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish ARSA's at the following five lications: Abilene Municipal Airport, TX; Amarillo International Airport, TX; Dyess AFB, TX; Lexington Blue Grass Airport, KY; and Roanoke Regional/Woodrum Field, VA. Four of the above locations are public airports at which nonregulatory TRSA's are currently in effect, while Dyess AFB is within the boundaries of the Abilene TRSA. The proposed locations are depicted on charts in Appendix 1 to this notice.

FAA regulations, 14 CFR 91.88, define ARSA and prescribe operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The ARSA rule provides in part that, prior to entering the ARSA, any aircraft arriving at any airport in an ARSA or flying through an ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are requireed to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar

as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, § 71.14 and § 71.501, and Part 91, § 91.1 and § 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation is not a "major rule" under Executive Order 12291 and is not a "significant rule" undet DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA has conducted a Regulatory Evaluation of the proposed establishment of these additional ARSA sites. The major findings of that evaluation are summarized below, and the evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the establishment of additional ARSA sites fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the additional ARSA sites proposed in this notice can be implemented without requiring additional controller personnel above current authorized staffing levels, because participation at these TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA will modify its terminal radar procedures at the proposed ARSA sites in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

This rulemaking proceeding and process will satisfy much of the need to notify the public and educate pilots about ARSA operations. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. The expenses associated with these public meetings are considered costs attributable to the rulemaking process; however, any public information costs following establishment of a new ARSA are strictly attributable to the ARSA. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately $500 for each ARSA site. This cost is incurred only once upon the initial establishment of an ARSA.

Information on ARSA's following the establishment of additional sites will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues and, therefore, will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meeting that will be held at each site following implementation of the ARSA which will allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the increased efficiencies due to the implementation of the ARSA. This has been the experience at most of the locations where ARSA's have been in effect for the longest period of time and is the recurring trend at the locations that have been more recently designated.

The FAA does not expect that any operator will find it necessary to install

radio transceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and, therefore, will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some proposed ARSA locations, special situtations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impact will occur at the candidate ARSA sites proposed in this notice.

b. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and is attributable to simplification and standardization of ARSA configurations and procedures, which should eliminate much of the confusion currently experienced by pilots when operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the air traffic controllers will gain greater flexibility in handling traffic within an ARSA which will enable them to move traffic more efficiently than under the current TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at the ARSA locations proposed in this notice will only be temporary, and that once established, the ARSA's will result in an overall improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agenices to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potentially adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small

proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation, if adopted, will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

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

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

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Abilene Municipal Airport, TX [New]

That airspace extending upward from the surface to and including 5,800 feet MSL within a 5-mile radius of the Abilene Municipal Airport (lat. 32°24'40" N., long. 99°40'54" W.) excluding that airspace from the surface to and including 3,600 feet MSL east of long. 99°39'00" W., from 5 miles NE of Abilene Municipal Airport to a point 11 miles east of the Abilene VORTAC on the 082°T(091°M) radial, thence via the 082°T(091°M) radial to the 5-mile radius of the Abilene Municipal Airport; and that airspace extending upward from 3,600 feet MSL to and including 5,800 feet MSL within a 10-mile radius of the Abilene Municipal Airport north of the Abilene VORTAC 082°T(091°M) radial; and that airspace extending upward from 4,300 feet MSL to and including 5,800 feet MSL within a 10-mile radius of the Abilene Municipal Airport south of the Abilene VORTAC 082°T(091°M) radial. This airport radar service area is effective during the specific days and hours of operation of the Abilene Tower and Approach Control facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Amarillo International Airport, TX [New]

That airspace extending upward from the surface to and including 7,600 feet MSL within a 5-mile radius of the Amarillo International Airport (lat. 35°13'16" N., long. 101°42'37" W.) and that airspace extending upward from 4,800 feet MSL to and including 7,600 feet MSL within a 10-mile radius of the Amarillo International Airport. This airport radar service area is effective during the specific days and hours of operation of the Amarillo Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Dyess AFB, TX [New]

That airspace extending upward from the surface to and including 5,800 feet MSL within a 5-mile radius of Dyess AFB (lat. 32°25'12" N., long. 99°51'12" W.) excluding that portion which overlies the Abilene Municipal Airport, TX, Airport Radar Service Area (ARSA) surface area; and that airspace extending upward from 3,600 feet MSL to and including 5,800 feet MSL within a 10-mile radius of Dyess AFB, north of the Abilene VORTAC 082°T(091°M) and 262°T(271°M) radials and that airspace extending upward from 4,300 feet MSL to and including 5,800 feet MSL within a 10-mile radius of Dyess AFB, south of the Abilene VORTAC 082°T(091°M) and 262°T(271°M) radials excluding that portion which overlies the Abilene Municipal Airport, TX, ARSA. This airport radar service area is effective during the specific days and hours of operation of the Abilene Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Lexington Blue Grass Airport, KY [New]

That airspace extending upward from the surface is and including 5,000 feet MSL within a 5-mile radius of the Blue Grass Airport (lat. 38°02'12" N., long. 84°36'21" W.) and that airspace extending upward from 2,200 feet to and including 5,000 feet MSL within a 10-mile radius of the Blue Grass Airport. This airport radar servcie area is effective during the specific days and hours of operation of the Lexington Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Roanoke Regional/Woodrun Field, VA [New]

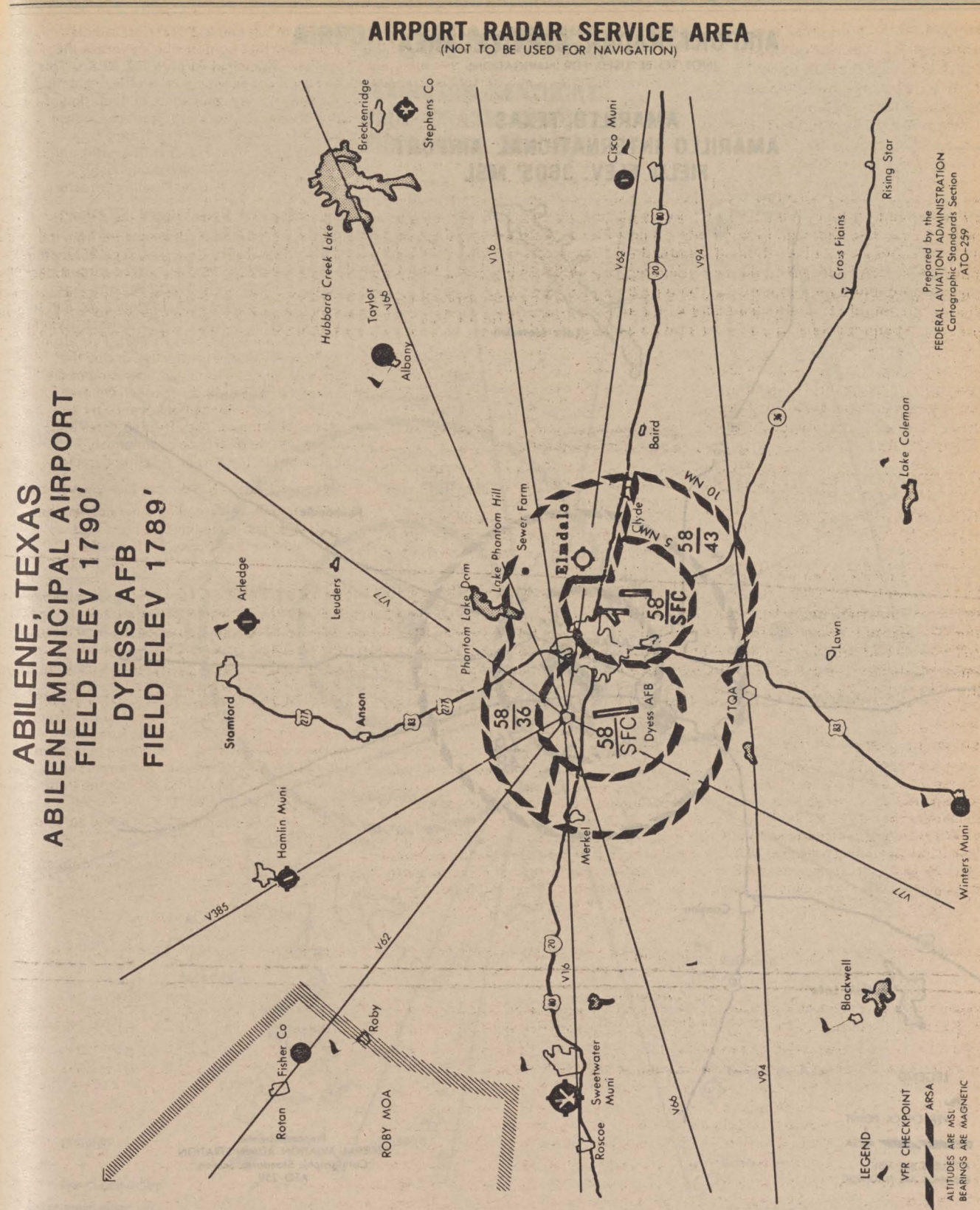
That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Roanoke Regional Airport (lat. 37°19'29" N., long. 79°58'35" W.), and that airspace extending upward from 3,800 feet MSL to and including 5,200 feet MSL between a 5- and 10-mile radius of the Roanoke Regional Airport from 014°T(010°M) bearing from the airport clockwise to the 114°T(110°M) bearing from the airport and that airspace extending upward from 3,400 feet MSL to 5,200 feet MSL between a 5- and 10-mile radius of the airport from the 114°T(110°M) bearing from the airport clockwise to a line formed by a point 284°T(280°M) bearing from the airport at 5 miles to a point 267°T(263°M) bearing from the airport at 10 miles.

Issued in Washington, DC, on July 20, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M


AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)
ABILENE, TEXAS
ABILENE MUNICIPAL AIRPORT
FIELD ELEV 1790'
DYESS AFB
FIELD ELEV 1789'
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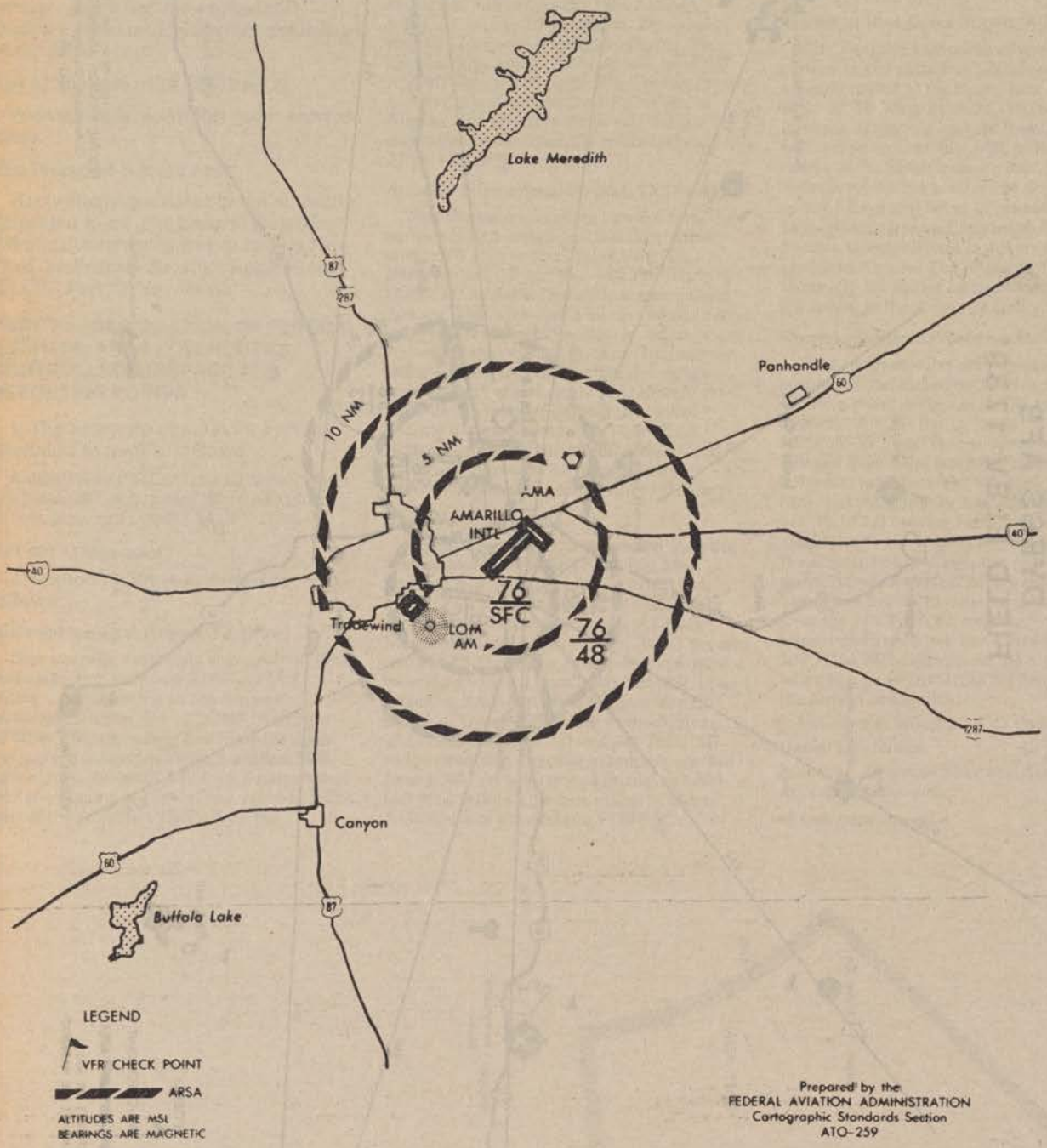
ATO-259
Breckenridge
Stephens Co
Hubbard Creek Lake
Taylor
Albany
Cisco Muni
Rising Star
Cross Plains
Baird
Clyde
Eldado
Sewer Farm
Lake Phantom Hill
Phantom Lake Dam
Leuders
Arledge
Stamford
Anson
Lake Coleman
Lawn
Dyess AFB
TQA
Merkel
Hamlin Muni
Winters Muni
Blackwell
Sweetwater Muni
Roscoe
Roby
Fisher Co
Rotan
ROBY MOA
V16
V62
V94
V66
V385
V77
WN 10
WN 5
58/43
58/SFC
58/36
58/SFC
LEGEND
VFR CHECKPOINT
ARSA
ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

AMARILLO, TEXAS
AMARILLO INTERNATIONAL AIRPORT
FIELD ELEV. 3605' MSL



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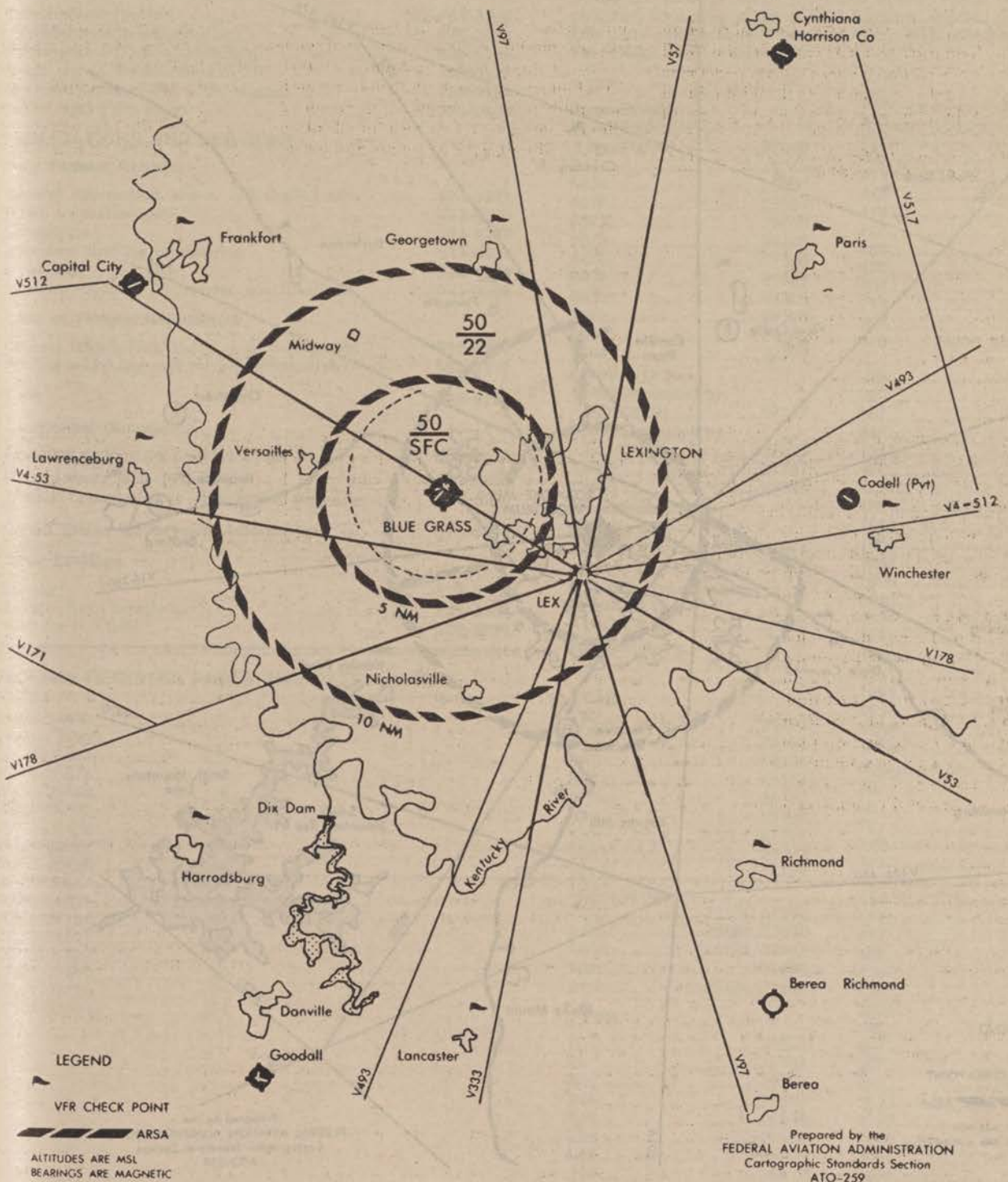
AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

LEXINGTON, KENTUCKY
BLUE GRASS AIRPORT
FIELD ELEV. 980' MSL



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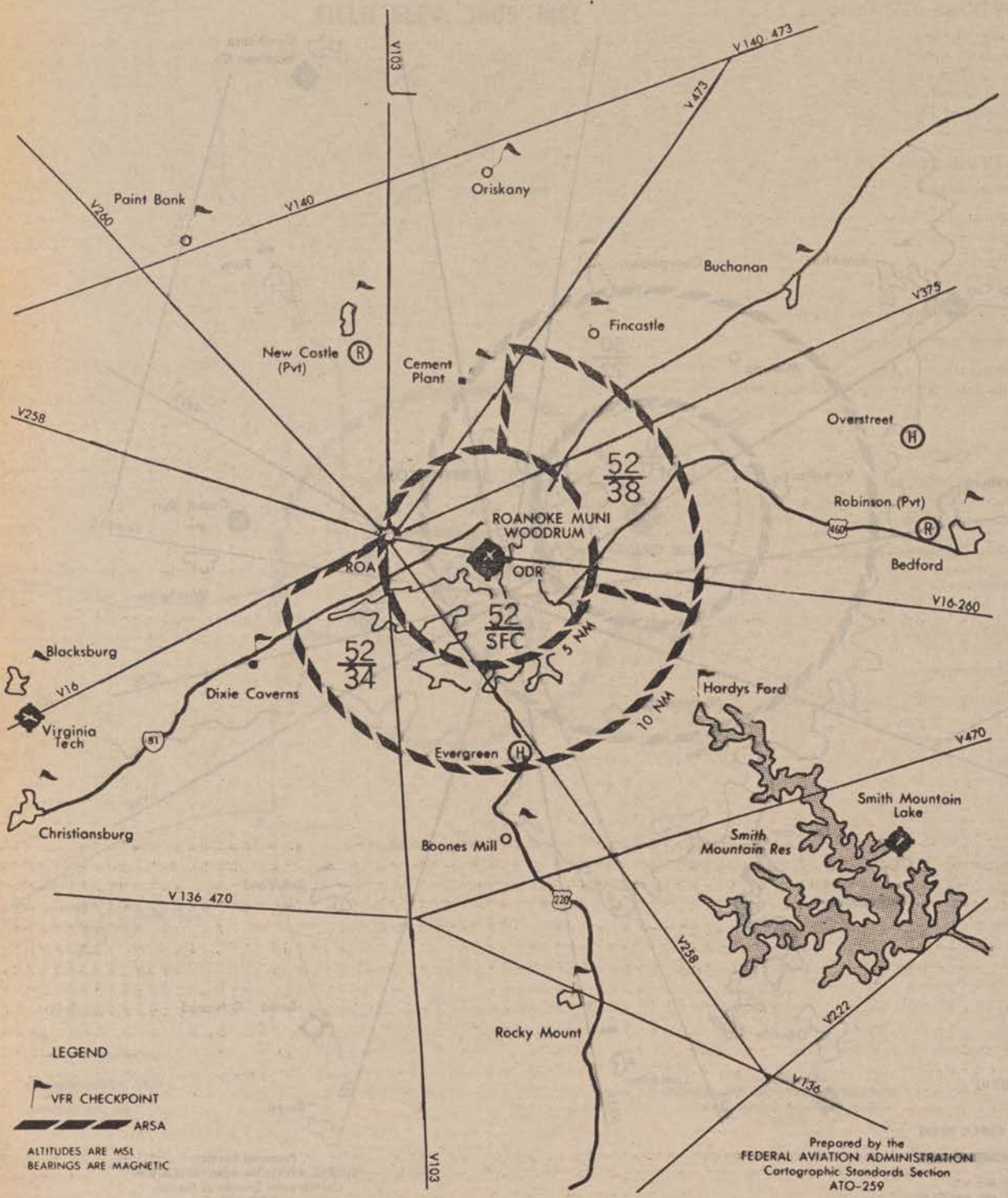
ATO-259

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

ROANOKE, VIRGINIA
ROANOKE REGIONAL/WOODRUM FIELD
FIELD ELEV. 1175' MSL



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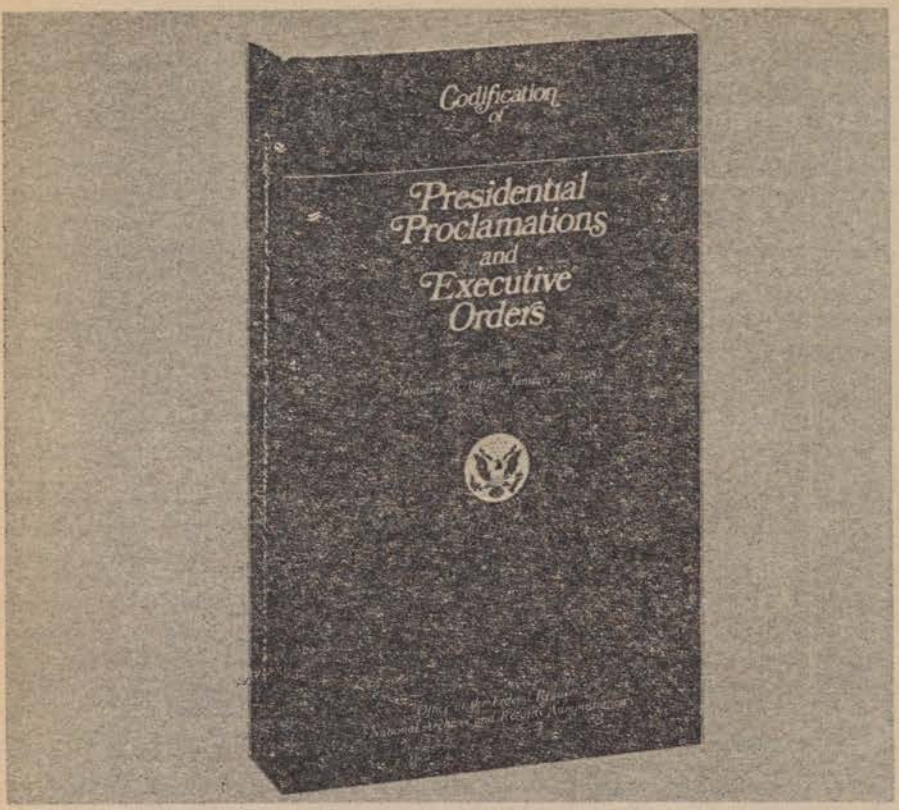

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