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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1204

Availability of Official Information

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulations with request for comments.

SUMMARY: The Merit Systems Protection Board (Board) is revising its Freedom of Information Act (FOIA) regulations to conform with the Freedom of Information Reform Act of 1986 (Reform Act) and guidelines promulgated pursuant to the Reform Act by the Office of Management and Budget (OMB). Enacted as part of the Anti-Drug Abuse Act of 1986, Pub. L. 99–570, Title I, Subtitle N, section 1803, the Reform Act amended the FOIA to provide broader exemption protection for law enforcement information, plus new law enforcement record exclusions, and also created a new fee and fee waiver structure. Under the provisions of the Act, OMB promulgated government-wide guidelines published at 52 FR 10012 (March 27, 1987) for the assessment of fees under the FOIA.

These interim regulations implement the Reform Act and OMB's guidelines on the assessment of fees and waiver of fees. In addition, the Board has taken this opportunity to review all of its FOIA regulations, originally issued in July of 1979, and to revise those regulations to reflect changes in the Board organization, in judicial interpretations of the FOIA, and in administrative practices required by the new judicial interpretations.

DATES: Interim regulations effective July 28, 1987; comments must be received on or before August 12, 1987.

ADDRESS: Send written comments to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Michael Hoxie, (202) 653–7200.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The Clerk, Merit Systems Protection Board, certifies that the Board is not required to prepare initial or final regulatory analysis of these interim regulations, pursuant to sections 603 or 604 of the Regulatory Flexibility Act, because they would not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1204

Freedom of information, Practices and procedures, Privacy.

Accordingly, the Board amends 5 CFR by revising Part 1204 as follows:

PART 1204—AVAILABILITY OF OFFICIAL INFORMATION

Subpart A—Purpose and Policy

Sec.
1204.1 Purpose.
1204.2 Policy.

Subpart B—Procedures for Disclosure of Records Under the Freedom of Information Act

1204.11 Requests for access to Board records.
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1204.21 Submission.
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Authority: 5 U.S.C. 552 and 1205, Pub. L. 99–570.

Subpart A—Purpose and Policy

§ 1204.1 Purpose.

This part contains the regulations of the Board implementing the Freedom of Information Act, 5 U.S.C. 552, and states the procedures to follow and fees that will be charged when requesting information from the Board.

§ 1204.2 Policy.

(a) For the purposes of this part, information has the same meaning as the term "agency records" in section 552 of Title 5, United States Code. All written requests for information that are not processed under Part 1205 shall be processed under this part. Information customarily furnished to the public in the regular course of the performance of official duties may continue to be furnished to the public without complying with this part, provided that the furnishing of such information would not violate the Privacy Act of 1974, 5 U.S.C. 552a or other law.

(b) When a request for a record from a Privacy Act system of records, as defined by 5 U.S.C. 552a(a)(5), is received from the subject of the record, or the subject's duly authorized representative, and the record is retrieved by the subject's name or other personal identifier, the Board will handle the request under the procedures and fees applicable in 5 CFR Part 1205. When a request for access to such records is made by a third party, without the express written consent of the subject of the record, the Board will handle the request under this part.

(c) Requests for copies of tape recordings or transcripts (if prepared) of hearings conducted by the Board under its regulations, 5 CFR Part 1201, from the parties to the appeal will be handled under 5 CFR 1201.53. Requests for copies of tape recordings or transcripts of hearings from non-parties will be handled under this part.

(d) Pursuant to 5 U.S.C. 552(a)(2), final opinions and orders of the Board, including concurring and dissenting opinions, those statements of policy and interpretations which have been adopted by the Board and are not published in the Federal Register, and administrative staff manuals and instructions to staff that affect a member of the public are available for public inspection and copying in the Board's headquarters library, Room 828, 1120 Vermont Avenue, NW., Washington, DC 20419.

Subpart B—Procedures for Disclosure of Records Under the Freedom of Information Act

§ 1204.11 Requests for access to Board records.

(a) *Submission of a request.* A requester may make a request under this part for a record of the Board by writing to the component that maintains the record. If the requester has reason to believe the records in question are

located in a regional office, the request should be submitted to that office. A list of the addresses of the Board's 11 regional offices appears in Appendix II of 5 CFR Part 1201. Other requests should be addressed to the Clerk of the Board, 1120 Vermont Avenue, NW., Washington, DC 20419. Requests submitted under this part should be clearly marked on both the envelope and the request "Freedom of Information Act Request."

(b) *Form.* A request must describe the records sought in sufficient detail to enable Board personnel to locate the records with a reasonable amount of effort. Wherever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. In addition, if the request seeks records pertaining to cases adjudicated by the Board, the request should indicate the title of the case, the MSPB docket number, and the date any decision was issued.

(c) *Time limitations and determinations.* The Board shall make a determination on a request within 10 working days of receipt in the regional office or the Office of the Clerk except under "unusual circumstances" as defined at 5 U.S.C. 552(a)(6)(B). Where "unusual circumstances" exist, the Board may extend the time period for making a determination on the request for no more than 10 additional working days and shall provide written notification to the requester of the extension. If a request or an appeal is not properly labeled or is submitted to the wrong office, the time for processing the request shall run from the time it is received by the proper office. Determinations on requests shall be made by the Clerk of the Board or by any Director of one of the Board's regional offices.

§ 1204.12 Fees.

(a) *General.* Fees pursuant to 5 U.S.C. 552 shall be assessed according to the schedule contained in paragraph (d) of this section. The Board will assess the requester fees for services rendered in responding to and processing requests for information that recoup the full allowable direct costs incurred by the Board. Fees may be assessed for time spent searching for information, even if the Board fails to locate responsive records, or if the information is determined to be exempt from disclosure. However, if the fee to be assessed for any request is less than $25.00 (the cost to the Board of processing and collecting the fee), no charge will be made to the requester.

(b) *Definitions.* (1) The term "direct costs" means those expenditures which an agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term "search" includes all time spent looking for material that is responsive to a request including page-by-page or line-by-line identification of material within documents. Searches will be done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. Searches may be done manually or by computer using existing programming.

(3) The term "duplication" refers to the process of making a copy of a document necessary to respond to an FOIA request. Such copies can take the form of paper, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided will be in a form that is reasonably usable by requesters.

(4) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located may be exempt from disclosure under the FOIA. The term also includes processing any documents for disclosure, e.g., doing all that is necessary to redact them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Board will determine the use to which the requester will put the documents requested. Moreover, where the Board has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Board will seek additional clarification before assigning the request to a specific category.

(6) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced above, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(8) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public.

(c) *Categories of requesters.* There are four categories of FOIA requesters: commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. To be eligible for the category of educational and non-commercial scientific institution, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought, as applicable, in furtherance of scholarly or scientific research. To be eligible for the news media category, a requester must meet the definition in paragraph (b)(8) of this section and the request must not be made for a commercial use. To avoid commercial use charges, requesters must demonstrate their eligibility for one of the other categories. The category under which requesters are placed for fee purposes will be determined by the Board. Determinations will be made based on information provided by the requester and information otherwise known to the Board.

(d) *Assessment of fees.* The Board will provide all requesters, except commercial use requesters as defined above, the first 100 pages (paper copies of standard agency size) of duplication and the first two hours of search time without charge.

(1) When the Board receives a request:

(i) For commercial use, it will assess charges which recover the full direct costs for searching for, reviewing for release at the initial request stage, reviewing after an appeal to determine applicability of other exemptions not considered prior to the appeal which found the original exemptions did not apply, and duplicating the information sought;

(ii) From an educational and non-commercial scientific institution, or representative of the news media to the extent duplication exceeds 100 pages, it will assess charges for cost of duplication of the requested information only;

(iii) From all other requesters, to the extent reproduction exceeds 100 pages and search exceeds two hours, it will assess fees to recover the full direct cost of searching for and duplicating requested records.

(2) When the Board reasonably believes that a requester or group of requesters is attempting to segment a request down into a series of requests for the purpose of evading the assessment of fees, the Board will aggregate such requests and charge fees accordingly. In no case will the Board aggregate multiple requests on unrelated subjects from one requester.

(3) When the Board determines that charges for a request are likely to exceed $250.00, the Board will require the requester to provide an advance payment of the entire fee before continuing to process the request.

(4) Where a requester has an outstanding fee charge or previously failed to pay a fee charged in a timely fashion, the Board will require the requester to pay any outstanding amount owed, if applicable, and to make an advance payment of the full amount of the estimated fee before the Board begins to process or apply the applicable administrative time limits for making a determination on a new request or a pending request from that requester.

(e) *Fee schedule.* (1) Fees for document searches for records will be at a rate of $3.75 per quarter hour.

(2) Fees for computer searches for records will be at a rate of $.90 per computer minute.

(3) Fees for review at the initial administrative level to determine whether records or portions of records are exempt from disclosure and review after an appeal to determine whether the records are exempt on other legal grounds will be assessed, for commercial use requests, at the rate of $8.50 per hour.

(4) Fees for paper copy duplication will represent the reasonable direct costs to the Board of making copies, taking into account the salary of the operator, as well as the cost of the reproduction machinery. Based on these criteria, the Board has determined that the fee for photocopying records will be $.10 per page, the fee for duplicating audio tapes will be $5.75 per cassette tape, the fee for computer printouts will be $.01 per page, the fee for records produced on magnetic computer tapes will be $21.00 per tape, and the fee for records produced on computer diskettes will be $2.70 per diskette. Where the Board estimates that duplication costs will exceed $25.00, it will notify the requester of the estimated amount unless the requester has indicated his willingness in advance to pay an equal or higher amount.

(f) *Fee waivers.* (1) The Clerk of the Board or Regional Director, as appropriate, upon request shall furnish information without charge or at reduced charges if it is established that disclosure "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." Determining factors shall include:

(i) The subject of the request: whether the subject of the requested records concerns "the operations or activities of the government;"

(ii) The informative value of the information to be disclosed: whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding;" and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(2) If information is to be furnished without charge or at reduced charges the requester must also establish that disclosure "is not primarily in the commercial interest of the requester." Determining factors shall include:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(3) The burden shall be on the requester to establish eligibility for a waiver of fees or reduced fees. The denial of a request for waiver of fees is appealable under Subpart C of this part.

§ 1204.13 Denials.

Denial of a request for reduced fees, waiver of fees, or a request for a record, in whole or in part, shall be in writing and shall state the reasons for the denial and notify the requester of the right to appeal the denial.

Subpart C—Appeals

§ 1204.21 Submission.

A person may appeal a denial by the Clerk of the Board or, as appropriate, any Regional Director of access to agency records, waiver of fees, or reduction of fees to the Executive Director, United States Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419. An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement why the appellant believes the denying official erred.

§ 1204.22 Determinations on appeal.

Determinations on an appeal shall be made within 20 working days after receipt. Determinations will be in writing and, if the denial of access to records is upheld, shall contain the reasons as well as the appellant's right to seek judicial review of the denial.

Dated: July 22, 1987.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 87-16957 Filed 7-27-87; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

Grading and Inspection, General Specifications for Approved Dairy Plants and Standards for Grades of Dairy Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the United States Standards for Grades of Swiss Cheese, Emmentaler Cheese. The revisions will provide greater specificity in describing the factors that are used in determining the various grade levels. In

addition, these changes will improve the clarity and grading accuracy of the standards. Also, editorial and format changes will be accomplished at the same time to update the standards so that they will be consistent with other dairy product grade standards. These revisions have been developed with the cooperation of the National Cheese Institute.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Robert G. Semerad, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Washington, DC 20250, (202) 447–7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 implementing Executive Order 12291. It has been classified a "non-major" rule since it does not meet the criteria contained therein for major regulatory actions.

The Administrator of the Agricultural Marketing Service has determined that the revisions will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the standards are for voluntary use and the revisions will not substantially increase costs to those utilizing the standards.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Section conducted a review of the United States Standards for Grades of Swiss Cheese, Emmentaler Cheese. The objective of the review was to obtain both current and historical information about the standards as written, and to identify any changes that might be necessary for modernization of the standards that became apparent from the review. The review was designed to obtain as much information as possible from as many varied sources as possible.

The review consisted of several phases. First, a computer search was made of the National Agricultural Library resources pertaining to Swiss type cheese. From this search, a number of articles and texts were selected as having a direct bearing on the review. Next, the cheese industry was contacted for input via the National Cheese Institute.

The most recent figures indicated in Dairy Products (Da 2–1), a publication of the Agricultural Statistics Board, National Agricultural Statistics Service, USDA, show that the average annual production of Swiss cheese for the years 1972–1978 was 227.7 million pounds. Production was 208.0 million pounds in 1984, 222.9 million pounds in 1985, and 227.9 million pounds in 1986. The Commodity Credit Corporation does not purchase Swiss cheese under the dairy price support program.

The current United States Standards for Grades of Swiss Cheese, Emmentaler Cheese were last revised in July 1966. Since then, a number of technological advances have taken place in the manufacturing of Swiss cheese. In addition, the in-depth review of the standards has shown that more accurate methods and criteria are needed for evaluating the defects in Swiss cheese for purposes of grading the product. It is appropriate, therefore, to make several changes in the standards. The revisions adopted herein will:

1. Establish a new sampling procedure that will greatly improve grading accuracy.

Under the present standards, at least two full trier plugs are taken from each flat face of the cheese to evaluate the factors used in determining the correct grade. Eye formation and texture are two factors that are very important in determining the overall quality of Swiss cheese. Because of the natural variation within the cheese of these two factors, the current method of plugging doesn't always give a true picture as to the quality of the cheese. Under the new sampling procedure, the sample will be cut approximately in half, exposing two cut surfaces. These two cut surfaces will be used to evaluate eye formation and texture. This method, which is used within the industry, will greatly improve grading accuracy.

2. Provide an alternate grading method to service the needs of buyers and sellers of Swiss cheese.

An alternate method utilizing trier plugs is provided for in the standards. This method may be used when requested by the applicant, for instance when the cheese is to be graded at a location where repackaging facilities are not available. The sampling method is essentially the same as the one provided under the current standards except that minor technical changes have been made to eliminate inconsistencies with the newly adopted method.

3. Describe in more detail the factors (e.g., flavor, eyes, texture, color) used in determining the various cheese grades.

Grade standards, to be of maximum value, should be based on factors that can be uniformly applied. Grade standards need to be complete, specific, and informative so that they lend themselves to a high degree of standardization when applied by experienced personnel under effective supervision. In the present standards, the terms "free from off-flavors", "may possess off-flavors", "free from objectionable flavors", and "free from offensive flavors" are used. These ambiguous terms have great potential for individual interpretation, which can lead to non-uniform application of the standards. In addition, there is a lack of specificity as to how to evaluate and rate the other factors in determining the overall grade. The revisions will provide specificity, detail, and definitions that will greatly assist in the uniform application of the standards in determining quality. Finally, salt has been deleted as a basis for determining U.S. Grades because it was not considered to be an important grade factor.

4. Eliminate the categories "current make" and "cured" as they relate to the age of the cheese when determining the U.S. Grade on the basis of body, eyes and texture, and salt.

Under the present standards, body, eyes and texture, and salt are to be evaluated in terms of currently made cheese or cured cheese. However, the standards provide essentially no differentiation in the factors relative to the age of the cheese. Thus, there is no need to continue the two age categories.

5. Eliminate U.S. Grade D.

The intent of the grade standards is to cover quality attributes of Swiss cheese intended for consumer or institutional use. Since cheese covered by U.S. Grade D is normally utilized as an ingredient in pasteurized process cheese, this grade category is being eliminated from the grade standards.

6. Modernize the language and format of the standards.

The revisions will provide consistency in language, format, and definitions between the various grade standards for cheese. This will assist graders in understanding and applying the Swiss cheese grade standards.

A separate document, "Probable Causes of Certain Characteristics in Swiss Cheese," has been developed by the Dairy Division for use by the industry. This material is not part of the Swiss cheese grade standards. It is intended to assist the cheesemaker, inform the cheese grader, and educate the consumer as to the probable cause of certain characteristics found in Swiss cheese. Copies can be obtained from the same source as indicated under "**FOR FURTHER INFORMATION CONTACT.**"

USDA grade standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have

been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of a product—its marketability—but the precise definition of quality depends on the individual commodity. When Swiss cheese is graded, the general regulations in Part 58 governing the grading service for manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA-approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

Public Comments

On October 28, 1986, the Department published a proposed rule to revise the Grading and Inspection, General Specifications for Approved Dairy Plants and Standards for Grades of Dairy Products (51 FR 39381–39385). The public comment period closed December 29, 1986. Comments were received from eight parties. Four supported the proposed revisions but with suggested changes, and four were against the revisions.

The suggested changes were:

1. Four parties requested that the newly developed cut surface sampling procedure not be adopted. Two others requested that the standards provide for two grading methods, the new proposed method (cut-surface procedure) and an alternate method (trier-plug procedure).

The Department believes that the cut surface procedure is the most accurate grading method and should be adopted as the standard procedure. However, an alternate method may be useful, for instance, when the cheese is graded at a location where repackaging facilities are not available. Therefore, the Department will include in the standards an alternate sampling method utilizing trier plugs. Use of the alternate grading method is to be noted on the grading certificate.

2. Two comments were submitted concerning the definition of Swiss cheese. In this regard, one party requested the deletion of the 60-day aging requirement. The other requested more specific wording to eliminate the possibility of forming eyes mechanically, or by other artificial means.

The present U.S. Standards for Grades of Swiss cheese stipulate that the cheese shall comply with the Federal Food and Drug Administration's Standard of Identity, 21 CFR 133.195. Therein is stated the mandatory 60-day age requirement. FDA has the regulatory authority to revise the standard of identity for Swiss cheese, not USDA. The FDA standard further states that eye formation is the result of microbiological fermentation. Eyes formed by any other method would not be in compliance with the FDA's Standard of Identity and, therefore, would not be eligible for a U.S. Grade. Therefore, the revision is retained as proposed.

3. One party requested that the composition requirements for Swiss cheese not be stated if the standards also include the Code of Federal Regulations citation (21 CFR 133.195) for the FDA's standard of identity for Swiss cheese.

Although the proposed format involves some redundancy about composition, this information was provided to conform to the standard format used when developing or revising U.S. Standards for Grades. Therefore, the Department is retaining the composition requirements as proposed.

4. One party requested the following technical changes in the grading criteria:

(a) Increase the eye diameter range for Grade A Swiss from 1 1/16–1 3/16 of an inch to 9/16–1 4/16 of an inch.

A major portion of Swiss cheese is manufactured in Wisconsin and the Wisconsin Swiss cheese standards are recognized and accepted by the industry. Those standards provide that the majority of the eyes shall be 1 1/16 to 1 3/16 of an inch in diameter. The majority of the Swiss cheese manufacturers polled during the revision requested the adoption of these requirements in the U.S. Standards for Grade. Therefore, the Department is retaining this revision as proposed.

(b) Delete the height dimension requirement for rindless blocks.

The height dimension for rindless blocks of Swiss is a recommendation, not a requirement. Research shows that the shapes and weights of Swiss cheese have proliferated; however, the height has remained within the 6½- to 8½-inch range. The Wisconsin Swiss cheese standards have more restricted dimension requirements than the proposed recommendations. Therefore, the Department is retaining this revision as proposed.

(c) Delete the flavor characteristics malty and utensil from this grade standard.

Deletion of a flavor defect from a U.S. grade standard is appropriate when over a long period of time, the flavor defect does not appear on grading certificates. When grading cheese, the malty flavor defect is rarely encountered. However, the utensil or unclean flavor is encountered more frequently. It should be noted that cheese is not assigned a U.S. grade when a flavor defect is identified in the cheese which is not contained in the grade standard. It is therefore important to include defects which are likely to be encountered so that the appropriate U.S. grade may be assigned.

Therefore, the Department agrees with the suggestion to delete malty, but disagrees with the suggestion to delete utensil and is retaining it in the revision as originally proposed.

(d)(1) Delete the sulfide description from this standard.

(2) Accept slight flat flavor in Grade B.

(3) Accept definite instead of slight dead eyes, nesty and split characteristics in Grade C.

(4) Accept slight frogmouth characteristic in Grade B and definite in Grade C.

(5) Accept slight wet rind in Grade B and definite in Grade C.

(6) Accept slight bleached surface in Grade B and definite in Grade C.

The Department concurs with these suggestions and they are reflected in the standards.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

For the reasons set forth in the preamble, 7 CFR Part 58 is amended to read as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR Part 58 continues to read as follows: Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627 unless otherwise noted.

2. Subpart N is revised to read as follows:

Subpart N—United States Standards for Grades of Swiss Cheese, Emmentaler Cheese [1]

Definitions

58.2570 Swiss cheese, Emmentaler cheese.
58.2571 Styles.

U.S. Grades

58.2572 Nomenclature of U.S. grades.
58.2573 Basis for determination of U.S. grades.
58.2574 Specifications for U.S. grades.
58.2575 U.S. grade not assignable.

Explanation of Terms

58.2576 Explanation of terms.

Supplement to U.S. Standards for Grades of Swiss Cheese, Emmentaler Cheese

58.2577 Alternate method for determination of U.S. grades.
58.2578 Specifications for U.S. grades when using the alternate method.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

Subpart N—United States Standards for Grades of Swiss Cheese, Emmentaler Cheese [1]

Definitions

§ 58.2570 Swiss cheese, Emmentaler cheese.

(a) For the purpose of this subpart, the words "Swiss" and "Emmentaler" are interchangeable.

(b) Swiss cheese is cheese made by the Swiss process or by any other procedure which produces a finished cheese having the same physical and chemical properties as cheese produced by the Swiss process. It is prepared from milk and has holes, or eyes, developed throughout the cheese by microbiological activity. It contains not more than 41 percent of moisture, and its solids contain not less than 43 percent of milkfat. It is not less than 60 days old and conforms to the provisions of 21 CFR 133.195, "Cheese and Related Cheese Products," Food and Drug Administration.

§ 58.2571 Styles.

(a) *Rind.* The cheese is completely covered by a rind sufficient to protect the interior of the cheese.

(b) *Rindless.* The cheese is properly enclosed in a wrapper or covering which will not impart any objectionable flavor or color to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to exclude air. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of a rind through contact with air during the curing and holding periods.

U.S. Grades

§ 58.2572 Nomenclature of U.S. grades.

The nomenclature of the U.S. grades is as follows:

(a) U.S. Grade A.
(b) U.S. Grade B.
(c) U.S. Grade C.

§ 58.2573 Basis for determination of U.S. grades.

(a) The determination of U.S. grades of Swiss cheese shall be on the basis of rating the following quality factors:

(1) Flavor,
(2) Body,
(3) Eyes and texture,
(4) Finish and appearance, and
(5) Color.

(b) The rating of each quality factor shall be established on the basis of characteristics present in a randomly selected sample representing a vat of cheese. In the case of institutional-size cuts, samples may be selected on a lot basis.

(c) To determine flavor and body characteristics, the grader will examine a full trier plug of cheese withdrawn at the approximate center of one of the largest flat surface areas of the sample. For some institutional-size samples, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade may be determined from a smaller portion of a plug.

(d) To determine eyes and texture as well as color characteristics, the wheel or block shall be divided approximately in half, exposing two cut surfaces, for examination. The exposed cut surfaces of institutional-size packages shall be used to determine eye and texture as well as color characteristics.

(e) A U.S. grade may be assigned to institutional-size packages. In some instances, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade determination may be assigned on a smaller portion of a plug. The exposed cut surfaces of these size packages shall be used to determine eye and texture as well as color characteristics.

(f) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.

§ 58.2574 Specifications for U.S. grades.

(a) *U.S. grade A.* U.S. grade A Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):

(1) *Flavor:* Shall be a pleasing and desirable characteristic Swiss cheese flavor, consistent with the age of the cheese, and free from undesirable flavors.

(2) *Body:* Shall be uniform, firm, and smooth.

(3) *Eyes and texture:* The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are uniformly distributed. The majority of the eyes shall be 1 1/16 to 1 3/16 inch in diameter. The cheese may possess the following eye characteristics to a very slight degree: dull, rough, and shell; and the following texture characteristics to a very slight degree: checks and picks.

(4) *Finish and appearance*—(i) *Rind.* The rind shall be sound, firm, and smooth, providing good protection to the cheese. The surface of the cheese may exhibit mold to a very slight degree. There shall be no indication that mold has penetrated into the interior of the cheese.

(ii) *Rindless.* Rindless blocks of Swiss cheese should not be less than 6½ inches nor more than 8½ inches in height, reasonably uniform in size, and well shaped. The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken, and fully protect the surface of the cheese, but may be slightly wrinkled. The surface of the cheese may exhibit mold to a very slight degree. There shall be no indication that mold has penetrated into the interior of the cheese.

(5) *Color:* Shall be natural, attractive, and uniform.

(b) *U.S. grade B.* U.S. grade B Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):

(1) *Flavor:* Shall be a pleasing and desirable characteristic Swiss cheese flavor, consistent with the age of the cheese, and free from undesirable flavors. The cheese may possess the following flavors to a slight degree: acid, bitter, feed, flat, and utensil.

(2) *Body:* Shall be uniform, firm, and smooth. The cheese may possess a slight weak body.

(3) *Eyes and texture:* The cheese shall possess well-developed round or slightly oval-shaped eyes. The cheese may possess the following eye characteristics to a very slight degree: dead eyes, nesty and small eyed; and the following to a slight degree: dull, frogmouth, one sided, overset, rough, shell, underset, and uneven. The cheese may possess the following texture characteristics to a slight degree: checks, picks and streuble.

(4) *Finish and appearance*—(i) *Rind.* The rind shall be sound, firm, and smooth; providing good protection to the cheese. The cheese may exhibit the following characteristics to a slight degree: huffed, mold, soiled, uneven, and wet rind. There shall be no indication that mold has penetrated into the interior of the cheese.

(ii) *Rindless.* Rindless blocks of Swiss cheese should not be less than 6½ inches nor more than 8½ inches in height. The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken and fully protect the surface, but may be slightly wrinkled. The cheese may exhibit the following characteristics to a slight degree: huffed, mold, uneven, and wet surface. There shall be no indication that mold has penetrated into the interior of the cheese.

(5) *Color:* The cheese may possess to a slight degree a bleached surface.

(c) *U.S. grade C.* U.S. grade C Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):

(1) *Flavor:* Shall possess a characteristic Swiss cheese flavor which is consistent with the age of the cheese. The cheese may possess the following flavors to a slight degree: barny, flat, fruity, rancid, metallic, old milk, onion,

sour, weedy, whey-taint, and yeasty; and the following to a definite degree: acid, bitter, feed, and utensil.

(2) *Body:* Shall be uniform and may possess the following characteristics to a slight degree: coarse, pasty, and short; and to a definite degree the cheese may be weak.

(3) *Eyes and texture:* The cheese may possess the following eye characteristics to a slight degree: afterset, cabbage, collapsed, irregular, large eyed, and small eyed, and the following to a definite degree: dead eyes, dull, frog mouth, nesty, rough, one sided, overset, shell, underset, and uneven. The cheese may possess the following texture characteristics to a slight degree: gassy, splits and sweet holes; and the following to a definite degree: checks, picks and streuble.

(4) *Finish and appearance*—(i) *Rind.* The rind shall be sound, providing good protection to the cheese. The cheese may exhibit the following characteristics to a slight degree: checked rind, and soft spots; and the following to a definite degree: huffed, mold, soiled, uneven, and wet rind. There shall be no indication that mold has penetrated into the interior of the cheese.

(ii) *Rindless.* The wrapper or covering shall adequately and securely envelop the cheese, be unbroken, fully protect the surface and may be wrinkled. The cheese may exhibit a very slight soiled surface and contain soft spots to a slight degree. The cheese may possess the following characteristics to a definite degree: huffed, mold, uneven, and wet surface. There shall be no indication that mold has penetrated into the interior of the cheese.

(5) *Color:* The cheese may possess the following color characteristics to a slight degree: acid cut, bleached, colored spots, dull or faded, mottled and pink ring; and to a definite degree bleached surface.

TABLE I.—CLASSIFICATION OF FLAVOR

Identification of flavor characteristics	U.S. Grade		
	A	B	C
Acid		S	D
Barny			S
Bitter		S	D
Feed		S	D
Flat		S	D
Fruity			S
Rancid			S
Metallic			S
Old Milk			S
Onion			S
Sour			S
Utensil		S	D

TABLE I.—CLASSIFICATION OF FLAVOR—Continued

Identification of flavor characteristics	U.S. Grade		
	A	B	C
Weedy			S
Whey-Taint			S
Yeasty			S

S—Slight. D—Definite.

TABLE II.—CLASSIFICATION OF BODY

Identification of body characteristics	U.S. Grade		
	A	B	C
Coarse			S
Pasty			S
Short			S
Weak		S	D

S—Slight. D—Definite.

TABLE III.—CLASSIFICATION OF EYES AND TEXTURE

[For the evaluations of cut surfaces]

Identification of eyes and texture characteristics	U.S. Grade		
	A	B	C
Afterset			S
Cabbage			S
Checks	VS	S	D
Collapsed			S
Dead		VS	D
Dull	VS	S	D
Frog mouth		S	D
Gassy			S
Irregular			S
Large eyed			S
Nesty		VS	D
One sided		S	D
Overset		S	D
Picks	VS	S	D
Rough	VS	S	D
Shell	VS	S	D
Small eyed		VS	S
Splits			D
Streuble	VS	S	D
Sweet holes			S
Underset		S	D
Uneven		S	D

VS—Very Slight. S—Slight. D—Definite.

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE

Identification of finish and appearance characteristics	U.S. Grade		
	A	B	C
Checked rind			S
Huffed		S	D
Mold on rind surface	VS	S	D
Mold under wrapper or covering	VS	S	D

TABLE IV—CLASSIFICATION OF FINISH AND APPEARANCE—Continued

Identification of finish and appearance characteristics	U.S. Grade		
	A	B	C
Soft spots			S
Soiled surface (Rind)		S	D
Soiled surface (Rindless)			VS
Uneven		S	D
Wet rind		S	D
Wet surface (Rindless)		S	D

VS—Very Slight. S—Slight. D—Definite.

TABLE V.—CLASSIFICATION OF COLOR

Identification of color characteristics	U.S Grade		
	A	B	C
Acid cut			S
Bleached surface		S	D
Colored spots			S
Dull or faded			S
Mottled			S
Pink ring			S

S—Slight. D—Definite.

§ 58.2575 U.S. grade not assignable.

Swiss cheese shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet or exceed the requirements for U.S. Grade C.

(b) Fails to meet composition, minimum age, or other requirements of the Food and Drug Administration.

(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(d) Produced in a plant which has not been USDA inspected and approved.

Explanation of Terms

§ 58.2576 Explanation of terms.

(a) With respect to style:

(1) *Rind.*—Cheese which has a hard protective outer layer formed by drying the cheese surface and by the addition of salt (usually wheel shaped).

(2) *Rindless.*—Cheese which has been protected from rind formation and which is packaged with an impervious type of wrapper or covering enclosing the cheese (usually cube or rectangular shaped).

(3) *Institutional-size packages.*—Multipound, wrapped portions of cheese, generally cut from a larger piece, intended for use by restaurants, delicatessens, schools, and etc.

(b) With respect to flavor:

(1) *Slight.*—Detected only upon critical examination.

(2) *Definite.*—Not intense but detectable.

(3) *Undesirable.*—Identifiable flavors in excess of the intensity permitted, or those flavors not listed.

(4) *Acid.*—Sharp and puckery to the taste, characteristic of lactic acid.

(5) *Barny.*—A flavor characteristic of the odor of a cow stable.

(6) *Bitter.*—A distasteful flavor similar to the taste of quinine.

(7) *Feed.*—Feed flavors (such as alfalfa, sweet clover, silage, or similar feed) in milk carried through into the cheese.

(8) *Flat.*—Insipid, practically devoid of any characteristic Swiss cheese flavor.

(9) *Fruity.*—A sweet fruit-like flavor resembling apples; generally increasing in intensity as the cheese ages.

(10) *Rancid.*—A flavor suggestive of rancidity or butyric acid, sometimes associated with a bitterness.

(11) *Metallic.*—A flavor having qualities suggestive of metal, imparting a puckery sensation.

(12) *Old Milk.*—Lacks freshness.

(13) *Onion.*—This flavor is recognized by the peculiar taste and odor suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic or leeks.

(14) *Sour.*—An acid, pungent flavor resembling vinegar.

(15) *Utensil.*—A flavor that is suggestive of improper or inadequate washing and sanitizing of milking machines, utensils or factory equipment.

(16) *Weedy.*—A flavor due to the use of milk which possesses a common weedy flavor. Present in cheese when cows have eaten weedy feed or grazed on common weed-infested pastures.

(17) *Whey-Taint.*—A slightly acid taste and odor characteristic of fermented whey, caused by too slow expulsion of whey from the curd.

(18) *Yeasty.*—A flavor indicating yeast fermentation.

(c) With respect to body:

(1) *Slight.*—Detected only upon critical examination.

(2) *Definite.*—Not intense but detectable.

(3) *Smooth.*—Feels silky; not dry and coarse or rough.

(4) *Firm.*—Feels solid, not soft or weak.

(5) *Coarse.*—Feels rough, dry and sandy.

(6) *Pasty.*—Usually weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.

(7) *Short.*—No elasticity to the plug when rubbed between the thumb and fingers.

(8) *Uniform.*—Not variable.

(9) *Weak.*—Requires little pressure to crush, is soft but is not necessarily sticky like pasty cheese.

(d) With respect to eyes and texture in general:

(1) *Blind.*—No eye formation present.

(2) *Set.*—The number of eyes in any given area of cheese.

(3) *Well developed eyes.*—Eyes perfectly developed, glossy or velvety, with smooth even walls, round or slightly oval in shape, and fairly uniform in distribution throughout the cheese.

(e) With respect to eyes and texture as it relates to cabbage, collapsed, dead, dull, frog mouth, irregular, rough and shell:

(1) *Very Slight.*—Characteristic exhibited in less than 5% of the eyes.

(2) *Slight.*—Characteristic exhibited in 5% or more but less than 10% of the eyes.

(3) *Definite.*—Characteristic exhibited in 10% or more but less than 20% of the eyes.

(4) *Cabbage.*—Cheese having eyes so numerous within the major part of the cheese that they crowd each other, leaving only a paper-thin layer of cheese between the eyes, causing the cheese to have a cabbage appearance and very irregular eyes.

(5) *Collapsed.*—Eyes which have not formed properly and do not appear round or slightly oval but rather flattened and appear to have collapsed.

(6) *Dead.*—Developed eyes that have completely lost their glossy or velvety appearance.

(7) *Dull.*—Eyes that have lost some of their bright shiny luster.

(8) *Frog mouth.*—Eyes which have developed into a lenticular or spindle-shaped opening.

(9) *Irregular.*—Eyes which have not formed properly and do not appear round or slightly oval and which are not accurately described by other more descriptive terms.

(10) *Rough.*—Eyes which do not have smooth, even walls.

(11) *Shell.*—A rough nut shell appearance on the wall surface of the eyes.

(f) With respect to eyes and texture as it relates to streuble:

(1) *Very Slight.*—Extends no more than ⅛ inch into the body of the cheese.

(2) *Slight.*—Extends ⅛ inch or more but less than ¼ inch into the body of the cheese.

(3) *Definite.*—Extends ¼ inch or more but less than ½ inch into the body of the cheese.

(4) *Streuble.*—An overabundance of small eyes just under the surface of the cheese.

(g) With respect to eyes and texture as it relates to checks, picks, and splits:

(1) *Very Slight.*—Infrequent occurrence, not more than 1 inch from the surface.

(2) *Slight.*—Limited occurrence, not more than 1 inch from the surface.

(3) *Definite.*—Limited occurrence throughout cheese.

(4) *Checks.*—Small, short cracks within the body of the cheese.

(5) *Picks.*—Small irregular or ragged openings within the body of the cheese.

(6) *Splits.*—Sizable cracks, usually in parallel layers and usually clean cut, found within the body of the cheese.

(h) With respect to eyes and texture as it relates to large eyed and small eyed:

(1) *Very Slight.*—Majority of the eyes less than $1\frac{1}{16}$ and more than ½ inch.

(2) *Slight.*—Majority of the eyes less than ½ inch but more than $\frac{5}{16}$ inch or more than $1\frac{3}{16}$ inch but less than 1 inch.

(3) *Large eyed.*—Eyes in excess of $1\frac{3}{16}$ inch.

(4) *Small eyed.*—Eyes less than $1\frac{1}{16}$ inch.

(i) With respect to eyes and texture as it relates to gassy and sweet holes:

(1) *Slight.*—No more than 3 occurrences per any given 2 square inches.

(2) *Gassy.*—Gas holes of various sizes which may be scattered.

(3) *Sweet holes.*—Spherical gas holes, glossy in appearance; usually about the size of BB shot.

(j) With respect to eyes and texture as it relates to nesty:

(1) *Very slight.*—Occurrence limited to no more than 5% of the exposed cut area of the cheese.

(2) *Slight.*—Occurrence more than 5% but less than 10% of the exposed cut area of the cheese.

(3) *Definite.*—Occurrence more than 10% but less than 20% of the exposed cut area of the cheese.

(4) *Nesty.*—An overabundance of small eyes in a localized area.

(k) With respect to eyes and texture as it relates to one-sided and uneven:

(1) *Slight.*—Eyes evenly distributed throughout at least 90% of the total cheese area.

(2) *Definite.*—Eyes evenly distributed throughout at least 75% but less than 90% of the total cheese area.

(3) *One sided.*—Cheese which is reasonably developed on one side and underdeveloped on the other as to eye development.

(4) *Uneven.*—Cheese which is reasonably developed in some areas and underdeveloped in others as to eye development.

(l) With respect to eyes and texture as it relates to afterset, overset, and underset:

(1) *Very slight.*—Number of eyes present exceed or fall short of the ideal by limited amount.

(2) *Slight.*—Number of eyes present exceed or fall short of the ideal by a moderate amount.

(3) *Afterset.*—Small eyes caused by secondary fermentation.

(4) *Overset.*—Excessive number of eyes present.

(5) *Underset.*—Too few eyes present.

(m) With respect to finish and appearance:

(1) *Very slight.*—Detected only upon very critical examination.

(2) *Slight.*—Detected only upon critical examination.

(3) *Definite.*—Not intense but detectable.

(4) *Checked rind.*—Numerous small cracks or breaks in the rind.

(5) *Huffed.*—The cheese becomes rounded or oval in shape instead of flat.

(6) *Mold on rind surface.*—Mold spots or areas which have formed on the rind surface.

(7) *Mold under wrapper or covering.*—Mold spots or area that have formed under the wrapper or on the cheese.

(8) *Soft spots.*—Spots which are soft to the touch and usually faded and moist.

(9) *Soiled surface.*—Milkstone, rust spots, grease, or other discoloration on the surface of the cheese.

(10) *Uneven.*—One side of the cheese is higher than the other.

(11) *Wet rind.*—A wet rind is one in which the moisture adheres to the surface of the rind and which may or may not soften the rind or cause discoloration.

(12) *Wet surface (rindless).*—A wet surface is one in which the moisture appears between the wrapper and the cheese surface.

(n) With respect to color:

(1) *Slight.*—Detectable only upon critical examination.

(2) *Definite.*—Not intense but detectable.

(3) *Acid cut.*—Bleached or faded appearance which sometimes varies throughout the cheese.

(4) *Bleached surface.*—A faded coloring beginning at the surface and extending inward a short distance.

(5) *Colored spots.*—Brightly colored areas (pink to brick red or gray to black) of bacteria growing in readily discernible colonies randomly distributed throughout the cheese.

(6) *Dull or faded.*—A color condition lacking in luster.

(7) *Mottled.*—Irregular-shaped spots or blotches in which portions are light colored and others are higher colored. Also, unevenness of color due to combining two different vats, sometimes referred to as "mixed curd."

(8) *Pink ring.*—A color condition which usually appears pink to brownish red and occurs as a uniform band near the cheese surface and may follow eye formation.

Supplement to U.S. Standards for Grades of Swiss Cheese, Emmentaler Cheese

§ 58.2577 Alternate method for determination of U.S. grades.

(a) This alternate method shall be used only when requested by the applicant. With this method, the eyes and texture and color factors are rated on the basis of trier plugs rather than by slicing the cheese. A statement shall appear on the grading certificate indicating that the alternate method was used as requested by the applicant.

(b) The following quality factors shall be rated when using the alternate method for determining U.S. grades:

(1) Flavor,

(2) Body,

(3) Eyes and texture,

(4) Finish and appearance, and

(5) Color.

(c) Flavor and body ratings shall be determined by the methods prescribed in § 58.2573 (b) and (c).

(d) Finish and appearance ratings shall be determined as prescribed in § 58.2574.

(e) Eyes and texture, and color ratings shall be determined by drawing and examining at least two full trier plugs, withdrawn at the approximate center of one of the largest flat surface areas of the sample. For some institutional-size samples, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade may be determined from a smaller portion of a plug.

(f) The final U.S. grade shall be established on the basis of the lowest rating of any one quality factor.

§ 58.2578 Specifications for U.S. grades when using the alternate method.

(a) *U.S. grade A.* U.S. grade A Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574):

(1) *Eyes and texture.* The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are uniformly distributed. A full plug drawn from the cheese shall be free from splits, and not appear gassy or large eyed; it may possess checks and picks within 1 inch from the surface, and may possess a limited number of checks and picks beyond 1 inch from the surface. The majority of the eyes shall be 1 1/16 to 1 3/16 inch in diameter. The cheese shall have at least two but not more than eight eyes to a trier plug.

(2) *Color.* Shall be natural, attractive and uniform.

(b) *U.S. grade B.* U.S. grade B Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574):

(1) *Eyes and texture.* The cheese shall possess well-developed round or slightly oval-shaped eyes. A full plug drawn from the cheese shall be free from splits, and not appear gassy or large eyed; and may be moderately overset and have a limited amount of checks and picks. The majority of the eyes shall be in the range of 1/2 to 1 3/16 inch in diameter. The cheese shall have at least one but not more than ten eyes to a trier plug.

(2) *Color.* The cheese may possess, to a slight degree, a bleached surface.

(c) *U.S. grade C.* U.S. grade C Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574):

(1) *Eyes and texture.* A full plug drawn from the cheese may be overset, shell or dead eyed; have splits, checks, picks, and gassy; and may be large eyed to a slight degree. The cheese is not totally blind or totally gassy.

(2) *Color.* The cheese may possess the following color characteristics to a slight degree: acid cut, colored spots, dull or faded, mottled and pink ring; and, to a definite degree, a bleached surface.

Signed at Washington, DC, on July 9, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-16991 Filed 7-27-87; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 4

Nondiscrimination on Basis of Age in Federally Assisted Commission Programs; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: Correction.

SUMMARY: This document corrects a final rule appearing in the Federal Register on July 7, 1987 (52 FR 25355) that implements provisions of the Age Discrimination Act of 1975 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance. This action is necessary to insert several entries that

were inadvertently omitted from the revised table of contents for Part 4.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7211.

On Page 25357, the following entries should be inserted in the table of contents for Part 4:

1. Under the general provisions heading insert:

4.8 Information collection requirements: OMB approval.

2. In Subpart A, between the entries for §§ 4.33 and 4.44, insert:

4.34 Information to beneficiaries and participants.

Conduct of Investigations

4.41 Periodic compliance reviews.
4.42 Complaints.
4.43 Investigations.

3. In Subpart E insert:

4.503 Definitions.

Dated at Bethesda, Maryland, this 22nd day of July, 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87–17077 Filed 7–27–87; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 795

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of OMB approval and technical amendment.

SUMMARY: NCUA has received approval of the additional collection requirement found in § 701.21(h)(4)(ii) of its business lending rule. An OMB control number has been assigned to this collection requirement.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Hattie Ulan, Staff Attorney, Office of General Counsel, at the above address, or telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: On April 16, 1987, a final rule concerning member business loans was published in the **Federal Register** (see 52 FR 12365). A new paperwork burden was noted in the supplementary information to the final rule. NCUA has received OMB approval of the collection requirement. The collection requirement is found in § 701.21(h)(4)(ii) (one-time notification requirement for certain loans to one borrower). The approval is valid through June 30, 1990, and has been assigned OMB control number 3133–0110.

The authority citation for 12 CFR Part 795 continues to read as follows:

Authority: 12 U.S.C. 1766(a)(11), and 5 U.S.C. 3507(f).

Accordingly, the table of OMB control numbers in 12 CFR 795.1(b) is amended by adding the following entry:

§ 795.1 OMB control numbers and expiration dates.

* * * * *

(b) * * *

12 CFR part or section where identified and described	Current OMB control No.
* * * * *	
701.21(h)(4)(ii)	3133–0110
* * * * *	

Dated: July 17, 1987.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 87–16942 Filed 7–27–87; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–CE–05–AD; Amdt. 39–5684]

Airworthiness Directives; Bellanca Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 87–11–01, Amendment 39–5624, applicable to all Bellanca Models 17–30, 17–30A, 17–31, 17–31A, 17–31TC, and 17–31ATC airplanes, by limiting the applicability of one of the placards required by the AD to only Models 17–30 and 17–30A airplanes. Subsequent to the original issuance of the AD, FAA determined that the original factory-installed fuel pump placard for Bellanca Models 17–31, 17–31A, 17–31TC, and 17–31ATC airplanes was satisfactory. The AD revision will prevent a misleading placard from being installed in these airplanes and preclude possible unsafe operating procedures.

EFFECTIVE DATE: August 28, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Bellanca Service Letters and AFM revisions referenced in the original issuance of the AD may be obtained from Bellanca, Inc., P.O. Box 964, Alexandria, Minnesota 56308. This information may be examined at the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, FAA, Chicago Aircraft Certification Office, ACE–140C, 2300 East Devon Avenue, Room 232, Des Plaines Illinois 60018; Telephone (312) 694–7032.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 87–11–01 (52 FR 18548–18550) dated May 18, 1987, applicable to Bellanca 17 Series airplanes, requires repetitive inspections of the fuel filler caps and fuel filler well (scupper) drains on all airplanes and AFM revisions (and installation of referenced fuel system placards) on certain models. After the AD was issued, the FAA determined the instrument panel placard required for all models in paragraph (b)(2)(i) of the AD ("USE TO RESTORE FUEL PRESSURE AND RELEASE TO PREVENT ENGINE FLOODING") is only appropriate for Models 17–30 and 17–30A airplanes because the switch is spring-loaded in these airplanes. In the other four models, the placard originally installed by the airplane manufacturer ("USE ONLY TO RESTORE FUEL PRESSURE") is appropriate and does not require replacement. Installation of incorrect operational placards could lead to improper and inappropriate engine operating procedures thereby creating an unsafe condition. Therefore, the FAA is revising paragraph (b)(2)(i) of AD 87–11–01 to make it applicable to only Models 17–30 and 17–30A airplanes. Since this revision deletes a requirement that could cause an unsafe condition, notice and public procedure hereon are unnecessary, contrary to the public interest, 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 major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedure of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft.

It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, 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. 97-499, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 87-11-01, as follows: Revise paragraph (b)(2)(i) to read:

(i) For Models 17-30 and 17-30A, on the instrument panel adjacent to the auxiliary fuel pump switch: "USE TO RESTORE FUEL PRESSURE AND RELEASE TO PREVENT ENGINE FLOODING."

This amendment revises AD 87-11-01, Amendment 39-5624.

This amendment becomes effective August 28, 1987.

Issued in Kansas City, Missouri, on July 14, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-16998 Filed 7-27-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-67-AD; Amdt. 39-5694]

Airworthiness Directives: McDonnell Douglas Model DC-10-10, 10F, -15, -30, 30F, -40, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of McDonnell Douglas DC-10 and KC-10A (Military) series airplanes by individual telegrams. This AD requires inspections and repair of the horizontal stabilizer upper outer section rear spar cap or rear skin panel. This action is necessary to detect cracks that may progress until the spar cap or skin panel is severed, which could result in structual failure.

DATES: Effective August 14, 1987.

This AD was effective earlier to all recipients of telegraphic AD T87-06-53, dated March 25, 1987, and telegraphic AD T87-06-53-R1, dated May 27, 1987.

ADDRESSES: 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 at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Kyle L. Olsen, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: On March 25, 1987, the FAA issued telegraphic AD T87-06-53, applicable to DC-10 and KC-10A (Military) series airplanes, which requires inspection and repair, if necessary, of the horizontal stabilizer upper outer section rear spar cap and rear skin panel in accordance with McDonnell Douglas Alert Service Bulletin A55-18, dated March 23, 1987. The AD was prompted by reports from two operators, of cracks in the outer section of the rear spar cap of the horizontal stabilizer on three airplanes. One airplane also had a crack in the upper outer section of the rear skin panel. The airplanes had accumulated from 51,062 to 54,686 flight-hours and 14,699 to 15,795 landings when the cracks were detected. These cracks have been attributed to fatigue originating from the barrel nut holes in the inboard end of the spar cap and from the aft edge of the skin panel near the inboard end. If not detected, a crack at this location on the spar cap or skin panel may progress until the spar cap or skin panel is severed, which could result in structural failure.

After telegraphic AD T87-06-53 was issued, a cracked skin panel was discovered on an airplane with 10,381 landings. Consequently, the FAA issued telegraphic AD T87-06-53-R1 on May 27, 1987, to require that airplanes with more than 30,000 flight hours or 7,500 landings, which have not been inspected within the last 120 days, be inspected within the next 15 days, and repaired if necessary, before further flight.

McDonnell Douglas has issued Revision 1 to Alert Service Bulletin A55-18, dated May 21, 1987, which describes eddy current inspection procedures to detect cracking in the horizontal stabilizer. The AD has been revised to permit this as an optional inspection procedure.

In addition, the compliance language of the AD has been revised to clarify that airplanes accumulating the referenced number of flight hours or landings after the effective date of the AD are subject to the requirements of the AD.

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

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under 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 is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-10-10, -10F, -15, -30, -30F, -40, and KC-10A (Military) airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the horizontal stabilizer rear spar cap and/or upper rear skin panel due to fatigue cracking, accomplish the following:

A. Prior to the accumulation of 30,000 flight-hours or 7,500 landings, whichever occurs earlier, or within 15 days after the effective date of this AD, whichever occurs later, unless already accomplished within the last 120 days, conduct a dye penetrant or eddy current inspection of horizontal stabilizer upper outer section rear spar cap and a visual inspection of the horizontal stabilizer upper outer rear skin panel in accordance with McDonnell Douglas Alert Service Bulletin A55-18, dated March 23, 1987, or Revision 1, dated May 21, 1987, or later FAA-approved revision.

B. If a crack is found, repair before further flight in a manner approved by Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

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.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to 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 the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 14, 1987.

This AD was effective earlier to all recipients of telegraphic AD T87-06-53, dated March 25, 1987, and telegraphic AD T87-06-53-R1, dated May 27, 1987.

Issued in Seattle, Washington, on July 21, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-16999 Filed 7-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-90-AD; Amdt. 39-5691]

Airworthiness Directives: McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes, Fuselage Numbers 1237 Through 1368

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain DC-9-80 (MD-80) series airplanes, which requires inspection and replacement, if necessary, of certain cowl door latches. This amendment is prompted by reports of failures of four cowl door latches on the engine nacelle. This condition, if not corrected, could result in the loss of directional control during critical flight regimes, or cause a hazard to the public by falling debris.

EFFECTIVE DATE: August 6, 1987.

ADDRESSES: 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 at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: The FAA has received reports of four cases of failed upper cowl door latch assemblies on DC-9-80 (MD-80) airplanes. All were due to the failure of the internal attachment hooks. Analyses have confirmed that at least three of the attachment hooks failed due to hydrogen embrittlement, which was infused into the hooks during manufacturing plating process. This condition is due to improper heat treat after cadmium plating of the high tensile steel hooks. The cause of the fourth failure could not be determined, since the fracture surfaces were destroyed by a field weld repair. In tracing the manufacturing history of these particular failed attachment hooks, it was revealed that they came from two production lots containing several hundred attachment hooks, many of which have been installed on airplanes in-service. Hartwell, the manufacturer of the cowl door latches, has advised McDonnell Douglas that all cowl door latch assemblies manufactured after June 1986, are supected of having this condition. Failure of the cowl door latches could result in the loss of directional control during critical flight regimes, or cause a hazard to the general public by falling debris.

The FAA has reviewed and approved McDonnell Douglas DC-9-80 (MD-80) Alert Service Bulletin A71-42, dated June 24, 1987, which describes procedures for visual inspection of the cowl engine latches.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires visual inspection and replacement, if necessary, of all cowl door latches, P/N 7958533-517 (Hartwell P/N H2816-3) manufactured after June 1986, in accordance with the provisions of service bulletin described above. Further, since cracking may occur between required inspections, this AD requires replacement of all cowl door latches on airplanes, serial numbers 1277 through 1368, within 70 days after the effective date of this AD. The FAA is considering further rulemaking to require replacement of all of the cowl door latches on all DC-9-80 (MD-80) airplanes.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under 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).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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 Federal Aviation Regulations (14 CFR 39.13) 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 airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-80 (MD-80) series airplanes, Fuselage Numbers 1237 through 1368, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the integrity of the cowl door latches, accomplish the following:

A. Within 7 days after the effective date of this AD, unless already accomplished within the last 7 days, visually inspect P/N 7958533-517 (Hartwell P/N H2816-3) cowl door latch assemblies for fractures, paying particular attention to the attachment hook. Perform this inspection in accordance with McDonnell Douglas Alert Service Bulletin A71-42, dated June 24, 1987 (hereinafter referred to as ASB 71-42), or later FAA-approved revisions.

1. If fracture is found, prior to further flight replace all latch assemblies on the affected door.

2. If fracture is not found, repeat the visual inspections of the cowl door latches at intervals not to exceed 7 days, until such time as P/N 7958533-517 (Hartwell P/N H2816-3) latch assemblies are replaced with new P/N 7958533-519 (Hartwell P/N H2816-5) latch assemblies in accordance with ASB 71-42.

B. For fuselage numbers 1277 through 1368 only: Within 70 days after the effective date of this AD, install new latch assemblies, P/N 7958533-519 (Hartwell P/N H2816-5), in accordance with ASB 71-42.

C. Installation of new cowl door latches, P/N 7958533-519 (Hartwell P/N 2816-5), constitutes terminating action for this AD.

D. 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.

E. 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.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to 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 the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 6, 1987.

Issued in Seattle, Washington, on July 18, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-17000 Filed 7-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-91-AD; Amdt. 39-5685]

Airworthiness Directive; Airbus Industrie Model A300 B2 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Model A300 B2 series airplanes, which requires inspection and repair, if necessary, of the wing front spar webs. This amendment is prompted by a recent report of a crack found on the right-hand wing front spar. This condition, if not corrected, could result in a failure of the front wing spar.

EFFECTIVE DATE: August 10, 1987.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at 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: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Générale de L'Aviation Civile (DGAC), the French Civil Aviation Authority, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition, which may exist or develop on Airbus Model A300 B2 series airplanes. There has been a recent report of a crack found on the right-hand wing front spar just outboard of rib 10 at the termination of stringer 8. This condition, if not corrected could lead to failure of the wing spar.

Airbus Industrie has issued All Operators Telex AOT/57/87/02, Issue 2, dated April 22, 1987, which describes procedures for a visual and ultrasonic inspection for cracks, and repair, if necessary. The DGAC issued French Airworthiness Directive 87-065-079(B) requiring compliance with Airbus AOT/57/87/02, Issue 2.

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

Since this condition is likely to exist or develop on other airplanes of this same type design registered in the United States, this AD requires both visual and ultrasonic inspection for cracks, and repair, if necessary, of the wing front spar webs, in accordance with Airbus AOT/57/87/02, Issue 2, dated April 22, 1987.

The manufacturer is continuing to study the problem in order to determine repetitive inspection schedules, and is planning to issue a service bulletin providing this information. The FAA may consider further rulemaking to require repetitive inspections when appropriate intervals are determined.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under 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 is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A300 B2 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the wing front spar, accomplish the following:

A. Within the next 100 landings after the effective date of this AD, or prior to the accumulation of 8,000 landings, whichever occurs later, visually inspect the wing front spar webs in accordance with paragraph 2B of Airbus Industrie All Operators Telex AOT/57/87/02, Issue 2, dated April 22, 1987.

B. Within the next 300 landings after the effective date of this AD, or prior to the accumulation of 8,000 landings, whichever occurs later, perform an ultrasonic inspection in accordance with paragraph 2C of Airbus Industrie All Operators Telex AOT/57/87/02, Issue 2, dated April 22, 1987.

C. If cracks are found as result of the inspections required by paragraph A. or B., above, repair prior to further flight in accordance with Airbus Industrie All Operators Telex AOT/57/87/02, Issue 2, dated April 22, 1987.

D. 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.

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

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

This amendment becomes effective August 10, 1987.

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

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-17001 Filed 7-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 70747-7147]

Short Supply Controls and Monitoring

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Commerce.

ACTION: Final Rule, nomenclature change.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes agency Office name changes and mailing address changes to the short supply controls and monitoring regulations to reflect agency organizational changes.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Rodney A. Joseph, Short Supply Program, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, DC, Telephone: 202/377-3984.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the International Trade Administration has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

Because this rule relates to agency management, the notice and public comment and delayed effective date of 5 U.S.C. 553 do not apply. Accordingly, this rule is not subject to the Regulatory Flexibility Act. This rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 377

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

PART 377—[AMENDED]

Accordingly, ITA amends 15 CFR Part 377 as follows:

1. The authority citation for Part 377 is revised 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); Sec. 103, Pub. L. 94-163 of December 22, 1975 (42 U.S.C. 6212), as amended by Pub. L. 99-58 of July 2, 1985; Sec. 101, Pub. L. 93-153 of November 16, 1973 (30 U.S.C. 185); Sec. 28, Pub. L. 95-372 of September 18, 1978 (43 U.S.C. 1354); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976), as amended; Sec. 201(1) and 201(11)(e), Pub. L. 94-258 of April 5, 1976 (10 U.S.C. 7420 and 7430(e)); Presidential Findings of June 14, 1985 (50 FR 25189, June 18, 1985); and Sec. 125, Pub. L. 99-64 of July 12, 1985 (46 U.S.C. 466(c).

§§ 377.1, 377.2, 377.3, 377.4, 377.7, 377.8, 377.9, and 377.15 [Amended]

2. Remove the words "Office of Export Licensing" and add, in their place, the words "Office of Industrial Resource Administration" in the following places:

(a) Sections 377.1 (b), (c)(1) and (2) (two revisions), and (c)(4);

(b) Section 377.2(d)(1);

(c) Section 377.3(a)(2), (b) introductory paragraph, and (c) introductory paragraph;

(d) Section 377.4(c) introductory paragraph, (d)(1)(vi) (two revisions), (e) (two revisions), (f) introductory paragraph, (f)(1)(i), and (i)(1) (two revisions);

(e) Section 377.7(a), (d) (the last four references), (e) introductory paragraph, (e)(1), (e)(4), (e)(5), (f)(1), (g) introductory paragraph, (h) concluding text (following paragraph (h)(3)) (j), and (l);

(f) Section 377.8 (b), (f) (two revisions), (g) (three revisions); (h) (four revisions), (i) (two revisions), (j), and (l);

(g) Section 377.9(b) introductory paragraph and (c);

(h) Section 377.15(d) (two revisions).

§ 377.1 [Amended]

3. In § 377.1(c)(3), in addition to the amendments set forth above, remove the words "National Security Preparedness Division, Office of Resource Administration (Room 3877)" and add, in their place, the words "Short Supply Program, Office of Industrial Resource Administration, Room 3876".

4. Also in § 377.1(c)(3), remove the words "National Security Preparedness Division" and add, in their place, the words "Office of Industrial Resource Administration".

§ 377.2 [Amended]

5. In § 377.2(e), in addition to the amendments set forth above, remove the words "P.O. Box 7138, Ben Franklin Station, Washington, DC 20044, or in Room 1613" and add, in their place, the words "Room 3876, Short Supply

Program, Office of Industrial Resource Administration".

§§ 377.4 and 377.6 [Amended]

6. In addition to the amendments set forth above, remove the words "National Security Preparedness Division, Office of Industrial Resource Administration, P.O. Box 663, Washington, DC 20044" and add, in their place, the words "Short Supply Program, Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, Washington, DC 20230" in the following places:

(a) Section 377.4(d)(1) introductory paragraph, (h) introductory paragraph, and (i)(2);

(b) Section 377.6(d).

7. In § 377.6, footnote No. 1 to paragraph (d)(3)(ii) introductory text is redesignated as footnote No. 2, and footnote No. 2 to the Affidavit in paragraph (e)(2) is redesignated as footnote No. 3.

§ 377.7 [Amended]

8. In § 377.7(d), in addition to the amendments set forth above, remove the words "Office of Export Licensing, Short Supply Division, P.O. Box 7138, Ben Franklin Station, Washington, DC 20044" and add, in their place, the words "Short Supply Program, Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, Washington, DC 20230".

§ 377.8 [Amended]

9. Section 377.8(d) is revised to read as follows:

* * * * *

(d) *Place of filing.* Petitions under this section may be filed by personal delivery during normal Department of Commerce business hours or by mail, to: Short Supply Program, Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

Petitions will be date-stamped upon receipt in the Office of Industrial Resource Administration. The date stamped on the petition will be the filing date for the petition.

* * * * *

11. In § 377.8(j), in addition to the amendments set forth above, remove the words "Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC" and add, in their place, the words "Room 4104, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230."

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87–16924 Filed 7–27–87; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 85–21]

Navigational Clearances for Bridges

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is issuing regulations for the coordination and development of Federal-aid highway projects which affect navigation. The regulations summarize existing policies and procedures regarding the construction of bridges over navigable waterways for the purpose of strengthening and improving the coordination between highway interests and waterway interests, and achieving cost-effective designs. In addition, this final rule incorporates the exact statutory language mandated by section 123(b) of the Federal-Aid Highway Act of 1987 (the Act) concerning the need for United States Coast Guard permits for highway projects on certain minor tidal waterways. The regulation is issued as a part of a comprehensive effort by FHWA to streamline and accelerate the planning and developmental processes on Federal-aid highway projects.

EFFECTIVE DATE: This final rule is effective August 27, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley R. Davis or Mr. Philip L. Thompson, Office of Engineering (HNG–31), (202) 366–4606, or Mr. Michael Laska, Office of the Chief Counsel (HCC–10), (202) 366–1383, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA's directive on bridge clearances for navigation (Federal-Aid Highway Program Manual 6–7–1–1) has not been revised since 1971 although there have been changes in legislative requirements and project development procedures since that time. The operating procedures for determining bridge clearances and obtaining bridge permits have been issued by FHWA in a variety of forms including memorandums to regional administrators, Technical Advisories, Notices, and a FHWA/U.S. Coast Guard (USCG) Memorandum of Understanding (MOU). This distribution of recommended operating procedures through different channels of communication has been a source of confusion for State highway agencies as well as for FHWA personnel.

This regulation corrects the deficiency by summarizing the existing legislative requirements and established operating procedures, and by referencing appropriate guidance material.

The regulation defines FHWA and USCG responsibilities relative to navigation clearances which are provided for the construction of Federal-aid highway bridges. The FHWA policy is to be involved in navigation clearance determinations, to meet the reasonable needs of navigation with fixed bridges, wherever practicable, and to provide for reasonable protection from ship collisions.

The regulation provides coordination procedures for Federal-aid highway bridges which require navigational clearances. Bridges over waterways which do not require a USCG permit represent 99 percent of the bridges over waterways processed by FHWA. For example, in calendar year 1986, FHWA authorized the construction or rehabilitation with Federal funds of approximately 5900 bridges over waterways which did not require a USCG permit. During the same period, the USCG issued permits for about 49 bridges to be constructed with Federal funds.

The FHWA has the responsibility to determine, through consultation if necessary, that the USCG permit is not required; to assure that the reasonable needs of local navigation are met; and to provide for notification of the USCG if navigation lights and signals are required.

For bridges requiring a USCG permit, the FHWA and the USCG have agreed upon general procedures designed to promote early coordination between the agencies involved and to expedite the permit approval process. References are provided for existing FHWA and USCG guidance on this subject. In addition to this guidance, a requirement has been included that sufficient preliminary design and consultation be accomplished during the environmental phase of project development to investigate bridge concepts, including the feasibility of any proposed movable bridges, and the horizontal and vertical clearances that may be required.

The FHWA encourages fixed bridges wherever practicable so that highway and waterway traffic can be best served. While this decision usually has to be made on the basis of a life-cycle cost analysis, a higher initial cost can often be justified to save future operating costs.

In addition to the regulation, the FHWA has already issued the following non-binding guidance for navigation clearances which will continue as guidance under the regulation:

The highway agency (HA) should consider the river geometry, currents and velocities; present and future barge and tow traffic, distribution and sizes; clearances at bridges upstream and downstream and navigational problems at those locations; and the history of problems with ice, lock sizes and other problems unique to the bridge site. An analysis using methods in FHWA Technical Advisory T 5140.2,[1] Navigation Channel Widths in Bends, dated February 17, 1978, can be used in making an engineering study of navigational clearances needs. In addition, bridge sites can be modeled to assure that no undue navigational hazards will be created at the bridge. Also, controlled time lapse photography of barge traffic moving through the river reach can be used to determine the width of stream actually occupied by a tow in passing through the bridge site.

Discussion of Major Comments

A notice of proposed rulemaking (NPRM) requesting comments on the proposed revisions was published on April 11, 1985, in the **Federal Register** (50 FR 14251) and FHWA Docket No. 85–21 was established with a closing date of July 10, 1985. Eight parties submitted comments: 5 from State highway agencies, 1 from a governor's office, 1 from a State Department of Environmental Protection, 1 from a private citizen.

Several State highway agencies commented favorably on the FHWA/USCG efforts, as reflected in this regulation, to improve the process of obtaining USCG permits. Several commentors indicated concerns about the following items: (1) Acceptance of FHWA environmental documents by the USCG, (2) interpretations by the USCG of "waters subject to tidal influence", (3) time delays in obtaining permits, (4) eliminating the need for permits on minor tidal waterways and (5) who (FHWA or USCG) should be involved in issuing bridge permits.

These areas of concern generally fall outside the scope of this regulation since they involve statutory requirements or responsibilities under the jurisdiction of the USCG. However, the concerns are being addressed by both FHWA and the USCG in their ongoing efforts to improve the permit approval process. Several commenters objected to establishing navigational clearances in environmental documents since design details are often not defined at this stage of development. FHWA concurs with this concern and Section 650.807(d) has been reworded to more clearly define the scope of environmental investigations to be accomplished. This wording does not change the scope of the section.

Since the issuance of the notice of proposed rulemaking, 23 U.S.C. 144(h) has been modified by the Federal-Aid Highway Act of 1987 (Pub. L. 100–17, 101 Stat. 132) to eliminate the need for permits for highway projects on certain minor tidal waterways. Sections 650.805(b) and 650.807(b) reflect these changes. The changes include exempting waterways used only by vessels less than 21 feet long.

One highway agency objected to having two Federal agencies involved in the permit process because of duplication of effort. A major purpose of this regulation is to define agency responsibilities and to encourage coordination procedures that minimize any duplication of effort.

Another highway agency expressed a concern that this regulation will affect a smoothly operating permit approval process in its State. Permit coordinating procedures developed by FHWA and USCG are intended as guidance material; use of State coordinating procedures that meet the needs of FHWA and the USCG will not be affected by this regulation.

Appendix A, "USCG/FHWA Procedures for Handling Projects Which Require a USCG Permit", and Appendix B, "USCG/FHWA Memorandum of Understanding on Coordinating the Preparation and Processing of Environmental Documents" of the notice of proposed rulemaking have been eliminated from the regulation since inclusion of this guidance material with the regulation was viewed by several commenters as giving undue emphasis to its importance. Appropriate references to guidance material is retained. A number of other minor technical changes have been made to simplify and clarify the intent of this regulation.

The FHWA and USCG are referred to throughout the regulation. The intent of these references is that the action will be taken by the appropriate office: Division, Region or Headquarters for FHWA and District or Headquarters for the USCG.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. The anticipated economic impact of this regulation is minimal since its main purpose is to summarize and emphasize current policies and procedures. Therefore, a full regulatory evaluation is not required. For these reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

With regard to the statutory provisions mandated by the Federal-Aid Highway Act of 1987 which have been included in this final rule, the FHWA has determined that good cause exists to make these provisions effective without prior notice and opportunity for comment pursuant to 5 U.S.C. 553(b)(3)(B). Since these provisions merely reflect statutory language mandated by the Act, public comment is unnecessary. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information because the provisions incorporated in the regulation require no interpretation and provide for no discretion.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highway and roads.

In consideration of the foregoing, the FHWA hereby amends Part 650 of Title 23, Code of Federal regulations, by adding a new Subpart H as set forth below.

Issued on: July 21, 1987.

R.A. Barnhart,

Federal Highway Administrator.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

* * * * *

[1] Federal Highway Administration internal directives are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

Subpart H—Navigational Clearances for Bridges

Sec.
650.801 Purpose.
650.803 Policy.
650.805 Bridges not requiring a USCG permit.
650.807 Bridges requiring a USCG permit.
650.809 Movable span bridges.

Subpart H—Navigational Clearances for Bridges

Authority: Section 123, Pub. L. 100–17, 101 Stat. 132; sec. 124(a), Pub. L. 95–599, 92 Stat. 2702; 23 U.S.C. 144(h), 315; 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*; 49 CFR 1.48(b).

§ 650.801 Purpose.

The purpose of this regulation is to establish policy and to set forth coordination procedures for Federal-aid highway bridges which require navigational clearances.

§ 650.803 Policy.

It is the policy of FHWA:

(a) To provide clearances which meet the reasonable needs of navigation and provide for cost-effective highway operations,

(b) To provide fixed bridges wherever practicable, and

(c) To consider appropriate pier protection and vehicular protective and warning systems on bridges subject to ship collisions.

§ 650.805 Bridges not requiring a USCG permit.

(a) The FHWA has the responsibility under 23 U.S.C. 144(h) to determine that a USCG permit is not required for bridge construction. This determination shall be made at an early stage of project development so that any necessary coordination can be accomplished during environmental processing.

(b) A USCG permit shall not be required if the FHWA determines that the proposed construction, reconstruction, rehabilitation, or replacement of the federally aided or assisted bridge is over waters (1) which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce and (2) which are (i) not tidal, or (ii) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

(c) The highway agency (HA) shall assess the need for a USCG permit or navigation lights or signals for proposed bridges. The HA shall consult the appropriate District Offices of the U.S. Army Corps of Engineers if the susceptibility to improvement for navigation of the water of concern is unknown and shall consult the USCG if the types of vessels using the waterway are unknown.

(d) For bridge crossings of waterways with navigational traffic where the HA believes that a USCG permit may not be required, the HA shall provide supporting information early in the environmental analysis stage of project development to enable the FHWA to make a determination that a USCG permit is not required and that proposed navigational clearances are reasonable.

(e) Since construction in waters exempt from a USCG permit may be subject to other USCG authorizations, such as approval of navigation lights and signals and timely notice to local mariners of waterway changes, the USCG should be notified whenever the proposed action may substantially affect local navigation.

§ 650.807 Bridges requiring a USCG permit.

(a) The USCG has the responsibility (1) to determine whether a USCG permit is required for the improvement or construction of a bridge over navigable waters except for the exemption exercised by FHWA in § 650.805 and (2) to approve the bridge location, alignment and appropriate navigational clearances in all bridge permit applications.

(b) A USCG permit shall be required when a bridge crosses waters which are: (1) tidal and used by recreational boating, fishing, and other small vessels 21 feet or greater in length or (2) used or susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. If it is determined that a USCG permit is required, the project shall be processed in accordance with the following procedures.

(c) The HA shall initiate coordination with the USCG at an early stage of project development and provide opportunity for the USCG to be involved throughout the environmental review process in accordance with 23 CFR Part 771. The FHWA and Coast Guard have developed internal guidelines which set forth coordination procedures that both agencies have found useful in streamlining and expediting the permit approval process. These guidelines include (1) USCG/FHWA Procedures for Handling Projects which Require a USCG Permit [1] and (2) the USCG/FHWA Memorandum of Understanding on Coordinating The Preparation and Processing of Environmental Projects.[2]

(d) The HA shall accomplish sufficient preliminary design and consultation during the environmental phase of project development to investigate bridge concepts, including the feasibility of any proposed movable bridges, the horizontal and vertical clearances that may be required, and other location considerations which may affect navigation. At least one fixed bridge alternative shall be included with any proposal for a movable bridge to provide a comparative analysis of engineering, social, economic and environmental benefit and impacts.

(e) The HA shall consider hydraulic, safety, environmental and navigational needs along with highway costs when designing a proposed navigable waterway crossing.

(f) For bridges where the risk of ship collision is significant, HA's shall consider, in addition to USCG requirements, the need for pier protection and warning systems as outlined in FHWA Technical Advisory 5140.19, Pier Protection and Warning Systems for Bridges Subject to Ship Collisions, dated February 11, 1983.

(g) Special navigational clearances shall normally not be provided for accommodation of floating construction equipment of any type that is not required for navigation channel maintenance. If the navigational clearances are influenced by the needs of such equipment, the USCG should be consulted to determine the appropriate clearances to be provided.

(h) For projects which require FHWA approval of plans, specifications and estimates, preliminary bridge plans shall be approved at the appropriate level by FHWA for structural concepts, hydraulics, and navigational clearances prior to submission of the permit application.

(i) If the HA bid plans contain alternative designs for the same configuration (fixed or movable), the permit application shall be prepared in sufficient detail so that all alternatives can be evaluated by the USCG. If appropriate, the USCG will issue a permit for all alternatives. Within 30 days after award of the construction contract, the USCG shall be notified by the HA of the alternate which was selected. The USCG procedure for evaluating permit applications which contain alternates is presented in its

[1] This document is an internal directive in the USCG Bridge Administration Manual, Enclosure 1a, COMDT INST M16590.5, change 2 dated Dec. 1, 1983. It is available for inspection and copying from the U.S. Coast Guard or the Federal Highway Administration as prescribed in 49 CFR Part 7, Appendices B and D.

[2] FHWA Notice 6640.22 dated July 17, 1981, is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

Bridge Administration Manual (COMDT INST M16590.5).[3] The FHWA policy on alternates, Alternate Design for Bridges; Policy Statement, was published at 48 FR 21409 on May 12, 1983.

§ 650.809 Movable span bridges.

A fixed bridge shall be selected wherever practicable. If there are social, economic, environmental or engineering reasons which favor the selection of a movable bridge, a cost benefit analysis to support the need for the movable bridge shall he prepared as a part of the preliminary plans.

[FR Doc. 87-16997 Filed 7-27-87; 8:45 am]
BILLING CODE 4910-22-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. MC87-3; Order No. 768]

Amendment to Domestic Mail Classification Schedule; Extension of Collect on Delivery Services, 1987

Issued July 23, 1987.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: In accordance with the July 7, 1987, adoption of the Postal Rate Commission's recommended Docket No. MC87-3 decision by the Governors of the Postal Service, the Commission is publishing the corresponding changes for the Domestic Mail Classification Schedule (DMCS). The DMCS is found as Appendix A to Subpart C of the Commission's rules of practice and procedure (39 CFR 3001.61 through 3001.68). This change permits use of Collect on Delivery (C.O.D.) service in conjunction with items sent as Express Mail.

EFFECTIVE DATE: July 26, 1987.

ADDRESSES: Correspondence should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street NW., Suite 300, Washington, DC 20268 (telephone: 202/789-6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street NW., Suite 300, Washington, DC 20268 (telephone: 202/789-6820).

SUPPLEMENTARY INFORMATION: On July 7, 1987, the Governors of the Postal Service approved a decision (Docket No. MC87-3) of the Commission recommending a change in sections 500.090 and 6.020 of the Domestic Mail Classification Schedule (DMCS). The effective date for the change is July 26, 1987. These sections set out the classes of mail for which C.O.D. service can be used.

On March 30, 1987, the Postal Service initiated a proceeding, pursuant to 39 U.S.C. 3623, requesting that the DMCS be amended to extend C.O.D. service to Express Mail. C.O.D. service has been available for mail pieces sent as First Class, single-piece third class and fourth class. The Postal Service explained that it had received requests from its customers to extend the use of C.O.D. service for mail pieces sent as Express Mail.

The Commission invited interested parties to comment and participate in the proceedings. 52 FR 10962 (April 6, 1987). The parties submitted a unanimous settlement, and agreed upon the material to be entered into the evidentiary record. On May 26, 1987, the Commission issued a decision recommending the change.

The amendment to the DMCS which is published in this order reflects the Governors' July 7, 1987, decision. Consistent with the Commission's explanation in the rulemaking (Docket No. RM85-1) which led to the publication of the DMCS in the **Federal Register**, this addition is published as a final rule, since procedural safeguards and ample opportunities to have different viewpoints considered have already been afforded to all interested persons.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

PART 3001—RULES OF PRACTICE AND PROCEDURES

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

List of Changes

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622-3624, 3661, 3662, 84 Stat. 759-762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

2. The following change in the Domestic Mail Classification Schedule published as Appendix A to Subpart C (39 CFR 3001.61 through 3001.68) of the Commission's rules of practice and procedure is adopted:

(A) Add a new subsection c to section 500.090 to read as follows:

c. C.O.D. SS-6

(B) Add a new subsection d to section 6.020 to read as follows:

d. Express Mail 500

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 87-17054 Filed 7-27-87; 8:45 am]
BILLING CODE 7715-01-M

[3] United States Coast Guard internal directives are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix B.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-3238-5]

National Emission Standards for Hazardous Air Pollutants; Standard for Radionuclides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: Final rules for National Emission Standards for Hazardous Air Pollutants; Standards for Radionuclides were published in the **Federal Register** on February 6, 1985, 50 FR 5190. These included the following source categories: Department of Energy (DOE) facilities, Nuclear Regulatory Commission (NRC) licensed facilities and non-DOE Federal facilities, and elemental phosphorus plants. The action being accomplished today announces that the information collection requirements contained in 40 CFR Part 61, Subpart K regarding elemental phosphorus plants, which were under review by the Office of Management and Budget (OMB) at the time of promulgation, have now been approved.

EFFECTIVE DATE: The information collection requirements contained in 40 CFR 61.123, 61.124, 61.125, and 61.126 and as they apply to elemental phosphorus plants, 61.07, 61.09, 61.10, 61.13 have been approved by the Office of Management and Budget (OMB) and are now effective as of July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Terrence A. McLaughlin, Chief, Environmental Standards Branch, Criteria and Standards Division, Office of Radiation Programs, U.S. Environmental Protection Agency (ANR-460), Washington, DC 20460, (202) 475-9610.

SUPPLEMENTARY INFORMATION:

In the preamble to the National Emission Standards for Hazardous Air Pollutants: Standard for Radionuclides, 40 CFR 61, February 6, 1985, 50 FR 5190, EPA noted that the information collection requirements were under review at the Office of Management and Budget (OMB). In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), those provisions are

not effective until OMB approval has been obtained. OMB approved the information collection requirements of Subpart K on June 12, 1985; accordingly, the Agency is now including the OMB control number in the body of the rule.

Subpart K includes requirements that elemental phosphorus plants test their emissions to show compliance with 40 CFR Part 61. With this notice informing the regulated community that OMB approval has been granted, the testing requirements of 40 CFR 61.123, 61.124, and 61.125 are now in effect.

Dated: July 16, 1987.

Don R. Clay,

Deputy Assistant Administrator.

PART 61—[AMENDED]

The following language is added at the end of §§ 61.123 through 61.126: "(Approved by the Office of Management and Budget under Control Number 2060–0117)"

[FR Doc. 87–16949 Filed 7–27–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400 and 447

[BERC–275–FC]

Medicaid Program; Revisions to Medicaid Payments for Hospital and Long-Term Care Facility Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule makes several changes to the regulations governing Medicaid payments for hospital and long-term care facility services. These changes are intended cumulatively to promote increased economy in the administration of the Medicaid program while retaining State flexibility to the maximum extent possible.

EFFECTIVE DATE: With the exception noted below (§ 447.253(b)), these regulations are effective October 26, 1987. (See section V.A. of the preamble concerning information collection requirements.)

Comment period: Although these regulations are final, we will consider comments on the change we made to 42 CFR 447.272 regarding the exception to the upper payment limit for hospitals that serve a disproportionate number of low income patients with special needs. Comments will be considered if they are received at the appropriate address, as provided below, no later than 5:00 p.m. on September 28, 1987.

ADDRESS: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–275–FC, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC.,

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC–275–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Janet Wellham, (swing-bed provisions), (301) 597–1939, or Tzvi Hefter (all other provisions), (301) 597–1808.

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 1986 we published a notice of proposed rulemaking (NPRM or proposed rule) in the **Federal Register** (51 FR 5728) to amend 42 CFR Part 447, Subparts C and D governing Medicaid payments for inpatient hospital and long-term care facility services and payment methods for other institutional and noninstitutional services. The provisions of the proposed rule, the comments we received and the changes we made in response to those comments are discussed below.

II. Proposed Rule

A. Submittal of Assurances

Section 1902(a)(13)(A) of the Social Security Act (the Act) (42 U.S.C. 1396a(a)(13)(A)), as amended by section 2173 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), enacted on August 13, 1981, requires that a State must find and provide satisfactory assurances to HCFA that its Medicaid payments for inpatient hospital and long-term care facility services are made through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities. The assurances must provide that the State's payment rates are set at a level that allows facilities to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards. Our current regulations at 42 CFR 447.253(b) require the State agency to submit assurances to HCFA whenever the agency makes a *significant* change in its methods and standards for determining payment rates for inpatient hospital and long-term care facility services. In the February 18, 1986 NPRM, we proposed to revise § 447.253(b) to require State agencies to submit assurances and related information for all changes in the methods and standards used for determining payment rates.

B. Inappropriate level of care services

Section 1902(a)(13)(A) of the Act also requires Medicaid reimbursement to reflect the actual level of care received by hospital inpatients specifically including when the patient is receiving "inappropriate level of care" services. For purposes of this section, the term "inappropriate level of care" means the level of care furnished to individuals who are hospital inpatients but who require only a skilled nursing or intermediate level of care and an SNF and ICF bed is not available.

Currently, a State's coverage for inappropriate level of care services is optional. A state may elect not to cover inappropriate level of care services since the care is provided in an inappropriate setting. However, if a State has chosen to cover this care, payment must be reduced to reflect the level of care required by the patient.

Section 1902(a)(13)(A) of the Act requires that payment of inappropriate level of care must be made in a manner that is consistent with section 1861(v)(1)(G) of the Act, which governs Medicare payment for SNF services received in a hospital, if a SNF bed is not available. Since there are no implementing regulations for this Medicare provision, the reference to that section in section 1902(a)(13)(A) of the Act has been confusing to States. In order to eliminate this confusion, we proposed a revision to § 447.253(b)(1)(ii). We clarified that if a State covers inappropriate level of care services, it must find and assure HCFA that its methods and standards used for determining payment rates result in reduced Medicaid inpatient payments, consistent with Medicare principles for patients receiving this level of care.

C. Upper Payment Limit

Section 1902(a)(30) of the Act (42 U.S.C. 1396a(a)(30)) requires that the State plan methods and standards used to determine payment rates result in payments that are consistent with efficiency, economy and quality of care. Section 447.253(b)(2) of our current regulations requires that the Medicaid agency assure HCFA that it has estimated that under its proposed average payment rate the State will not pay more in the aggregate for inpatient hospital services or long-term care facility services than the amount that would have been paid for the services under the Medicare principles of payment. In the NPRM, we proposed to revise § 447.253(b)(2) to state that an agency must assure HCFA that it has found that its proposed payment rate will not exceed the upper payment limits specified in the new § 447.272.

The proposed § 447.272 provided that payments by a State agency for inpatient hospital services or long-term care facility services to hospitals, SNFs, ICFs or ICFs for the mentally retarded (ICFs/MR) could not exceed the amount that could reasonably be estimated would have been paid for the services under Medicare payment principles in effect at the time the services were furnished. This section further provided that if a State used a separate ratesetting methodology within these categories of facilities, then the upper payment limit would have to have been applied to the payments to each group of facilities paid under each of the separate ratesetting methodologies.

We also proposed to revise § 447.321 in subpart D to clarify that the upper payment limit for outpatient services is calculated based on total payments received by all providers, which results from determining the payments made to individual providers during the period.

D. Federal Financial Participation Payments

Section 1903(a)(1) of the Act (42 U.S.C. 1396b(a)(1) provides that Federal financial participation (FFP) is available to match only the expenditures incurred in providing medical assistance under the State plan. In accordance with section 1902(a)(13)(A) of the Act (42 U.S.C. 1396a(a)(13)(A)), a State's payment rates must be reasonable and adequate to meet the costs incurred in the provision of care and services. In the NPRM, we proposed to add a new § 447.257 to specify that FFP is not available for any payment by an agency that is in excess of the amounts allowed under Medicare regulations governing payments for inpatient hospital and long-term care facility services. A State, in setting its payment rates, must consider only those factors that are specifically applicable to the provision of covered care and services to Medicaid patients.

E. Swing-Beds

In the NPRM, we proposed to revise § 447.280, which deals with payments to hospitals for SNF and ICF services provided in swing-beds. We proposed to provide States with greater flexibility in setting payment rates for SNF and ICF services provided by swing-bed hospitals. We proposed to give States the option to pay for these services at either the average rate per patient day paid to SNFs or ICFs (other than ICFs/MR) in the State for services furnished during the previous calendar year or at a rate established by the State. We stated that if the State chooses to establish its own rate for SNF or ICF services furnished in a swing-bed, we would require that the rate meet the State plan and payment requirements described in 42 CFR Part 447, Subpart C, as applicable (that is, those assurances and related information requirements that are appropriate for swing-bed services.) Finally, we stated that the State must apply whichever payment method it chooses to all swing-bed hospitals in the State. This revision to § 447.280 is necessary in order to conform our regulations to section 1913(b)(3) of the Act, as enacted by section 2369 of the Deficit Reduction Act of 1984 (Pub. L. 98-369), enacted on July 18, 1984.

III. Responses to Comments and Changes From the Proposed Rule

We received timely comments on the proposed rule from 43 commenters, including States, State associations, individual hospitals and others representing hospitals and long-term care facilities. These comments and our responses to them are discussed below.

Comment: A number of State agencies commented that the proposed requirement to submit assurances and related information for all changes to a State's methods and standards for determining payment rates would be burdensome. One commenter stated that the requirement to submit assurances for all changes would put States at risk and would require States to use public notice procedures for all changes. Another commenter was of the opinion that assurances would also be required for outpatient services.

Response: Our current regulations (§ 447.253(b)) require that a State agency submit assurances and related information supporting its assurances whenever the agency makes a significant change to its methods and standards for establishing payment rates for inpatient hospital services and long-term care facility services. We have found that, in many cases, the basis for a State's determination of whether a change is significant or not significant is unclear or unsupported or both. A State's basis for a determination of the significance of a plan change can affect HCFA's determination of the effective date of the change or of the adequacy and the reasonableness of the rates resulting from the change.

At the time § 447.253(b) was issued (September 30, 1981), we presumed that a State's determination of the significance of a change would be based on the estimated impact of the change on providers within the State. However, based on our experience since that regulation was published, it has become apparent to us that a State's determination of non-significance is often based on the State's desire to preserve the effective date of a proposed change. Section 447.256 precludes the approval of an effective date for a State plan change prior to the first day of the quarter in which assurances and related information are submitted. Because assurances were required only for significant changes, a State could avoid having to comply with § 447.253(b) by designating a change as nonsignificant, thereby realizing an earlier effective date than might otherwise be allowed under § 447.256. (As part of this final rule, we made a technical conforming change in § 447.256 to delete the term "significant".)

The requirement to submit assurances and related supporting information for all plan changes should not be burdensome on the States. Based on our experience the vast majority of plan changes that have been submitted by States have been labeled as significant and have been accompanied by the required assurances and related information. In addition, a plan amendment that makes only procedural changes to the State's methods and standards, and that does not revise the computation of the rate payable to a facility, would not require the State to prepare and submit revised data in support of its assurances. Under these circumstances, the resubmittal of applicable data prepared by the State for its most recently approved State plan would be acceptable, as would an assurance that the previously submitted data remain valid. Therefore, because most plan changes are already identified as significant or deal with procedural matters for which revised supportive data are not required, the number of

plan changes affected by this change in the regulations is small and will not create a burden on the States.

It should be noted that the deletion of the term "significant" in § 447.253(b) applies only to the submittal of assurances and related information for changes to a State's methods and standards for determining payment rates for inpatient hospital services and long-term care facility services. This change does not apply to hospital outpatient services and does not affect public notice requirements. Section 447.205 will continue to require public notice for changes that are significant. States will continue to decide what is significant for public notice purposes. We agree that a requirement mandating public notice for all changes would be impracticable because it would impose burdensome reporting requirements on States and would not facilitate HCFA's review of changes. The assurance required by § 447.253(f) regarding public notice continues to require States to assure that they have complied with the public notice requirements in § 447.205 for all significant changes to its method and standards for determining payment rates for inpatient hospital services and long-term care facility services.

Comment: A number of hospitals and their provider organizations commented on the proposed clarification of HCFA's policy concerning lower Medicaid payments to hospitals for inappropriate level of care services. These commenters stated that hospitals should not be penalized for a lack of available SNF or ICF beds. They believe that State programs should have the flexibility to pay rates necessary to cover the costs of providing care for patients. Some commenters were concerned with the effect of the application of the excess bed provision, specified in section 1861(v)(1)(G) of the Act (42 U.S.C. 1395x(v)(1)(G)) to Medicaid reimbursement.

Response: The proposed change to § 447.253(b)(1)(ii)(B) is merely a clarification of existing provisions of the statute and regulations. We did not propose a change in policy, and the clarification in no way has the effect of penalizing hospitals. Section 1902(a)(13)(A) of the Act provides for the payment of lower reimbursement rates, "in a manner consistent with section 1861(v)(1)(G) of the Act," for hospital patients receiving services at an inappropriate level of care. Inappropriate level of care, as the phrase is used in the statute and as discussed above, means the level of care furnished to individuals who are hospital inpatients but who are receiving only a SNF or ICF level of services.

The legislative history of section 1902(a)(13)(A) of the Act (H.R. Rep. No. 97–208, 97th Cong., 2nd Sess. 947 (1981)) explains that this provision was intended to allow a State to cover inappropriate level of care services provided in a hospital, if those services would not otherwise be available to the individual. Thus, coverage and lower payments for inappropriate level of care services are only allowable when there are no SNF or ICF beds available. It was not the intent of Congress that coverage be provided or payment for inappropriate care services be made if a hospital provides services at an inappropriate level of care when necessary care is available in the appropriate setting (that is, in a SNF or ICF). In these cases, no payment to the hospital is appropriate for services at an inappropriate level of care.

As noted, section 1902(a)(13)(A) of the Act requires that the Medicaid payment rates for inappropriate level of care services conform to the Medicare payment requirements in section 1861(v)(1)(G). As a result, § 447.253(b)(1)(ii)(B) of the regulations has specifically required that the methods and standards used by a State agency to determine Medicaid payment rates must provide that payment for hospital inpatients receiving services at an inappropriate level of care under conditions similar to those described in section 1861(v)(1)(G) of the Act must be made at lower rates, reflecting the level of care actually received in a manner consistent with that section of the Act.

While the reference to section 1861(v)(1)(G) of the Act, in section 1902(a)(13)(A) clearly requires that payment for Medicaid inappropriate level of care services be at a lower rate than the full inpatient hospital rate, section 1861(v)(1)(G) of the Act provides an exception to this general rule. If there is not an excess of hospital beds in the hospital providing the care and there is not an excess of hospital beds in the area of the hospital, then payment may be made at the regular rate for inpatient hospital services payable under Part A of Medicare, rather than at the reduced rate.

We noted in the proposed rule that the references in the Medicaid statute and in § 447.253(b)(1)(ii)(B) to section 1861(v)(1)(G) of the Act have caused some confusion as to which Medicare requirements States must consider when providing coverage for inappropriate level of care services. Section 1902(a)(13)(A) of the Act requires that in situations similar to those described in section 1861(v)(1)(G) of the Act the payment rate must be reduced. Since the statute addresses conditions *similar* to the Medicare conditions described in section 1861(v)(1)(G) of the Act, we have given States the option of adopting the excess bed exclusion contained in section 1861(v)(1)(G)(i) of the Act. However, we have not placed specific requirements on States concerning the relationship between the excess beds rule contained in section 1861(v)(1)(G) of the Act and the Medicaid program. States are not *required* under the Medicaid program to provide for the same excess bed exclusion as that required under Medicare. A State has the flexibility to develop its own excess bed exclusion to meet its needs. For example, States have the option of reducing their payment rates in all cases, even when there are no excess beds.

If a State wishes to pay the full inpatient hospital rate when there are no excess beds, it must establish criteria for determining that a hospital has no excess beds and that there are none in its area and incorporate these criteria into the State plan methodology. The criteria would have to be reasonable and consistent with section 1861(v)(1)(G) of the Act. As an operational guideline, HCFA has allowed an 80 percent occupancy threshold as an acceptable definition of hospitals with no excess capacity. However, other reasonable standards for establishing excess capacity could be acceptable. We are not mandating that States provide for an excess bed exception, nor are we prescribing parameters for criteria for the exclusion if a State chooses to adopt the excess bed exclusion.

Comment: Numerous commenters questioned HCFA's authority for implementing a Medicare upper payment limit. There were concerns raised regarding the application of the upper payment limit in the aggregate. In addition, the commenters questioned the use of the prospective payment system in computing the Medicare upper payment limit and how the Gramm-Rudman-Hollings Act (Pub. L. 99–177) affects Medicaid payments.

Response: The comments we received and other concerns raised by the public have demonstrated to us a need to revise and clarify the upper payment limit provision. Thus, as we proposed to do, we are adding a new § 447.272 to the regulations to explain the application of the upper payment limit. However, in response to the large number of comments received on this section, we

found it necessary to make revisions to what was proposed.

Section 1902(a)(30) of the Act (42 U.S.C. 1396a(a)(30)) requires that State plan methods and standards used to determine payment rates result in payments that are consistent with efficiency, economy and quality of care. This provision is the statutory basis for the requirement in the regulations that Medicaid payments be consistent with efficiency and economy and not exceed the amount that would be allowable by applying Medicare principles to Medicaid costs.

Section 962 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499), effective on October 1, 1980, amended section 1902(a)(13)(A) of the Act to give States the flexibility to deviate from Medicare's cost payment principles, which many States believed to be inflationary, by deleting the requirement that State reimbursement methodologies be cost-related. However, although States were given the flexibility to adopt methodologies that were believed to be more economical and efficient than Medicare, Congress expressed its intent that payments under State Medicaid payment systems not exceed amounts paid by Medicare. (For example, see Senate Report 96–471, 96th Cong., 1st Sess. 28 (1979).)

The legislative history for section 2173 of Pub. L. 97–35 also indicates that Congress intended to impose an upper payment limit on State Medicaid payments. The conference committee report (H.R. Rep. No. 97–208, 97th Cong., 1st Sess. 5708 (1981)) adopted the Senate version with a modification requiring States, in developing their payment rates, to take into account the situation of hospitals that serve a disproportionate number of low-income patients. The Senate version of the bill provided that State payments cannot in the aggregate excess the amount determined to be reasonable under Medicare.

On December 19, 1983, we issued in the Federal Register (48 FR 56046) final regulations that implemented sections 1902(a)(13)(A) and 1902(a)(30) of the Act. These regulations incorporated an upper payment limit assurance into the procedures for review of inpatient hospital and long-term care facility payment State plan amendments. Consequently, § 447.253(b)(2) requires a State Medicaid agency to provide an assurance that its estimated average proposed payment rate for inpatient hospital services or long-term care facility services is reasonably expected not to exceed in the aggregate the amount that the agency reasonably estimates would be paid for the services under the Medicare principles of payment. For example, in applying the upper payment limit for long-term care facilities, States should give consideration to the cost limits provided for in the newly redesignated § 413.30 (formerly § 405.460 but redesignated on September 30, 1986 (51 FR 34800)). For ICFs or ICFs/MR, for which there are no comparable Medicare rates, States should apply Medicare cost principles to Medicaid costs incurred in a given base year. In such a case, these costs would then be further adjusted by the Medicare market basket rate of increase from the base year through the year for which the rate is being determined in order to estimate what Medicare costs for the year would have been.

In applying the Medicare upper payment limit for inpatient hospital services provided prior to October 1, 1982, States are expected to apply Medicare's reasonable cost principles to Medicaid costs incurred in providing care to Medicaid patients. For payments for services provided on or after October 1, 1982, these Medicare reasonable cost principles are to be applied as modified by section 1886 (a) and (b) of the Social Security Act, as enacted by section 101 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Those amendments imposed rate-of-increase limits on Medicare payments. As modified, these principles are to be applied to Medicaid costs to determine the cost per discharge in a given base year and the Medicare rates of increase through the rate year would be applied to the Medicare determined cost per discharge to determine the adjusted Medicare cost in the rate year. This amount would then be compared to the actual Medicaid payment in the rate year.

Although under the Medicaid program States have the flexibility to adopt a prospective payment methodology based on diagnosis related groups (DRGs) (similar to that of Medicare), we recognize that, for purposes of computing an upper payment limit, it would be difficult for a State to attune its system to the Medicare prospective payment methodology. The Medicare system involves a combination of hospital-specific and Federal payment rates (with the latter being based on a blend of national and regional rates per discharge). Therefore, if a State has adopted or wishes to adopt a system using DRGs, the State's upper payment limit assurance can be based on the application of the Medicare principles, as modified by section 101 of Pub. L. 97–248, to Medicaid costs in a base year, and adjusted by the rate of increase limits under sections 1886 (a) and (b) of the Act.

In the NPRM published on February 18, 1986, we proposed a change in the application of the upper payment limit because of the inherent ability of States to adopt separate payment methodologies for certain facilities with the object of maximizing payments to certain facilities. A State could pay one group of facilities less than actual costs incurred by that group of facilities while paying another group of facilities more than actual costs incurred with the latter amount being in excess of the amount payable under the Medicare principles but not exceeding the overall aggregate upper payment limit. The proposed § 447.272 would have continued to apply the Medicare upper payment limit in the aggregate to all facilities within each category of facility (that is, hospital, SNF, ICF, and ICF/MR). However, the proposed § 447.272 would have added a requirement that if a State differentiated its payment methodologies within these categories, the upper payment limit would have been applied in the aggregate to each group of facilities that were subject to a particular payment methodology. The arraying of facilities in different groups would not have constituted a different payment methodology. Although not specifically stated as such, this provision was intended to preclude a State Medicaid agency from paying State-owned or operated facilities more than would be payable under Medicare principles. However, in response to the comments received, we have decided that rather than changing the application of the upper payment limit as it is currently being applied to all facilities, we should limit our change to State-operated facilities.

The Medicaid program is a State/Federal program that provides FFP for specific State expenditures. Generally, it is in a State's best interest to adopt cost effective payments methodologies for reimbursing non-State operated facilities for medical assistance. The imposition of limits on the amounts payable to a facility to amounts that are reasonable and adequate to meet the costs of an efficiently and economically operated facility allows a State to regulate effectively its expenditures for hospital and long-term care services provided to Medicaid recipients. However, we believe that there are no similar incentives for the imposition of cost-constraining methodologies for State-operated facilities because the costs not considered reimbursable under Medicaid would be borne entirely by the State. Recognition of all (or almost all)

of the costs incurred in operating these facilities maximizes what the State will receive in FFP payments. In one State, for example, audits have found that the prospective payment system established for State-owned and operated ICFs/MR resulted in the State receiving over $11 million more than actual allowable costs incurred by those ICFs/MR, while the payment methodology used for determining payment rates for private ICFs/MR resulted in payments to those facilities in amounts less than their costs. In another State, payments to State-operated long-term care facilities increased 100 percent over a nine month period. Although the increase appeared arbitrary, it was consistent with the regulations currently in effect. Even when a State has only one reimbursement system for all facilities of a given type, the State's differential application of that system to State-owned facilities can result in excessive payments to those facilities. Thus, in order to correct these situations, we believe it is in the best interest of the Medicaid program to revise the application of the Medicaid upper payment limit as it applies to State-operated facilities.

The new § 447.272, as issued in this final rule, will require a State Medicaid agency to provide separate assurances to HCFA regarding the upper payment limit. First, the State will be required to assure that in the aggregate payments for either inpatient hospital, SNF, ICF, or ICF/MR services, respectively, do not exceed the Medicare upper payment limit. This assurance is the same as was previously required. In addition, the State Medicaid agency will also be required to assure that payments to State-operated facilities when considered separately do not exceed the Medicare upper payment limit. Under the new § 447.272, the Medicare upper payment provisions will not be applied on a facility-specific cost basis, but will be applied in the aggregate. The upper payment limit will be applied as a limit on total costs incurred by all facilities within a specific category (such as hospitals, SNFs, ICFs or ICFs/MR).

The application of the upper payment limit does not require the application of the budgetary reductions mandated by the Gramm-Rudman-Hollings Act. The Medicaid program is specifically excluded from the budget reductions mandated by that Act.

We emphasize that the upper payment limit assurance required by § 447.253(b)(2) is a prospective assurance. The State is required to assure HCFA that, based on the information available at the time payment rates are set and at the time the assurance is given, it reasonably estimates that its payments will not exceed the upper payment limit.

The new § 447.257 specifies that FFP is not available for State expenditures that are in excess of allowable amounts. A disallowance of FFP because of excess payments will be made if, upon review of State payments, HCFA determines that the State's assurance was either faulty or invalid based on the information that was available to the State at the time it initially gave its assurance. If such a finding is made, then action to recover amounts paid in excess of the Medicare upper payment limit will be taken.

Section 9433 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) enacted on October 21, 1986 amends section 1902 of the Act to prohibit placement of a limitation on the amount of payment adjustments that may be made under a Medicaid State plan with respect to those hospitals that provide services to a "disproportionate number of low income patients with special needs". In effect, this section specifically exempts payments made, in accordance with the requirements of section 1902(a)(13)(A) of the Act, by States to hospitals for care furnished to a disproportionate number of low income patients with special needs from any limits established under Medicaid. Section 9433 of Pub. L. 99–509 is effective retroactively as though it was included in section 2173 of Pub. L. 97–35. We have, therefore, revised the proposed § 447.272 to state that the upper payment limit calculation does not apply to State payment adjustments made to hospitals that provide care and services to a disproportionate number of low income patients with special needs, as described in the State plan. As discussed below, we specifically invite public comment on this change to § 447.272.

Comment: One commenter asked which Medicare reasonable cost rules apply to swing-beds and what is the precise methodology by which they are applied.

Response: Regulations explaining in detail the Medicare rules applicable to swing-beds are found in §§ 413.114, 413.53(a)(2) and 413.24(d)(5).

Comment: One commenter questioned under what circumstances FFP would be denied if a State chose to establish its own rate to reimburse swing-bed hospitals for SNF or ICF services. This commenter also questioned whether there was a separate Medicare upper payment limit for swing-beds.

Response: A State setting its own payment rate for swing-beds as allowed by § 447.280(a)(2) is required to meet the same requirements (that is, State plan and payment requirements) as are required for other SNF or ICF services furnished in the State. Thus, if a State fails to meet these requirements, FFP will be denied. There is not a separate medicare upper payment limit for Medicaid swing-beds.

Comment: One commenter stated that the assurances required for States that set their own payment rates for swing-beds is a further burden on small States that have fewer swing-bed patients.

Response: Section 447.280 extends rate-setting flexibility to States for swing-bed services in accordance with section 1913(b)(3) of the Act, as enacted by section 2369 of Pub. L. 98–369. However, States are not required to use this flexibility and may choose to provide for payment for swing-beds in accordance with § 447.280(a)(1). This provision allows a State to make payment for these services at the average rate per patient day paid to SNFs or ICFs, other than ICFs/MR, as applicable, for SNF or ICF services furnished during the previous calendar year. A State choosing payment for swing-beds in accordance with § 447.280(a)(1) is not subject to any additional State plan or payment requirements.

Comment: Two commenters questioned whether we had considered making a conforming change to § 413.53(a)(2), which defines the carve-out method of determining inpatient routine service costs for swing-bed hospitals under Medicare. These commenters believe that if § 413.53(a)(2) is not amended, the provisions in this section will require hospitals under the Medicare program (or hospitals whose State plan follows Medicare principles of payment in determining inpatient routine service costs for Medicaid purposes) to compute the carve-out for swing-bed days by using the prior year State rate even though the State may have elected to use an alternative rate to pay for Medicaid swing-bed days.

Response: We do not believe that a conforming change to § 413.53(a)(2) is necessary. As we explained in the preamble of the interim final rule published on July 20, 1982 (47 FR 31522) that implemented the initial swing-bed legislation, we believe the carve-out method is intended to remove the *routine costs* of SNF and ICF services furnished by a swing-bed hospital, not the "*reimbursement due*" to the hospital for these days. Although a hospital can receive different payment amounts for

swing-bed days incurred by private pay patients, Medicare patients and Medicaid patients, the *routine costs* attributable to these services are the same regardless of whether the patient is a private pay patient, Medicare patient, or Medicaid patient. If actual payment amounts, rather than the costs for SNF and ICF services were subtracted from the hospital's general routine service costs, the remaining amount would not represent the costs attributable to the general routine hospital services. Therefore, in applying the carve-out method, we will continue to subtract the costs attributable to swing-bed days as currently defined in § 413.53(a)(2).

IV. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, we prepare and publish a regulatory flexibility analysis in a manner consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. We consider all hospitals and nursing homes to be small entities under the RFA, but States and individuals are not small entities.

In the proposed rule published February 18, 1986, we set forth our reasons for preparing neither an economic impact analysis under E.O. 12291, nor a regulatory flexibility analysis under the RFA. One commenter argued that this was inappropriate.

Comment: One State commenter argued that the cumulative percentage reduction of the changes to the upper payment limit could potentially affect Medicaid programs by more than $100 million. The commenter also argued that HCFA's past practice allowed States to estimate the payments according to the Medicare principles of reimbursement by trending forward Medicaid costs from a base period when costs were still determined by Medicare principles of payment.

Response: We do not believe the commenter correctly characterized either the established policy on upper payment limits, or our proposed changes. Certainly, the changes made to the upper payment limit provisions in this final rule, as revised in response to comments received, will not produce a cumulative percentage reduction of more than $100 million. As discussed above, the States will continue to be allowed to use Medicare principles of payment to determine their State limits. State-owned hospitals that have different services than private hospitals will prepare a separate set of limits.

As was the case with the proposed rule, we are unable to estimate potential savings from the revised upper payment limit. This final rule may affect States in which State-owned facilities are currently paid at levels that would exceed the limits in one of two ways: the State may revise its payment methodology under its State plan to come into compliance with the upper limit requirements, or it may continue its current payment methodology. In the latter case, the affected State will experience reduced FFP and an increased share of the costs of medical care furnished in the affected facilities. However, because we believe the problem described above is limited to relatively few States, we do not expect either the overall economic impact or the administrative costs to be significant.

We have determined that the other provisions of this final rule would not have a significant economic impact for the reasons set forth in the proposed rule. Therefore, this rule is not a major rule and a regulatory impact analysis is not required. Further, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis has not been prepared.

V. Other Required Information

A. Paperwork Burden

The change we made to § 447.253(b) of this final rule will require the submission by States of additional information required by § 447.255. Consequently, this change is subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511). A request for approval of information collection requirements has been submitted by HCFA to OMB. Upon OMB approval, HCFA will publish a notice in the **Federal Register** announcing OMB's approval and displaying the control number assigned by OMB for this information collection requirement. Until that time, this change is not effective. Comments on the collection of information requirements pertaining to this change should be sent to the following address:

Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: HCFA Desk Officer

In addition, we note that the information collection requirements contained in §§ 447.253(a) and 447.255 (to which the former section refers) have previously been reviewed by OMB and approved. Thus we are updating 42 CFR 400.310 to display the valid OMB control number (0938—0193) assigned for the requirements described in §§ 447.253(a) and 447.255.

B. Waiver of proposed rulemaking

In section III of this preamble, we noted that section 9433 of Pub. L. 99–509 amended section 1902 of the Act to prohibit the placement of a limitation on the amount of payment adjustments that may be made under a Medicaid State plan with respect to those hospitals that provide services to a "disproportionate number of low income patients with special needs." This provision is effective retroactively as though it had been included in section 2173 of Pub. L. 97–35, which was enacted on August 13, 1981. This legislative change is being implemented in this final rule in § 447.272(c).

Generally, we issue a notice of proposed rulemaking and provide a period for public comment before implementing amendments to the law through regulations. However, we may waive this procedure if it would be impractical, unnecessary, or contrary to the public interest.

In § 447.272(c), we provide that the Medicare upper payment limit does not apply to payment adjustments made under a State plan to hospitals that serve a disproportionate number of low income patients with special needs, as provided for in § 447.253(b)(1)(ii)(A). This exception to the Medicare upper payment limit is merely a conforming change required by section 9433 of Pub. L. 99–509, which, as noted above, is effective retroactively to August 13, 1981.

In view of the retroactive nature of this provision and the fact that it is a conforming change required by the law, we believe that the delay in implementing this provision that would be necessitated by proposed and final rulemaking would be impractical and contrary to public interest. Thus, we find good cause to waive the proposed rulemaking procedures. However, we are providing a 60-day comment period so that interested parties may comment specifically on this provision (that is, § 447.272(c)).

Because of the large number of items of correspondence we normally receive, we cannot acknowledge or respond to

them individually. However, we will consider all comments concerning § 447.272(c) that are received by the date and time specified in the "Dates" section of this preamble. If, as a result of these public comments, we conclude that changes in § 447.272(c) are needed, we will respond to the comments and include the changes in a future Federal Register publication.

All other provisions included in these final regulations were proposed in the NPRM, and we are responding in this document to comments received on these provisions. Therefore, if another Federal Register publication is necessary, we expect to address only comments that concern § 447.272(c).

List of Subjects

42 CFR Part 400

Grant programs—Health facilities, Health maintenance organizations (HMOs), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 447

Accounting, Administrative practice and procedure, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

42 CFR Chapter IV is amended as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES

A. Part 400 is amended as follows:

PART 400—INTRODUCTION: DEFINITIONS

1. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is amended by adding, in numerical order by CFR section, the following entry of the section that provides for collections of information and the assigned OMB control number.

§ 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control numbers
447.253(a)	0938-0193
447.255	0938-0193

B. Part 447 is amended as follows:

PART 447—PAYMENTS FOR SERVICES

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

1. The authority citation for Part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents for Subpart C is amended by adding an undesignated center heading and titles for new §§ 447.257 and 447.272 to read as follows:

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

Sec.

* * * * *

Federal Financial Participation

§ 447.257 FFP: Conditions relating to institutional reimbursement.

* * * * *

§ 447.272 Application of upper payment limits.

* * * * *

3. In § 447.253, paragraph (a) is revised, the introductory language of paragraph (b) is revised, the introductory language of paragraph (b)(1)(ii) is republished, and paragraphs (b)(1)(ii)(B) and (b)(2) are revised to read as follows:

§ 447.253 Other requirements.

(a) *State assurances.* In order to receive HCFA approval of a State plan change in payment methods and standards, the Medicaid agency must make assurances satisfactory to HCFA that the requirements set forth in paragraphs (b) through (g) of this section are being met, must submit the related information required by § 447.255 of this subpart, and must comply with all other requirements of this subpart.

(b) *Findings.* Whenever the Medicaid agency makes a change in its methods and standards, but not less often than annually, the agency must make the following findings:

(1) *Payments rates.*

* * * * *

(ii) With respect to inpatient hospital services—

* * * * *

(B) If a State elects in its State plan to cover inappropriate level of care services (that is, services furnished to hospital inpatients who require a lower covered level of care such as skilled nursing or intermediate care services) under conditions similar to those described in section 1861(v)(1)(G) of the Act, the methods and standards used to determine payment rates must specify that the payments for this type of care must be made at rates lower than those for inpatient hospital level of care services, reflecting the level of care actually received, in a manner consistent with section 1861(v)(1)(G) of the Act; and

* * * * *

(2) *Upper payment limits.* The agency's proposed payment rate will not exceed the upper payment limits as specified in § 447.272.

* * * * *

§ 447.256 [Amended]

4. In § 447.256, paragraph (a)(1) is revised by deleting the words, "significant or other".

5. A new undesignated center heading and a new § 447.257 are added to read as follows:

Federal Financial Participation

§ 447.257 FFP: Conditions relating to institutional reimbursement.

FFP is not available for a State's expenditures for hospital inpatient or long-term care facility services that are in excess of the amounts allowable under this subpart.

6. A new § 447.272 is added to read as follows:

§ 447.272 Application of upper payment limits.

(a) *General rule.* Except as provided in paragraph (c) of this section, aggregate payments by an agency to each group of health care facilities (that is, hospitals, SNFs, ICFs, or ICFs for the mentally retarded (ICFs/MR)) may not exceed the amount that can reasonably be estimated would have been paid for those services under Medicare payment principles.

(b) *State operated facilities.* In addition to meeting the requirement of paragraph (a) of this section, aggregate payments to each group of State-operated facilities (that is, hospitals, SNFs, ICFs, or ICFs/MR) may not exceed the amount that can reasonably be estimated would have been paid under Medicare payment principles.

(c) *Exception.* The upper payment limitation established under paragraphs (a) and (b) of this section does not apply to payment adjustments made under a State plan to hospitals found to serve a disproportionate number of low income patients with special needs, as provided in § 447.253(b)(1)(ii)(A).

7. Section 447.280 is revised to read as follows:

§ 447.280 Hospital providers of SNF and ICF services (swing-bed hospitals).

(a) *General rule.* If the State plan provides for SNF or ICF services furnished by a swing-bed hospital, as specified in §§ 440.40(a) and 440.150(f) of this chapter, the methods and standards used to determine payment rates for routine SNF or ICF services must—

(1) Provide for payment at the average rate per patient day paid to SNFs or ICFs, other than ICFs/MR, as applicable, for routine services furnished during the previous calendar year; or

(2) Meet the State plan and payment requirements described in this subpart, as applicable.

(b) *Application of the rule.* The payment methodology used by a State to set payment rates for routine SNF or ICF services must apply to all swing-bed hospitals in the State.

C. Subpart D is amended as follows:

Subpart D—Payment Methods for Other Institutional and Noninstitutional Services

1. Section 447.321 is revised to read as follows:

§ 447.321 Outpatient hospital services and clinic services: Upper limits of payment.

(a) *General rule.* FFP is not available for any payment that exceeds the amount that would be payable to providers under comparable circumstances under Medicare.

(b) *Application of the rule.* Payments by an agency for outpatient hospital services may not exceed the total payments received by all providers from beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare.

(Catalog of Federal Domestic Assistance Programs No. 13.714 Medical Assistance Program)

Dated: April 15, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: May 1, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-17081 Filed 7-27-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 235

Department of Defense Federal Acquisition Regulation Supplement; Cost Sharing; Correction

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issuing changes to the DoD FAR Supplement with respect to Cost Sharing, which was published in the **Federal Register** on July 1, 1987 (52 FR 24473). This action is necessary to add text which was omitted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Accordingly, the Department of Defense is correcting 48 CFR Part 235 as follows:

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

1. Section 235.003 is amended by adding to paragraph (b)(S-71) paragraph (iv) to read as follows:

235.003 Policy.

* * * * *

(b)(S-71) * * * * *

(iv) When the contractor is an educational institution or nonprofit organization, cost sharing in most cases would not be appropriate in view of their nonprofit status and limited ability to recover cost participation from non-government sources.

* * * * *

[FR Doc. 87-17042 Filed 7-27-87; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 52, No. 144
Tuesday, July 28, 1987

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Freedom of Information Act; Implementing Regulations

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Agriculture (USDA) proposes to amend its regulations (7 CFR Part 1, Subpart A) implementing the Freedom of Information Act (FOIA). The Department also proposes to amend Appendix A of the regulations which pertains to the assessment of fees under the Act.

DATE: Written comments must be received by the contact person listed below on or before August 27, 1987.

ADDRESS: Submit comments to U.S. Department of Agriculture, Office of Governmental and Public Affairs, Office of Information, Special Programs Division, Room 536–A, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Milton Sloane, U.S. Department of Agriculture, Office of Governmental and Public Affairs, Office of Information, Special Programs Division, Washington, DC 20250, (202) 447–8164.

SUPPLEMENTARY INFORMATION: It is proposed to amend 7 CFR Part 1, Subpart A to conform to the fee guidelines issued by the Office of Management and Budget (OMB), as the result of the Freedom of Information Reform Act of 1986, Pub. L. No. 99–570. It is also proposed to amend 7 CFR Part 1, Subpart A, Appendix A, to reflect the higher costs for providing certain materials and services under the Act.

To comply with the OMB guidelines, USDA is proposing to amend 7 CFR Part 1, Subpart A to provide uniform guidance: on the collection of fees for the provision of document search, duplication, and review services; on the handling of requests from various categories of requesters; on the aggregating of multiple requests from a single requester; on the circumstances under which fees and shall not be charged; on the advance collection of fees; on the assessment of interest on requests for which fees have not been paid; and on the effect of the Debt Collection Act of 1982 on FOIA requests.

It is also proposed to amend Appendix A of 7 CFR Part 1, Subpart A to incorporate the new fee waiver policy guidelines of April 2, 1987, issued by the U.S. Department of Justice. It is further proposed to amend 7 CFR Part 1, Subpart A to add a new section (§ 1.23) pertaining to the preservation of agency records under the FOIA.

This rule does not constitute a "major rule" within the meaning of Executive Order No. 12291 (Improving Government Regulations). Nor will these regulations cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply.

List of Subjects in 7 CFR Part 1

Freedom of Information.

It is proposed to amend 7 CFR Part 1 as follows:

PART 1—ADMINISTRATIVE REGULATIONS

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

Authority: 5 U.S.C. 301 and 552. Appendix A also issued under 7 U.S.C. 2244; 31 U.S.C. 9701, and 7 CFR 2.75(a)(6)(xiii).

2. Subpart A is revised to read as follows:

Subpart A—Official Records

Sec.

1.1 Purpose and scope.
1.2 Policy.
1.3 Aency implementing regulations.
1.4 Implementing regulations for the Office of the Secretary.
1.5 Public access to certain materials.
1.6 Reguests for records
1.7 Aggregating requests.
1.8 Agency response to requests for records.
1.9 Search services.
1.10 Review services.
1.11 Handling information from a private business.
1.12 Date of receipt of requests for appeals.
1.13 Appeals.
1.14 Extension of admininstrative deadlines.
1.15 Failure to meet administrative deadlines.
1.16 Fee schedule.
1.17 Exemptions and descretionary release.
1.18 Annual report.
1.19 Compilation of new records.
1.20 Authentication.
1.21 Complusory process.
1.22 Records in formal adjudication proceedings.
1.23 Preservation of records.

Appendix A—Fee schedule

Subpart A—Official Records

§ 1.1 Purpose and scope.

This subpart establishes policy, procedures, requirements, and responsibilities for administration and coordination of the Freedom of Information Act (FOIA), 5 U.S.C. 552, pursuant to which official records may be obtained by any person. It also provides rules pertaining to the disclosure of records pursuant to compulsory process. This subpart also serves as the implementing regulations (reffered to in § 1.3, "Agency implementing regulations') for the Office of the Secretary (the immediate offices of the Secretary, Deputy Secretary, Under Secretaries and Assistant Secretaries) and for the Office of Governmental and Public Affairs. The Office of Governmental and Public Affairs has the primary administrative responsibility for the FOIA in the Department of Agriculature (USDA). The term "agency" or "agencies" is used thoroughout this subpart to include both USDA program agencies and staff offices.

§ 1.2 Policy.

(a) Agencies of USDA shall comply with the time limits set forth in the FOIA for responding to and processing requests and appeals for agency documents, unless there are exceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(B). A agency shall notify a requester whenever it is unable to respond to or process a request or appeal within the time limits established by the FOIA.

(b) All agencies of the Department shall comply with the fee schedule provided as Appendix A of this regulation, with regard to the charging of fees for providing copies of documents and related services to requesters.

§ 1.3 Agency implementing regulations.

(a) Each agency of the Department shall promulgate regulations setting forth the following:

(1) The location and hours of operation of the agency office or offices where members of the public may gain access to those materials required by § 1.5 to be made available for public inspection and copying;

(2) Information regarding the publication and distribuution (by sale or otherwise) of indexes and supplements thereto which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.5(b);

(3) The title(s) and mailing address(es) of the official(s) of the agency who is/are authorized to receive requests for records submitted in accordance with § 1.6(a), and to make determinations regarding whether to grant or deny such requests. Authority to make such determinations includes authority to:

(i) Extend the 10-day administrative deadline for reply pursuant to § 1.14;

(ii) Make descretionary releases pursuant to § 1.17(b); and

(iii) Make determinations regarding the charging of fees pursuant to appendix A of this subpart;

(4) The title and mailing address of the official of the agency who is authorized to receive appeals submitted in accordance with § 1.6(e) and to make determinations regarding whether to grant or deny such appeals. Authority to determine appeals includes authority to:

(i) Extend the 20-day administrative deadline for reply pursuant to § 1.14 (to the extent the maximum extension authorized ty § 1.14(c) was not used with regard to the initial request);

(ii) Make discretionary releases pursuant to § 1.17(b); and

(iii) Make determinations regarding the charging of fees pursuant to Appendix A of this subpart; and

(5) Other information which would be of concern to a person wishing to request records from that agency in accordance with this subpart.

§ 1.4 Implementing regulations for the Office of the Secretary.

(a) For the Office of the Secretary and for the Office of Governmental and Public Affairs, the information required by § 1.3 is as follows:

(1) Records available for public inspection and copying may be obtained in Room 536–A, Administration Building, USDA, Washington, DC. 20250 during the hours of 9:00 a.m. to 5:00 p.m.;

(2) Any indexes and supplements which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.5(b) will also be available in Room 536–A, Administration Building, USDA, Washington, DC 20250 during the hours of 9:00 a.m. to 5:00 p.m.;

(3) The person authorized to receive FOIA requests and to determine whether to grant or deny such requests is the Director of Information, Office of Governmental and Public Affairs, USDA, Washington, DC. 20250;

(4) The official authorized to receive appeals from denials of FOIA requests and to determine whether to grant or deny such appeals is the Deputy Assistant Secretary for Governmental and Public Affairs, USDA, Washington, DC 20250.

(b) The organization and functions of the Office of the Secretary and the Office of Governmental and Public Affairs (OGPA) is as follows:

(1) The Office of the Secretary provides the overall policy guidance and direction of the activities of the Department of Agriculture. Overall policy statements and announcements are made from this office.

(2) The Office of the Secretary consists of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and other staff members.

(3) In the absence of the Secretary and the Deputy Secretary, responsibility for the operation of the Department of Agriculture is as delegated at 7 CFR Part 2, Subpart A.

(4) The Office of Governmental and Public Affairs provides policy direction, review, and coordination of all information programs of the Department of Agriculture. The Office is assigned responsibility for maintaining the flow of information and providing liaison between the Department of Agriculture and the Congress, the mass communication media, State and local governments, and the public.

(5) OGPA is headed by the Assistant Secretary for Governmental and Public Affiars. In the Assistant Secretary's absence, the agency is headed under delegated authority by the Deputy Assistant Secretary for Governmental and Public Affairs. In the absence of both officials, the agency is headed by the Assistant Secretary's designee.

(6) OGPA consists of three offices: the Office of Information, Office of Congressional Relations, and the Office of Intergovernmental Affairs. Each of the Offices is headed by a director.

The Office of Information is responsible for maintaining the flow of information and providing the liaison between USDA and the mass communication media and the public at large. The office directs and coordinates public affairs work with the various USDA agencies and has final review of all national news releases, broadcast materials, publications, visuals, and other information materials involving Departmental policy. The office provides leadership and facilities in the production of radio and video tapes, film, still photography, exhibits, and other design materials. The office provides Departmental coordination of responses under the Freedom of Information Act and the Privacy Act.

(ii) The Office of Congressional Relations is responsible for liaison with the Congress and the White House on legislative matters of concern to USDA and the public.

(iii) The Office of Intergovernmental Affairs is responsible for liaison with State Departments of Agriculture and other State and local government agencies interested in agricultural programs and policies.

§ 1.5 Public access to certain materials.

(a) In accordance with 5 U.S.C. 552(a)(2), each agency with the Department shall make the following materials available for public inspection and copying (unless they are promptly published and copies offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; (2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the **Federal Register**; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) Each agency of the Department shall also maintain and make available current indexes providing identifying information regarding any matter issued, adopted, or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each agency shall publish and make available for distribution copies of such indexes and supplements thereto at least quarterly, unless it determines by Notice published in the **Federal Register** that publication would be unnecessary and impracticable. After issuance of such Notice, the agency shall provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

§ 1.6 Requests for records.

(a) Any person who wishes to inspect or obtain copies of any record of any agency of the Department shall submit a request in writing and address the request to the official designated in regulations promulgated by the agency. The requester may in his or her petition ask for a fee waiver if there is likely to be a charge for the requested

information. To inspect or obtain copies of records of the Office of the Secretary or the Office of Governmental and Public Affairs, requesters should submit their requests to the Director of Information, Office of Governmental and Public Affairs, U.S. Department of Agriculture, Washington, DC 20250. All such requests for records shall be deemed to have been made pursuant to the Freedom of Information Act, regardless of whether that Act is specifically mentioned. To facilitate processing of a request, the phrase "FOIA REQUEST" should be placed in capital letters on the front of the envelope.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, a requester should supply specific information regarding dates, titles, etc., which may help identify the records. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) If an agency determines that a request does not reasonbly describe the records, it shall inform the requester of this fact and extend the requester an opportunity to clarify the request or to confer promptly with knowledgeable agency personnel to attempt to identify the records he or she is seeking. The "date of receipt" in such instances, for purposes of § 1.12(a), shall be the date of receipt of the amended or clarified request.

(d) Nothing in this subpart shall be interpreted to preclude an agency from honoring an oral request for information, but, if the requester is dissatisfied with the response, the agency official involved shall advise the requester to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request for purposes of § 1.12(a) shall be the date of receipt of the written request. For recordkeeping purposes, an agency responding to an oral request for information may ask the requester to also submit his or her request in writing.

(e) If a request for records or a fee waiver, made under this subpart, is denied, the person making the request shall have the right to appeal the denial. Requesters also may appeal agency determinations of a requester's status for purposes of fee levels under section 5 of Appendix A. All appeals must be in writing and addressed to the official designated in regulations promulgated by the agency which denied the request. To facilitate processing of an appeal, the phrase "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

(f) Requests that are nonagency-specific, i.e., are not addressed to a specific agency in USDA, or which pertain to more than one USDA agency, or which are sent to the wrong agency of USDA, should be forwarded to the Department's central processing unit for FOIA in the Office of Governmental and Public Affairs, Office of Information, Special Programs Division, U.S. Department of Agriculture, Washington, DC 20250.

(g) The central processing unit will determine which agency or agencies should process the request, and, where necessary, refer the request to the appropriate agency (agencies). The unit will also, where necessary, notify the requester of the referral and of the name of each agency to which the request has been referred.

(h) Each agency shall develop and maintain a record of all written and oral requests and appeals received in that agency, which shall include, in addition to any other information, the name of the requester, brief summary of the information requested, an indication of whether the request or appeal was denied or partially denied, the exemption(s) for making any denials, and the amount of fees associated with the request or appeal.

§ 1.7 Aggregating requests.

When an agency reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element which may be considered in determining whether such a belief would be reasonable is the time period in which the requests have occurred.

§ 1.8 Agency response to requests for records.

(a) 5 U.S.C. 552(a)(6)(A)(i) provides that each agency of the Department to which a request for records or a fee waiver is submitted in accordance with § 1.6(a) shall inform the requester of its determination concerning that request with 10 days of its date of receipt (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized under §1.14. If the agency determines to grant the request, it shall inform the requester of any conditions surrounding the granting of the request (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the request, it shall treat the portion not granted as a denial. If the agency determines to deny the request in part or in whole, it shall immediately inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The name and title or position of each person responsible for denial of the request;

(3) The requester's right to appeal such denial and the title and address of the official to whom such appeal is to be addressed; and

(4) The requirement that such appeal be made within 45 days of the date of the denial.

(b) If the reason for not fulfilling a request is that the records requested are in the custody of another agency outside USDA, the agency shall inform the requester of this fact and shall forward the request to that agency or Department for processing in accordance with its regulations. If the agency has no knowledge of requested records or if no records exist, the agency shall notify the requester of that fact.

(c) 5 U.S.C. 552(a)(6)(A)(ii) provides that each agency in the Department to which appeal of a denial is submitted in accordance with § 1.6(e) shall inform the requester of its determination concerning that appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized by § 1.14, of its date of receipt. If the agency determines to grant the appeal, it shall inform the requester of any conditions surrounding the granting of the request (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the appeal, it shall treat the portion not granted as a denial. If it determines to deny the appeal either in part or in whole, it shall inform the requester of that decision and of the following:

(1) The reasons for denial;

(2) The name and title or position of each person responsible for denial of the appeal; and

(3) The right to judicial review of the denial in accordance with 5 U.S.C. 552(a)(4).

(d) If, in compliance with the request, a charge is to be made in accordance with section 8 of Appendix A of this subpart, agencies shall inform the requester of the fee amount and of the basis for the charge. Agencies may, in accordance with section 8 of Appendix A of this subpart, require payment of the entire fee, or a portion thereof, or full payment of a delinquent fee plus any applicable interest, before it provides the requested records. In instances where a requester refuses to remit payment in advance, an agency may likewise refuse to process the request

with written notice to that effect forwarded to the requester. The "date of receipt" of a request for which advance payment has been required shall be the date that payment is received.

(e) In the event compliance with the request involves inspection of records by the requester rather than the forwarding of copies, the agency response shall include the name, mailing address, and telephone number of the person to be contacted to arrange a mutually convenient time for such inspection.

(f) In the event the records requested contain some portions which are exempt from mandatory disclosure and others which are not, the official responding to the request shall insure that all nonexempt portions are disclosed, and that all exempt portions are identified according to the nature of information contained and the specific exemption or exemptions which are applicable.

(g) Whenever duplication fees, or search fees for unsuccessful searches (see section 4(f) of Appendix A), are anticipated to exceed $25.00, and the requester has not indicated, in advance, a willingness to pay fees as high as those anticipated, agencies shall notify the requester of the amount of the anticipated fee. Similarly, as a matter of policy, where an extensive and therefore costly successful search is anticipated, agencies also should notify requesters of the anticipated fees. The notification shall offer the requester the opportunity to confer with agency personnel to reform the request to meet the requester's needs at a lower fee. In appropriate cases, an advance deposit in accordance with Section 8 of the Appendix A may be required.

§ 1.9 Search services.

(a) Search services are services of agency personnel—clerical or supervisory/professional salary level—used in trying to find the records sought by the requester. They include time spent examining records for the purpose of finding information which is within the scope of the request. They also include services to transport personnel to places of record storage, or records to the location of personnel for the purpose of the search, if such services are reasonably necessary.

(b) Because of the nature of the Department's business and records, the normal location of a record in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing a reasonably specific description of the record.

(c) "Search" is distinguished, however, from "review" of material to determine whether materials are exempt from disclosure.

§ 1.10 Review services.

(a) Review services are services by agency personnel—clerical or supervisory/professional—in examining documents located in response to a request that is for a commercial use (as specified in section 6 of Appendix A) to determine whether any portion of any document located is permitted to be withheld.

(b) Review services include processing any documents for disclosure, e.g., doing all that is necessary to excise exempt portions and otherwise prepare documents for release.

(c) "Review" does not include time spent resolving general legal or policy issues regarding the application of exemptions.

§ 1.11 Handling information from a private business.

(a) The USDA is responsible for making the final determination with regard to the disclosure or nondisclosure of information submitted by a business. When, in the course of responding to an FOIA request, an agency cannot readily determine whether the information obtained from a person is privileged or confidential business information, the policy of USDA is to obtain and consider the views of the submitter of the information and to provide the submitter an opportunity to object to any decision to disclose the information. Whenever a request (including any "demand" as defined in § 1.21) is received in USDA for information which has been submitted by a business, all agencies of the Department shall:

(1) Provide the business information submitter with prompt notification of a request for that information (unless it is readily determined by the agency that the information requested should not be disclosed or, on the other hand, that the information is not exempt by law from disclosure);

(2) Notify the requester of the need to inform the submitter of a request for submitted business information;

(3) Afford business information submitters time in which to object to the disclosure of any specified portion of the information. The submitter must explain fully all grounds upon which disclosure is opposed. For example, if the submitter maintains that disclosure is likely to cause substantial harm to its competitive position, the submitter must explain item-by-item why disclosure would cause such harm. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under FOIA;

(4) Provide business information submitters with notice of any determination to disclose such records prior to the disclosure date, in order that the matter may be considered for possible judicial intervention; and

(5) Notify business information submitters promptly of all instances in which FOIA requesters bring suit seeking to compel disclosure of submitted information.

§ 1.12 Date of receipt of requests of appeals.

(a) The date of receipt of a request or appeal, which contains the phrase FOIA REQUEST or FOIA APPEAL and is addressed in accordance with applicable agency regulations, shall be the date it is received in the office responsible for the administrative processing of FOIA requests or appeals.

(b) The date of receipt of a request or appeal which is hand-delivered to the address specified in agency regulations shall be the date of such hand-delivery.

(c) The date of receipt of a request or appeal which does not comply with paragraph (a) or (b) of this section shall be the date it is received by the official designated in agency regulations to make the applicable determination.

§ 1.13 Appeals.

(a) Each agency shall provide for review of appeals by an official different from the official or officials designed to make initial denials.

(b) Each agency, upon a determination that it wishes to deny an appeal, shall send a copy of the records requested and of all correspondence relating to the request to the Assistant General Counsel, Research and Operations Division, Office of the General Counsel. When the volume of records is so large as to make sending a copy impracticable, the agency shall enclose an informative summary of those records. The agency shall not deny an appeal until it receives concurrence from the Assistant General Counsel.

(c) The Assistant General Counsel shall promptly review the matter (including necessary consultation with the Department of Justice and coordination with the Office of Governmental and Public Affairs) and render all necessary assistance to enable the agency to respond to the appeal within the administrative deadline or any extension thereof.

§ 1.14 Extension of administrative deadlines.

(a) In unusual circumstances as specified in this section, either of the administrative deadlines prescribed in § 1.8 may be extended by an authorized agency official. Written notice of the extension shall be sent to the requester within the applicable deadline, setting forth the reasons for such extension and the date a determination is expected to be dispatched. In no event shall the extension exceed a total of 10 working days.

(b) As used in this section, "unusual circumstances" shall be limited to the following:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; and

(3) The need for consultation, which shall be conducted with all practicable speed, with another Department or agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein. (Note: consultation regarding policy or legal issues between an agency and the Office of the General Counsel, Office of Governmental and Public Affairs, or the Department of Justice is not a basis for extension under this section.)

(c) The 10-day extension authorized by this section may be divided between the initial and appellate reviews, but in no event shall the total extension exceed 10 working days.

(d) Nothing in this section shall preclude the agency and the requester from agreeing to an extension of time. Any such agreement should be confirmed in writing and should specify clearly the total time agreed upon.

§ 1.15 Failure to meet administrative deadlines.

In the event an agency fails to meet either of the administrative deadlines set forth in § 1.8, plus any extension authorized by § 1.14, it shall notify the requester, state the reasons for the delay, and the date by which it expects to dispatch a determination. Although the requester may be deemed to have exhausted his or her administrative remedies under 5 U.S.C. 552(a)(6)(C), the agency shall continue processing the request as expeditiously as possible and dispatch the determination when it is reached in the same manner and form as if it had been reached within the applicable deadline.

§ 1.16 Fee schedule.

Pursuant to § 2.75 of this title, the Director, Office of Finance and Management, is delegated authority to promulgate regulations providing a uniform schedule of fees applicable to all agencies of the Department regarding requests for records under this subpart, following public notice and comment. (See Appendix A of this subpart.) Any amendments thereto will be made pursuant to notice and opportunity for comment. Said regulations provide for recovery of direct costs for document search, duplication, and review. The regulations provide that documents may be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest based upon criteria set forth in section 6 of Appendix A.

§ 1.17 Exemptions and discretionary release.

(a) All agency records, except those specifically exempted from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), shall be made promptly available to any person submitting a request under this subpart.

(b) Except where disclosure is specifically prohibited by Executive Order, statute, or applicable regulations, an agency may release records exempt from mandatory disclosure under 5 U.S.C. 552(b) whenever it determines that such disclosure would be in the public interest.

§ 1.18 Annual report.

(a) Each agency of the Department shall compile the following information for each calendar year:

(1) The number of the determinations made by such agency not to comply with initial requests for records made to it under § 1.6(a), and the reasons for each such determination;

(2) The number of appeals made by persons under § 1.8(d), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) The name and title or position or position of each person responsible for the denial of records requested under this subpart and the number of instances of participation for each;

(4) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) A copy of every rule made by the agency regarding this subpart;

(6) The total amount of fees collected by the agency for making records available under this subpart; and

(7) Such other information as indicates efforts to administer fully this subpart.

(b) Each agency shall compile the information required by paragraph (a) of this section for the preceding calendar year into a report and submit this report to the Director of Information, Office of Governmental and Public Affairs, by February 1 of each year.

(c) The Director of Information shall combine the reports from the various agencies within USDA into a Departmental report, and shall arrange for submission of this report to the President of the Senate and the Speaker of the House of Representatives by March 1 of each year in accordance with 5 U.S.C. 552(d).

§ 1.19 Compilation of new records.

Nothing in 5 U.S.C. 552 or this subpart requires that any agency compile a new record in order to fulfill a request for records Such compilation may be undertaken voluntarily if the agency determines this action to be in the public interest or the interest of USDA.

§ 1.20 Authentication.

When a request is received for an authenticated copy of a document which the agency determines to make available to the requesting party, the agency shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Hearing Clerk may authenticate copies of documents in the records of the Hearing Clerk.

§ 1.21 Compulsory process.

(a)(1) In any case where it is sought by subpoena, order, or other compulsory process (hereinafter in this section referred to as a "demand") to require the production or disclosure of any record or material which is exempt from disclosure under 5 U.S.C. 552(b) or information related thereto acquired by an employee of this Department in the performance of his or her official duties, the matter shall be referred to an official authorized by agency regulations to make releases pursuant to § 1.17(b). For the Office of the Secretary and for the Office of Governmental and Public Affairs, this official is the Deputy

Assistant Secretary for Governmental and Public Affairs.

(2) Such official may authorize release. However, if such official determines that is would be improper to comply with the demand, the official shall refer it to the agency head. The agency head may authorize release; however, if the agency head concurs with the initial conclusion, the matter shall be referred to the Secretary through the General Counsel for final determination.

(3) If the Secretary determines that the records, material, or information should not be produced, or if no final determination has been made, the employee shall be notified not to produce or disclose the records. The employee who appears in answer to the demand shall respectfully decline to produce or disclose the records, material, or information demanded on the ground that the disclosure is prohibited by this section. The employee shall provide the court or other authority with a copy of this subpart and a copy (when available) of the Secretary's determination, and shall respectfully request the court or other authority to withdraw or stay the demand.

(b)(1) Whenever a demand of the type described in paragraph (a) of this section is made upon an employee of this Department not authorized to make releases pursuant to § 1.17(b), by a court or other authority while he/she is appearing before, or is otherwise in the presence of the court or other authority, the employe, or other appropriate Government official or attorney acting on behalf of the employee, shall—(1) Immediately inform the court or other authority that this section prohibits the employee from producing or disclosing the information or material demanded and

(ii) Offer to refer the demand for the prompt consideration of authorized officials, providing the court or other authority a copy of this subpart and respectfully requesting that the demand be stayed pending his/her receipt of appropriate instructions concerning the demand.

(2) If the employee is authorized to make a release pursuant to § 1.17(b), but determines that such release would be improper, the employee shall offer to refer the demand for the prompt consideration of the agency head and/or Secretary and shall otherwise comply with paragraph (b)(1)(ii) of this section.

(c) If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with paragraph (a) or (b) of this section pending the receipt by the employee of instructions or directions, or if the court or other authority rules adversely on any assertion made in conformity with the provisions of this subpart, the employee upon whom the demand has been made may tender the records, material, or information demanded with a request they be held in camera until an appeal can be taken from the adverse ruling.

§ 1.22 Records in formal adjudication proceedings.

Records in formal adjudication proceedings are on file in the Hearing Clerk's office, Office of Information Resources Management, U.S. Department of Agriculture, Washington, DC 20250, and shall be made available to the public.

§ 1.23 Preservation of records.

Agencies shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code, and to the General Records Schedule. Under no circumstance shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

Appendix A—Fee Schedule

Sec. 1. General. This schedule sets forth fees to be charged for providing copies of documents—including photographic reproductions, microfilm, maps and mosaics, and related services—under the Freedom of Information Act (FOIA). Records and related services are available at the locations specified by agencies in their FOIA implementing regulations. The fees set forth in this schedule are applicable to all agencies of the Department of Agriculture, and are based upon guidelines prescribed by the Office of Management and Budget (OMB) issued at 52 FR 10012 (March 27, 1987). No higher fees or charges in addition to those provided for in this schedule may be charged a party requesting services under the Freedom of Information Act.

Sec. 2. Types of services for which fees may be charged. Subject to the criteria set forth in section 5, fees may be assessed under the Freedom of Information Act on all requests involving such services as document search, duplication, and review. Fees may also be charged in situations involving special service to a request, such as to certify that records requested are true copies, or in sending records by specing methods such as express mail, etc. For services not covered by the FOIA or by this schedule, agencies may set their own fees in accordance with applicable law, or costs incurred will be assessed the requester at the actual cost to the Government. For example, where records are required to be shipped from one office to another by commercial carrier in order to timely answer a request, the actual freight charge will be assessed the requester.

Sec. 3. Instances in which fees will not be charged.

(a) Except for requests seeking documents for a commercial use (as specified below in section 5), no charge shall be made for: (1) the first 100 pages of duplicated information (8½" × 14" or smaller-size paper), or (2) the first two hours of manual search time, or the equivalent value of computer search time as defined in section 4(e).

(b) Also, no charge shall be made—even to commercial use requesters—if the cost of collecting a fee would be equal to or greater than the fee itself.

(c) In addition, fees may not be charged for time spent by an agency employee in resolving legal or policy issues, or in monitoring a requester's inspection of agency records.

(d) Documents shall also be furnished without charge under the following conditions:

(1) When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number;

(2) When members of the public provide their own copying equipment, in which case no copying fee will be charged (although search and review fees may still be assessed); or

(3) When any notices, decisions, orders, or other materials are required by law to be served on a party in any proceeding or matter before any Department agency.

Sec. 4. Fees for records and related services.

(a) The fee for photocopies of pages 8½" x 14" or smaller shall be $0.20 per page.

(b) The fee for photocopies larger than 8½" x 14" shall be $0.50 per linear foot of the longest side of the copy.

(c) The fee for other forms of duplicated information, such as microform, audio-visual materials, or machine-readable documentation (i.e., magnetic tape or disk), shall be the actual direct cost of producing the document(s).

(d) Manual searches shall be charged for in one of the two following manners in the given order:

(1)—when feasible, at the salary rate of the employee conducting the search, plus 16 percent of the employee's basic pay; or

(2)—where a homogeneous class of personnel is used exclusively, at the rate of $10.00 per hour for clerical time, and $20.00 per hour for supervisory or professional time. Charges should be computed to the nearest quarter hour required for the search.

(e) Mainframe computer searches and services shall be charged for at the rates established in the Users Manual or Handbook published by the computer center at which the work will be performed. Where the rate has not been established, the rate shall be $27.00 per minute. Searches using computers other than mainframes shall be charged for at the manual search rate.

(1) Other rates are published and may be examined at the following places:

Fort Collins Computer Center Users Manual: Fort Collins Computer Center, U.S.

Department of Agriculture, 3825 East Mulberry Street (P.O. Box 1206), Fort Collins, Colo., 80521.

National Finance Center, Cost, Productivity & Analysis Section, U.S. Department of Agriculture, 13800 Old Gentilly Road, New Orleans, La. 70129.

Kansas City Computer Center Users Manual: Kansas City Computer Center, U.S. Department of Agriculture, 8930 Ward Parkway (P.O. Box 205), Kansas City, Mo. 64141.

Washington Computer Center Users Handbook: Washington Computer Center, U.S. Department of Agriculture, Room S–100, South Building, 12th Street and Independence Avenue, SW., Washington, DC 20250.

St. Louis Computer Center, U.S. Department of Agriculture, 1520 Market Street, St. Louis, Mo. 63103.

(f) Charges for unsuccessful searches, or searches which fail to locate records or which locate records which are exempt from disclosure, shall be assessed at the same fee rate as searches which result in disclosure of records.

(g) The fee for providing review services shall be the hourly salary rate (i.e., basic pay plus 16 percent) of the employee conducting the review to determine whether any information is exempt from mandatory disclosure.

(h) The fee for Certifications shall be $5.00 each; Authentications under Department Seal (including aerial photographs), $10.00 each.

(i) All other costs incurred by USDA agencies will be assessed the requester at the actual cost to the Government.

(j) The fees specified in paragraphs (a) through (g) of this section apply to all requests for services under the FOIA, as amended (5 U.S.C. 552), unless no fee is to be charged, or the agency has determined to waive or reduce those fees pursuant to section 6. No higher fees or charges in addition to those provided for in this schedule may be charged for services under the FOIA.

(k) The fees specified in paragraphs (h) and (i) of this section and in section 17 of this schedule apply to requests for services other than those subject to the FOIA. The authority for establishment of these fees is at 31 U.S.C. 9701 (formerly 31 U.S.C. 483a) and other applicable laws.

(l) Except as provided in section 11 below, for services not subject to the FOIA, and not covered by paragraph (h) above, agencies may set their own fees in accordance with applicable law.

Sec. 5. Levels of fees for each category of requesters. Under the FOIA, as amended, there are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each category:

(a) Commercial use requesters—For commercial use requesters, agencies shall assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to the free search time or duplication referenced in section 3(a). Agencies may recover the cost of searching for and reviewing records for commercial use requesters even if there is ultimately no disclosure of records.

(1) A commercial use requester is defined as one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(2) In determining whether a requester properly belongs in this category, agencies must determine whether the requester will put the documents to a commercial use. Where an agency has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the agency may seek additional clarification from the requester.

(b) Educational and non-commercial scientific institution requesters—Fees for this category of requesters shall be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for search or review services. To qualify for this category, requesters must show that the request is being made as authorized by and under the auspices of an eligible institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a non-commercial scientific institution).

(1) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(2) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" (see section 5(a)(1)) basis, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(c) Requesters who are representatives of the news media—Fees for this category of requesters shall also be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for providing search or review services. Requests in this category must not be made for a commercial use.

(1) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(2) The term "news" means information that is about current events or that would be of current interest to the public.

(3) Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals which disseminate news and who make their products available for purchase or subscription by the general public.

(4) "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(d) All the requesters—Fees for requesters who do not fit into any of the above categories shall be assessed for the full reasonable direct cost of searching for and duplicating documents that are responsive to a request. No charge, however, shall be made to requesters in this category for: (1) The first 100 duplicated pages or (2) the first two hours of manual search time, or the equivalent value of computer search time as defined in section 4(e).

Sec. 6. Fee waivers and reductions.

(a) Agencies shall waive or reduce fees on requests for information if disclosure of the information is deemed to be in the public interest. A request is in the public interest if it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not primarily in the commercial interest of the requestor.

(1) In determining when fees shall be waived or reduced, agencies should consider the following six factors:

(i) The subject of the request, i.e, whether the subject of the requested records concerns "the operations or activities of the government";

(ii) The informative value of the information to be disclosed, i.e., whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure, i.e., whether disclosure of the requested information will contribute to "public understanding";

(iv) The significance of the contribution to public understanding, i.e., whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(v) The existence and magnitude of a commercial interest, i.e., whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(vi) The primary interest in disclosure, i.e., whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparision with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(2) An agency may, in its discretion, waive or reduce fees associated with a request for disclosure, regardless of whether a waiver or reduction has been requested, if the agency determines that disclosure will primarily benefit the general public.

(3) Agencies may also waive or reduce fees under the following conditions:

(i) Where the furnishing of information or a service without charge or at a reduced rate is an appropriate courtesy to a foreign country or international organization, or where comparable fees are set on a reciprocal basis with a foreign country or an international organization;

(ii) Where the recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare; or

(iii) Where it is determined that payment of the full fee by a State or local government or nonprofit group would not be in the interest of the program involved.

(4) Fees shall be waived, however, without discretion in all circumstances where the amount of the fee is $25.00 or less.

Sec. 7. Restrictions regarding copies.

(a) Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

(b) Single or multiple copies of transcripts, provided to the Department under a reporting service contract, may be obtained by the public from the contractor at a cost not to exceed the cost per page charged to the Department for extra copies. The contractor may add a postage charge when mailing orders to the public, but no other charge may be added.

Sec. 8. Payments of fees and charges.

(a) Payments should be collected to the fullest extent possible at the time the requested materials are furnished. Payments should be made by requesters within 30 days of the date of the billing.

(b) Payments shall be made by check, draft or money order made payable to the Treasury of the United States, although payments may be made in cash, particulary where services are performed in response to a visit to the Department office.

(c) Where the estimated fees to be charged exceed $250.00, agencies may require an advance payment of an amount up to the full estimated charges (but not less than 50 percent) from the requester before any of the requested materials are reproduced.

(d) In instances where a requester has previously failed to pay a fee, in agency may require the requester to pay the full amount owed, plus any applicable interest as provided below, as well as the full estimated fee associated with any new request before the agency begins to process that new or subsequent request.

Sec. 9. Interest charges.

On requests that result in fees being assessed, agencies may begin levying interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C., and will accrue from the date of the billing.

Sec. 10. Effect of the Debt Collection Act on fees. In attempting to collect fees levied under the FOIA, agencies shall abide by the provisions of 31 U.S.C. 3701, 3711–3719, in disclosing information to consumer reporting agencies and in the use of collection agencies, where appropriate, to encourage payment.

Sec. 11. Photographic reproductions, microfilm, mosaic and maps. Reproduction of such aerial or other photographic microfilm, mosaic and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed in this schedule.

Sec. 12. Agencies which furnish photographic reproductions.

(a) Aerial photographic reproductions. The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS), APFO, USDA-ASCS, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

Soil Conservation Service (SCS), USDA, Cartographic Division, Washington, DC 20250, or Cartographic Facility in nearest SCS Technical Service Center.

(b) Other photographic reproductions. Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Srevice (ASCS) (Address above).

Forest Service (FS), USDA, P.O. Box 2417, Washington, DC 20013, or nearest Forest Service Regional Office.

Office of Governmental and Public Affairs, USDA, Photography Division, Room 4407 South Building, Washington, DC 20250.

Soil Conservation Service, USDA, Information Division, Audio Visual Branch, Washington, DC 20250.

National Agricultrual Library, USDA, Office of the Deputy Director, Technical Information Systems, Room 200, NAL Building, Beltsville, Md. 20705.

Sec. 13. Circumstances under which photographic reproductions may be provided free. Reproductions may be furnished free at the discretion of the agency, if it determines this action to be in the public interest, to:

(a) Press, radio, television, and newsreel representatives for dissemination to the general public.

(b) Agencies of State and local governments carrying on a function related to that of the Department when it will help to accomplish an objective of the Department.

(c) Cooperators and other furthering agricultural programs. Generally, only one print of each photograph should be provided free.

Sec. 14. Loans. Aerial photographic film negatives or reproductions may not be loaned outside the Federal Government.

Sec. 15. Sales of Positive prints under government contracts. The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents, and others cooperating with the Department, carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

Sec. 16. Procedure for handling orders. In order to expedite handling, all orders should contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

Sec. 17. Reproduction prices. The prices for reproductions listed here are for the most generally requested items.

(a) National Agricultrual Library. The following prices are applicable to National Agricultrual Library items only: Reproduction of electrostatic, microfilm, and microfiche copy—$5.00 for the first 10 pages of fraction thereof, and $3.00 for each additional 10 pages or fraction thereof. Dupliction of NAL-owned microfilm—$10.00 per reel. Duplication of NAL/owned microfiche—$5.00 for the first fiche, and $0.50 for each additional fiche. Charges for manual and automated data base searches for bibliographic or other research information will be made in accordance with Section 4, subsections (c)–(e) of this fee schedule. The contract rate charged by the commercial source to the National Agricultural Library for computer services is available at the National Agricultural Library, Room 111, Information Access Division, USDA, Beltsville, Maryland 20705 (301–344–3834).

(b) General photographic reproductions. Minimum charge $1 per order. an extra charge may be necessary for excessive laboratory time caused by any special instructions from the purchaser.

Class of work and unit	Price
1. Black and White Line Negatives:	
4 by 5 (each)	$6.00
8 by 10 (each)	8.50
11 by 14 (each)	11.00
2. Black and White Continuous Tone Negatives:	
4 by 5 (each)	8.50
8 by 10 (each)	11.00
3. Black and White Enlargements: 8 by 10 and smaller (each)	6.50
11 by 14 (each)	11.00
Larger sizes and quantities	(1)
4. Black and White Slides:	
2x2 cardboard mounted (from copy negative) (each)	4.00
Blue ozalid slides (each)	5.00
5. Color Slides: (2x2 cardboard mounted) Duplicate color slides:	
Display quality (each) (Display color slides are slides copied from 35mm color slides only.)	.65
Repro quality (each)	(1)
Original color slides (from flat copy) (each)	6.50
6. Color Enlargements and Transparencies:	
4 by 5 and larger	(1)
7. Slide Sets:	
1 to 50 frames	14.50
51 to 60 frames	16.50
61 to 75 frames	18.50
76 to 95 frames	21.50
96 to 105 frames	23.00
106 to 130 frames (Prices include printed narrative guide.)	26.50
8. Cassettes: (for the corresponding slide sets above)	3.00

(1) By quotation.

(c) General aerial photographic reproductions. There is no minimum charge on general aerial photography orders. The prices for various types of aerial photographic reproductions are set forth below. Size measurements refer to the approximate size in inches of the paper required to produce the print.

Size	Price each
1. Black-and white contact prints:	
10 x 10 Paper	$3.00
10 x 10 Diapositive (film)	6.00
10 x 10 Copy negative	4.00
2. Aerial photo index sheets 20 x 24 RC (Resin coated base) paper	5.00
24 x 36 Ozalid	4.00
Microfilm (Photo indexes):	
Aperture cards	1.00
Microfiche	2.00

Size	Price each	
	RC paper	Film positive transparency
3. Black and white enlargements (projection prints):		
12 x 12	$8.00	$12.00
17 x 17	10.00	14.00
20 x 20	11.00	
24 x 24	12.00	20.00
30 x 30	18.00	25.00
38 x 38	25.00	35.00
4. Reproductions from color negative:		
10 x 10 contact	4.00	15.00
12 x 12 enlargement	20.00	
20 x 20 enlargement	25.00	
24 x 24 enlargement	30.00	
30 x 30 enlargement	40.00	
38 x 38 enlargement	45.00	

Size	Price each	
	RC paper	Color film positive transparency
5. Reproductions from color positive transparencies (natural) color or color infrared):		
10 x 10 contact	$8.00	$12.00
12 x 12 enlargement	25.00	
20 x 20 enlargement	30.00	
24 x 24 enlargement	35.00	
30 x 30 enlargement	45.00	
38 x 38 enlargement	50.00	

Aerial photographic reproduction from National High Altitude Photography (NHAP) Program. There is no minimum charge on NHAP aerial photography orders. The prices for various types of aerial photographic reproductions are set forth below. Size measurements refer to the appropriate size in inches of the paper required to produce the Phoprint.

Size	Price each
1. Black and white contact prints:	
10 x 10 paper	$6.00
10 x 10 diapositive	15.00
10 x 10 negative	8.00
2. Aerial photo index sheets 20 x 24 RC (resin coated base paper)	5.00
24 x 36 Ozalid	4.00
Microfilm (Photo indexes)	
Aperture Cards	1.00
Microfiche	2.00

Size	Price each	
	RC paper	Film positive transparency
3. Black and white enlargements (projection prints):		
12 x 12	$14.00	$22.00
17 x 10	17.00	24.00
20 x 20	18.00	
24 x 24	20.00	30.00
30 x 30	27.00	35.00
38 x 38	33.00	45.00

Size	Price each	
	RC paper	Film positive transparency
4. Reproductions from color positive transparencies:		
10 x 10 contact	$16.00	$24.00
12 x 12 enlargements	40.00	
20 x 20 enlargements	45.00	
24 x 24 enlargements	49.00	
30 x 30 enlargements	58.00	
38 x 38 enlargements	65.00	

(e) Special need. For special needs not covered above, persons desiring aerial photographic reproductions should contact the agency listed in section 12(a) or the Departmental aerial photography coordinator, Aerial Photography Field Office, USDA–ASCS, 2222 West, 2300 South, P.O. Box 30010, Salt Lake City, Utah 84130.

(f) Audio and videotape reproductions. For reproductions of audio-videotapes, requesters must supply their own recording tape, and will be assessed a fee of $25.00 an hour for copying work requested. There is a one-hour minimum charge. Payment is required at the time video or audiotapes are accepted by the requester.

Dated: July 22, 1987.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 87–16990 Filed 7–27–87; 8:45 am]

BILLING CODE 3410–13–M

Agricultural Marketing Service

7 CFR Part 981

Almonds Grown in California; Expenses and Assessment Rate and Administrative Rules and Regulations on Crediting for Marketing Promotion Expenditures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a creditable assessment rate of $0.025 per pound of almonds (kernelweight basis) received by handlers during the 1987–88 season under the Federal marketing order for California almonds and change administrative rules and regulations established under the almond order to allow handlers of California almonds to receive, within certain limits, a 150 percent credit against their advertising assessments for payments to the Almond Board of California (Board) for generic promotion including paid advertising. The change would give handlers additional flexibility in meeting their assessment obligations.

DATE: Comments must be received by August 27, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, DC 20250–0200. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–0200; telephone: (202) 447–5697.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact on small entities.

The purposes 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 of 1937, as amended, (7 U.S.C. 601–674) hereinafter referred to as the "Act," and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 105 handlers of almonds who are subject to regulation under the marketing order for California almonds during the current season. There are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three years of less than $100,000, and agricultural service firms have been defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This proposal would allow handlers to receive credit for certain types of direct marketing promotion expenditures, including paid advertising, against their 1987–88 assessments up to $0.025 per kernelweight pound. This same

creditable assessment rate has been in effect each crop year since 1979–80.

The proposal would also allow a handler to receive credit for 150 percent of payments made to the Board for generic promotion including paid advertising against the handler's ceditable assessment obligation incurred on the first 4,000,000 redetermined kernelweight pounds received by such handler during a crop year on an ongoing basis, within an overall limit equal to the handler's annual creditable assessment obligation. Currently, handlers may receive credit for 100 percent of authorized expenditures for their own paid advertising, 150 percent of the purchase price of sample packages purchased from the Board for distribution to charitable or educational outlets, and 100 percent of authorized expenditures for other marketing promotion activities. Therefore, it is the Agency's view that the proposal would reduce the costs to handlers of meeting their creditable assessment obligations by making more credit available to handlers.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

This proposal would establish a new § 981.336 and revise § 981.441 under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The order is effective under the Act. The proposal is based on two unanimous recommendations of the Board and upon other available information.

Section 981.81 of the order provides that each handler shall pay to the Board such sum, less any amounts credited pursuant to § 981.41, based on such rate per pound of almonds (kernelweight basis) received by such handler for such handler's own account as the Secretary of Agriculture establishes based on a finding that it is necessary to provide funds to meet the authorized Board expenses and operating reserve requirements.

Section 981.41(c) of the order provides that the Board, with the approval of the Secretary, may allow handlers to receive credit for their direct marketing promotion expenditures, including paid advertising, against their annual assessments. That paragraph also provides that a handler shall not receive credit for allowable expenditures that would exceed that portion of such handler's assessment obligation which is designated for marketing promotion, including paid advertising. It is proposed to add a new § 981.336 to establish that portion of the 1987–88 crop year assessment rate for which handlers may receive credit at $0.025 per pound of almonds (kernelweight basis). This same creditable assessment rate has been established for each crop year since 1979–80. The Secretary of Agriculture has not yet established a total rate of assessment for the 1987–88 crop year, pending a recommendation on this matter from the Board. It is expected that the Board will make such a recommendation at its scheduled July 29, 1987, meeting.

Section 981.41(e) provides that before crediting is undertaken, and once a recommendation is received from the Board, the Secretary shall prescribe appropriate rules and regulations as are necessary to effectively administer provisions for creditable advertising expenditures. Section 981.441 currently prescribes rules and regulations to regulate the crediting of payments to advertising media, for distribution of sample packages of almonds to charitable and educational outlets, for promotional materials purchased from the Board, and for certain costs related to mail order promotions. This proposal would revise that section to add authority for the crediting of payments by handlers to the Board for generic promotion including paid advertising by the Board.

The proposal would allow a handler to receive credit for 150 percent of payments made to the Board against the creditable assessment obligation incurred on the first 4,000,000 redetermined kernel weight pounds received by such a handler during a crop year. However, this 4,000,000 kernel weight pound limit would be reduced by any poundage on which a handler incurs a creditable assessment obligation and receives 150 percent credit pursuant to paragraph (d)(1)(i)(A) of § 981.441. Paragraph (d)(1)(i)(A) provides that a handler may receive credit for 150 percent of the purchase price of sample packages purchased from the Board for distribution to charitable or educational outlets against the creditable assessment obligation incurred on the first 4,000,000 redetermined kernel weight pounds received by such handler during a crop year. This proposal would provide an alternate method for handlers to receive 150 percent credit, while retaining the total 4,000,000 kernel weight pound limit for both methods combined.

Handlers wishing to use the proposed provision would be required to file a claim with the Board on ABC Form 31 and make payment to the Board by January 31 of the crop year for which credit is desired. ABC Form 31 is the standard form which handlers are required to file with the Board to claim credit for their marketing promotion and paid advertising activities.

Handlers choosing to use the proposed method of crediting for all or a portion of their assessment obligations would not be eligible to use the extension of time provided for in paragraph (b) of § 981.441. Paragraph (b) provides that paid advertisements must be published, broadcast, or displayed and other marketing promtoion activities must be conducted during the crop year for which credit is requested except that a handler may receive credit, up to a maximum of 40 percent of such a handler's total creditable advertising and promotion obligation, for expenditures made for advertisements published, broadcast, or displayed and other marketing promotion activities conducted no later than December 31 of the subsequent crop year. The crop year under the order is the 12 months from July 1 to the following June 30, inclusive.

The proposal would give handlers additional flexibility in meeting their assessment obligations. The proposal should be particularly beneficial to small handlers who do not have the resources to mount an effective paid advertising or marketing promotion campaign on their own. The proposal might also benefit handlers who, because they have no brand name or because they do not market their almonds directly to consumers, find the current rules concerning crediting for marketing promotion and paid advertising less advantageous to their marketing strategies than handlers who do have a brand name or market their almonds directly to consumers.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

For the reasons set forth in the preamble, 7 CFR Part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Amend Part 981 by adding a new § 981.336 to read as follows:

§ 981.336 Expenses and assessment rate.

An assessment rate for the crop year ending June 30, 1988, payable by each handler shall be established in accordance with § 981.81, less any amount credited pursuant to § 981.41, but not to exceed $0.025 per pound of almonds (kernelweight basis).

3. Amend § 981.441 by adding paragraph (e) as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(d) Credit shall be granted for payments made to the Board for use by the Board for generic marketing promotion including paid advertising subject to the following conditions:

(1) A handler may receive credit for 150 percent of a payment made to the Board against the creditable assessment obligation incurred on the first 4,000,000 redetermined kernel weight pounds received by a handler during a crop year: *Provided,* That this poundage limit shall be reduced by any poundage on which a handler incurs an obligation and receives 150 percent credit pursuant to paragraph (d)(1)(i)(A) of this section.

(2) No credit shall be granted in excess of the creditable assessment obligation incurred on 4,000,000 redetermined kernel weight pounds received by a handler during a crop year.

(3) When a handler elects to use this method of crediting for all or a portion of such handler's assessment obligation, the extension provided for pursuant to paragraph (b) of this section shall not apply.

(4) Handlers must file claims with the Board on ABC Form 31 in order to receive credit for payments made to the Board. No credit at 150 percent shall be granted unless a claim is filed and payment made on or before January 31 of the then current crop year.

Dated: July 22, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division

[FR Doc. 87–17033 Filed 7–27–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR 16, 141, 154, and 157

[Docket Nos. RM81–34–000, RM83–11–000, RM84–5–000, RM85–20–000; Order No. 477]

Basket Termination Order

Issued July 20, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating four rulemaking dockets. In particular, the Commission is denying three petitions for rulemaking and withdrawing one Notice of Proposed Rulemaking (NOPR) issued in response to a petition for rulemaking. The Commission finds that implementing the proposal to revise Commission Form No. 423 will unduly interfere with the regulatory mandate of the Interstate Commerce Commission (ICC) under the Staggers Rail Act of 1980. The Commission finds, further, that the proposals to reject discriminatory rates and brokering programs for natural gas and to establish a deliverability life standard for interstate pipeline companies seeking to expand their services to new customers no longer require action in light of recent Commission initiatives and Congressional action that address the same issues raised in these petitions. The Commission also finds that the proposal to revise the Commission's relicensing regulations for hydroelectric dams no longer requires action in light of recent Congressional action in the Electric Consumers Protection Act of 1986.

DATE: This withdrawal is effective July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8530.

SUPPLEMENTARY INFORMATION:

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

Petition for Rulemaking to Establish a Deliverability Life Standard for Interstate Pipeline Companies, Docket No. RM81–34–000.

Revision of Monthly Report of Cost and Quality of Fuel for Electric Plants; Form No. 423, Docket No. RM83–11–000.

Petition of Process Gas Consumers Group, *et al.*, for Rulemaking Rejecting Discriminatory Rates and Brokering Programs and Adopting Nondiscriminatory Alternatives, Docket No. RM84–5–000.

Petition for Rulemaking by California Sportfishing Protection Alliance For Revision of Regulations on Issuance of New Licenses for Relicensing Existing FERC Licensed Projects, Docket No. RM85–20–000.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is terminating four rulemaking dockets. In particular, the Commission is denying three petitions for rulemaking and withdrawing one notice of proposed rulemaking (NOPR) issued in response to a petition for rulemaking. The Commission finds that implementing the proposal to revise Commission Form No. 423 will unduly interfere with the regulatory mandate of the Interstate Commerce Commission (ICC) under the Staggers Rail Act of 1980 and should accordingly be withdrawn. In addition, the Commission finds that further action on proposals to reject discriminatory rates and brokering programs for natural gas and to establish a deliverability life standard for interstate pipeline companies seeking to expand services to new customers are unwarranted in light of recent Commission initiatives and Congressional action that address the same issues raised in these petitions. The Commission also finds that the proposal to revise the Commission's relicensing regulations for hydroelectric dams no longer requires action in light of recent Congressional action in the Electric Consumers Protection Act of 1986.

II. Background and Discussion

The Commission has determined that proceedings in these rulemaking dockets are no longer required in light of present market conditions. For the reasons discussed below, the Commission terminates these rulemaking dockets.

A. Proposal to Revise FERC Form No. 423. (RM83–11–000)

On December 15, 1982, the Virginia State Corporation Commission (Virginia) and the Florida Public Service Commission (Florida) filed similar petitions for rulemaking to amend the Commission's regulations on monthly reporting of cost and quality of fuels for electric plants in FERC Form No. 423.[1] A number of state public service corporations filed motions in support of their petitions.[2]

[1] 18 CFR 141.61 (1987).

[2] *See, e.g.*, Pennsylvania Public Utility Commission; State of New Jersey Board of Public

Continued

In their petitions, Virginia and Florida urged the Commission to amend Form No. 423 to require utilities to provide information which could be used to monitor the prudence of affiliate transactions for fuel and its transportation. Virginia and Florida argued that if the Commission developed a detailed, credible data base of fuel and transportation prices throughout the entire U.S. market, state commissions could use it in determining the reasonableness of fuel purchases and transportation by utilities subject to state jurisdiction. Virginia and Florida also requested the Commission to expand Form No. 423 to include information on the producing seam of purchased coal and the moisture content of purchased coal.

The Commission issued a NOPR on September 26, 1983, in response to these petitions.[3] Including only some of the modifications requested in the petitions, the Commission's NOPR proposed to collect information on the moisture content of coal purchased by utilities, the cost of transporting coal, and the price and quality of fuel when it enters and leaves a central storage facility.

Over 90 comments were filed. Commenters supporting the Commission's NOPR are generally either state commissions [4] or groups which might benefit or profit from the availability of the proposed additional information.[5] Only one utility, Montana Power Company, supports the Commission's NOPR. These commenters claim that the proposed revisions will improve the usefulness of Form No. 423 to the Commission and state commissions without unduly increasing reporting burdens or preparation costs to utilities.

Several other commenters support the Commission's NOPR, but suggest modifications to improve the form's usefulness to the Commission and state commissions.[6] These commenters also disagree with the Commission's decision not to require utilities to separately disclose fuel supplied by affiliated and nonaffiliated suppliers.[7] They question the Commission's conclusion that this information is already required by the Commission in Docket No. IN79–6 [8] and is therefore duplicative.

Commenters opposing the Commission's NOPR are utilities required to submit Form No. 423,[9] and trade associations.[10] These commenters argue that the proposed revisions to Form No. 423 will increase the administrative burden of utilities and increase reporting costs which in turn will be passed through to customers. Commenters are also concerned that the proposed revisions will require utilities to disclose confidential contract information which can be used by fuel suppliers to charge higher prices and thereby hurt competition.

While not specifically opposing the Commission's NOPR, the Interstate Commerce Commission (ICC) expresses concern that the proposed publication of detailed transportation information in Form No. 423 would amount to publication of rail-rate contract terms which the ICC considers confidential proprietary information under its regulations as mandated by Congress in the Staggers Rail Act of 1980.[11] ICC urges the Commission to carefully consider this impact in its disposition of the NOPR. The Department of Energy (DOE) also suggests that caution should be exercised in implementing changes to Form No. 423. DOE recommends that the Commission should take precautions to ensure that publishing certain confidential, privately negotiated contract rates does not adversely affect competition in the coal industry and thus increase the delivered price of coal.

After carefully reviewing the comments, the Commission has decided to withdraw the NOPR in this docket. The Commission finds that the NOPR's proposal for disclosure of transportation costs will, in some instances, unduly interfere with the ICC's regulatory mandate which authorizes it to establish special tariff rates for rail rate contracts,[12] and could undermine competition in the coal industry. The Staggers Rail Act, in allowing rail carriers to apply contract-marketing techniques to rail transportation with minimal regulatory constraints, has mandated that only nonconfidential contract terms are to be available to the public.[13] In light of this Congressional mandate, the Commission concludes that revising Form No. 423 to collect transportation cost data for use by the state public service corporations would be self-defeating since the Commission could not release transportation data covered by the Staggers Act to the state public service corporations requesting it, or to the general public.

Even if specific transportation cost data are not requested for each transportation link in a coal shipment, requesting FOB (free on board) mine price data in addition to the FOB powerplant price data already collected in Form No. 423 could compromise the confidential coal transportation cost data protected by the Staggers Act. The transportation cost data could be calculated by subtracting the FOB mine price from the FOB powerplant price. With this information, it would not be difficult, in many instances, to make fairly precise estimates of how the total transportation cost figure is allocated to the various modes of transportation used in that coal shipment. Once again, the Commission would find itself in the position of compromising ICC's mandate under the Staggers Act, or it would be forced to withhold the FOB mine price data requested by the state public service commissions, and from the general public, as well.

Utilities; North Carolina Utilities Commission; Idaho Utilities Commission; New Mexico Public Service Commission; Wisconsin Public Service Commission; and Arizona Corporation Commission.

[3] Revision of Monthly Report of Cost and Quality of Fuel for Electric Plants; Form No. 423, 48 FR 44,845 (Sept. 30, 1983), IV FERC Stats. & Regs. ¶ 32,694 (1983).

[4] *See, e.g.*, Missouri Public Service Commission; Ohio Public Utilities Commission; New York Department of Public Service; North Dakota Public Service Commission; Alabama Public Service Commission; Michigan Department of Commerce; Public Utility Commission of Texas; Idaho Public Utilities Commission; Colorado Public Utilities Commission; Public Service Commission of Wisconsin; South Carolina Public Service Commission; New Hampshire Public Utilities Commission; Arkansas Public Service Commission; Mississippi Public Service Commission; Florida Public Service Commission; Georgia Public Service Commission; Virginia State Corporation Commission; and New Jersey Board of Public Utilities.

[5] *See, e.g.*, National Association of Regulatory Utility Commissioners; Hess & Lim, Inc. and Sheldon L. Bierman; Jensen Associates, Inc.; Attorney General of New Mexico; and Public Staff of the North Carolina Utilities Commission.

[6] *See, e.g.*, Department of Energy, Office of Coal, Nuclear Electric and Alternative Fuels of the Energy Information Administration for the Department of Energy; Attorney General of North Carolina; Public Service Commission of West Virginia; City of Gallup, New Mexico and the Boroughs of Ellwood City, Grove City, and Zelienople, Pennsylvania; and Pennsylvania Public Utility Commission.

[7] *See, e.g.*, Pennsylvania Public Utility Commission; Attorney General of North Carolina; Public Service Commission of West Virginia; and City of Gallup, New Mexico and the Boroughs of Ellwood City, Grove City and Zelienople, Pennsylvania.

[8] "Investigation of Practices Under Automatic Adjustment Clauses," 7 FERC ¶ 61,090 (Apr. 26, 1979).

[9] *See, e.g.*, Texas Utilities Generating Company; Nevada Power Company; Public Service Indiana; Baltimore Gas and Electric Company; Virginia Electric and Power Company; Pacific Power & Light Company; Northern States Power Company; Wisconsin Electric Power Company; Portland General Electric Company; Iowa Power and Light Company; South Carolina Electric & Gas Company; Public Service of New Hampshire; San Diego Gas & Electric; Tampa Electric Company and Northeast Utilities.

[10] *See, e.g.*, Edison Electric Institute and Association of American Railroads.

[11] Pub. L. 96–448, 208(a) 94 Stat. 1898 (1980).

[12] 49 U.S.C. 10713(b) (1982).

[13] *Id.*

B. Proposal To Reject Discriminatory Rates and Brokering Programs for Natural Gas. (RM84–5–000)

On December 2, 1983, Process Gas Consumers Group, American Iron and Steel Institute and the Association of Businesses Advocating Tariff Equity (Industrial Groups) filed a petition for rulemaking. Anticipating the then-impending deregulation of natural gas on January 1, 1985, they requested the Commission to initiate a rulemaking proceeding to reject discriminatory rate and brokering proposals by pipelines. They also requested the Commission to issue regulations, after public hearings, outlining programs to get competitively priced gas to market for the benefit of all consumers.

Their petition contains four specific proposals for Commission action. First, they recommend that the Commission reject on a generic basis discriminatory rate, brokering and other plans that divide markets based upon the end use or alternative fuel switching capabilities of the ultimate users of gas. Second, they recommend that the Commission use every available regulatory tool as well as its ratemaking powers to induce interstate pipelines to provide nondiscriminatory transportation service to distributors and end users. Third, they recommend that the Commission use its powers of rate review to induce interstate pipelines to lower their regular sales rates to competitive levels. And fourth, they recommend that the Commission adopt cost-based rate designs that avoid cross-subsidies and reward efficient utilization of pipeline facilities while giving interstate pipelines strong economic incentives to maximize service to all customers.

The Commission is denying this petition because it has undertaken initiatives in other Commission proceedings which address the concerns raised by Industrial Groups. Recently, the Commission implemented a comprehensive, nondiscriminatory transportation program in Order No. 436.[14] Also, in Order No. 451,[15] the Commission revised the maximum lawful price for natural gas under sections 104 and 106 of the Natural Gas Policy Act of 1978 (NGPA).[16] These orders are designed to enable all segments of the natural gas industry to participate in an open and competitive natural gas market with nondiscriminatory access to self-implementing and blanket transportation and flexible transportation rate structures.

Additionally, the Commission has announced its intention to undertake a comprehensive natural gas strategy policy designed to eliminate regulatory impediments to competition and to allow the demand for gas and gas delivery services to establish the price for natural gas and its associated delivery services. The policy objectives of this natural gas strategy include (1) providing for recovery of take-or pay costs imposed by existing contracts between producers and pipelines; (2) designing rates to avoid future take-or-pay problems and to allocate gas and services; (3) promoting fair market practices; (4) revamping abandonment procedures; and (5) establishing a new natural gas data collection system.

The Commission concludes that further action in this docket is unwarranted in light of these initiatives in other proceedings. The concerns raised by the petitioners are being adequately addressed in the context of these proceedings. The Commission, therefore, is denying the petition for rulemaking in this docket.

C. Proposal To Establish a Deliverability Life Standard for Interstate Pipeline Companies. (RM81–34–000)

On June 11, 1981, the Process Gas Consumers Group, the American Iron and Steel Institute, the Georgia Industrial Group, the Brick People, Region VI of the Brick Institute of America, Dickey Clay Manufacturing Company, and Griffin Pipe Products Company (PGC *et al.*) petitioned the Commission to institute a rulemaking proceeding.[17] PGC *et al.* requested the Commission to establish a deliverability life standard[18] for interstate natural gas pipeline companies seeking to increase their certificated obligations in order to serve new requirements customers. The proposed deliverability life standard would require any pipeline seeking to increase its certificated obligations in order to serve new requirements out of system supplies to demonstrate that the pipeline has adequate proven reserves (as reflected in its most recent Form No. 15 filed with the Commission) to meet the requirements of its existing customers plus any additional requirements that may be attached as a result of the proposed increase in certificated obligations for a minimum of six years in the future.

The Commission is denying this petition for rulemaking as unwarranted at this time. The Commission has moved away from its traditional policy of requiring a rigid deliverability standard of a set number of years. The Commission has declared that it will no longer require pipelines to have the high deliverability lives they once were required to have.[19] Because the natural gas industry is moving toward competitive natural gas prices, the Commission has concluded an industry-wide standard of deliverability life is neither appropriate nor desirable. The Commission has declared it will look at a number of factors in deciding on the reasonableness of a pipeline's deliverability standard, including assessment of a pipeline's attached reserves together with its reasonable prospects for additional supplies. The Commission continues to believe this policy is appropriate in light of the present natural gas market. The Commission therefore denies the petition for rulemaking in this docket.

D. Proposal To Revise Relicensing Regulations for Hydroelectric Dams. (RM85–20–000)

On May 28, 1985, California Sportfishing Protection Alliance (California Sportfishing) submitted a petition for rulemaking requesting the Commission to amend its regulations for relicensing existing hydroelectric projects. Pointing to the number of licensed hydroelectric projects in California scheduled to be relicensed by the Commission in the next 20 years, California Sportfishing requests the Commission to include terms and conditions in these projects' new licenses protecting fish and wildlife resources and the federal lands affected by hydroelectric projects. California Sportfishing also requests that the Commission establish a procedure

[14] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42,408 (Oct. 18, 1985), FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,665 (1985).

[15] Ceiling Prices; Old Gas Pricing Structure, 51 FR 22,168 (June 18, 1986); III FERC Stats. & Regs. ¶ 30,701 (1986).

[16] 15 U.S.C. 3314 and 3316 (1982).

[17] National Oil Jobbers Council filed an answer in support of this petition for rulemaking on July 10, 1981.

[18] Deliverability Life is the number of future years during which a pipeline company can meet its annual requirements for its presently certificated delivery capacity from presently committed supply sources. The availability of gas from these supply sources is governed by the physical capabilities of these sources to deliver gas, by the terms of existing gas purchase contracts and the limitations presently imposed by state or Federal regulatory agencies.

[19] *See, e.g.* Opinion No. 130, Northern Natural Gas Co., 16 FERL ¶ 61,233 (Sept. 25, 1981); Columbia Gas Transmission Corporation, 15 FERC ¶ 61,243 (June 5, 1981); Columbia Gas Transmission Corp., 21 FERC ¶ 61,026 (Oct. 15, 1982). *See also* Pipeline Companies—Natural Gas Reserves—Deliverability Life, Statement of Policy, 18 CFR 2.61 (1987).

enabling interested state and Federal fish and wildlife agencies to conduct studies to evaluate a hydroelectric project's effects on fish and wildlife and land uses prior to the expiration date of the existing hydroelectric license and before the Commission relicenses the hydroelectric project.

The Commission is denying this petition for rulemaking because of the recent enactment of the Electric Consumers Protection Act of 1986 (ECPA).[20] The petition was filed in light of concerns that existed before the enactment of ECPA. ECPA imposes new requirements with respect to fish and wildlife conditions to be included in original and new licenses (relicenses) for hydroelectric projects that may substantially resolve the petitioner's concerns. In any event, the passage of ECPA has significantly changed the circumstances that existed when the petition for rulemaking was filed. Therefore, the Commission is denying this petition for rulemaking. The petitioner is free to file a new petition for rulemaking addressing whatever concerns it may have subsequent to ECPA.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16845 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-107-86]

Corporate Alternative Minimum Tax Book Income Regulations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the corporate alternative minimum tax book income adjustment and the payment of estimated tax by corporations taking into account the alternative minimum tax and the environment tax.

DATES: The public hearing will be held on Tuesday, September 1, 1987, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, August 18, 1987.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outline of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-107-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Angela D. Wilburn of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revence Service, 1111 Constitution Avenue NW., Washington, DC 20224, telepnone 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 56 (c)(1), 56 (f), 6154 (c), and 6655 of the Internal Revenue Code of 1986. The proposed regulations appeared in the **Federal Register** for Tuesday, April 28, 1987, at page (52 FR 15339).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, August 18, 1987, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87-17086 Filed 7-27-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Public Comments and Opportunity for Public Hearing on Proposed Modifications to the New Mexico Permanent Regulatory Program

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

ACTION: Notice of proposed rulemaking.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted by the State of New Mexico to modify the New Mexico Permanent Regulatory Program (hereinafter referred to as the New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to the training, examination, and certification of blasters; the hydrologic balance; annual reports; regrading and stabilizing rills and gullies; inspection and enforcement; permit conditions, applications, and fees; backfilling and grading; support facilities; and disposal of noncoal wastes.

This notice sets forth the times and locations that the New Mexico program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before 4:00 p.m. August 27, 1987 will not necessarily be considered.

If requested, a public hearing on the proposed amendment will be held on August 24, 1987, beginning at 10:00 a.m., at the location shown under **ADDRESSES.**

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Robert H. Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, NM 87102.

If a public hearing is requested, it will be held at the OSMRE Albuquerque Field Office at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 625 Silver

[20] Pub. L. No. 99-495, 100 Stat. 1243 (to be codified as amended in scattered sections of 16 U.S.C.) (Oct. 16, 1986).

Avenue, SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the New Mexico program, the proposed amendment to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting the OSMRE Albuquerque Field Office listed under **ADDRESSES.** The aforementioned documents are available for review at the following locations:

Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, S.W., Suite 310, Albuquerque, New Mexico 87102

Office of Surface Mining Reclamation and Enforcement, Room 5315 A, 1100 L Street, NW., Washington, DC 20240.

New Mexico Energy and Minerals Department, Mining and Minerals Division, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, Telephone: (505) 827–5970

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSMRE Albuquerque, New Mexico Field Office will not necessarily be considered and included in the Administrative Record for this proposed rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business August 17, 1987. If no one requests to comment, a public hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those persons scheduled. The hearing will end after all persons who wish to comment have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed under **ADDRESSES** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the New Mexico State Program

Information regarding the general background on the New Mexico State Program, including the Secretary's findings, the disposition of comments and detailed explanation of the conditions of approval of the New Mexico program, can be found in the December 31, 1980 **Federal Register** (45 FR 86459–86490).

Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 931.10, 30 CFR 931.11, 30 CFR 931.12, 30 CFR 931.13, 30 CFR 931.15, and 30 CFR 931.16.

III. Discussion of the Proposed Amendments

Blaster Certification Program

On March 4, 1983, OSMRE issued final rules, effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9686). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operations within 12 months after approval of a State program, or within 12 months after the publication date of OSMRE's rule at 30 CFR Part 850, whichever is later. In the case of New Mexico's program, the applicable date was 12 months after publication date of OSMRE's rule, or March 4, 1984.

On March 5, 1984, New Mexico advised OSMRE that it would be unable to meet the March 4, 1984, deadline and requested an extension to develop and adopt a blaster certification program. On May 14, 1984, OSMRE granted New Mexico an extension to March 4, 1985 (49 FR 20287).

On February 6, 1985, the Director of New Mexico Energy and Minerals Department advised OSMRE that the State would require another extension of time to submit its blaster certification program. On May 8, 1985, OSMRE granted New Mexico an extension to March 4, 1986 (50 FR19356).

On March 3, 1986, the Director of Energy and Minerals Department requested another 1-year extension of time for the submission of its blaster certification program.

On April 29, 1986, the State of New Mexico sent details of the activities which transpired during the past year (NM–324) and the causes which delayed New Mexico's program development. This letter also explained the steps New Mexico expected to complete through June 30, 1986, including submittal of draft proposal stating the alternative New Mexico wishes to use in order to fulfill the requirement.

In the June 1986 **Federal Register** (51 FR 20843), OSMRE proposed an additional 1-year extension for New Mexico to submit to OSMRE a proposed blaster certification program.

On August 8, 1986, OSMRE granted New Mexico an extension to March 4, 1987.

Briefly, the proposed regulations and cites are: New Mexico proposes to add Part 33 to establish rules for the training, examination, and certification of blasters. New Mexico proposes to add the definition of "blaster" to its rules at § 33.5. Section 33.12 would establish responsibilities under Part 33. Section 33.13 establishes training procedures for persons seeking to become certified as blasters and requires that persons not certified, who are assigned to a blasting crew, receive on-the job training from a blaster. Section 33.14 would establish qualification requirements, while § 33.15 would establish certification requirements and also covers suspension or revocation of certifications.

As proposed in Part 33 of New Mexico's Blaster Certification Program, qualification requirements are that the applicant has obtained a certification issued by a progam approved by OSMRE which covers, at a minimum, the topics set forth in § 33.13(c) of this

amendment and has successfully completed the program as evidenced by passing an examination on those topics. Under the proposed program, New Mexico shall accept certification from any OSMRE-approved Blaster Training Program and issue a New Mexico Blaster Certification with the same conditions and requirements as those of the training program the blaster successfully completed. The Director of the New Mexico Mining and Minerals Division must verify the applicant's successful completion of such a program.

In addition to proposing a Blaster Certification Program, New Mexico also proposes additional amendments to its program as follows:

Hydrologic Balance

New Mexico proposes to amend section 20–42 by deleting the requirement that all surface flow from disturbed areas must pass through a sedimentation pond or series of sedimentation ponds and replacing it with the requirement that surface flow leaving the disturbed area shall be controlled by the Best Technology Currently Available (BTCA).

New Mexico also proposes to amend section 20–42 regarding effluent limitations by providing that the specified numerical effluent limitations only apply to point source discharges.

Annual Reports

New Mexico proposes to add section 5–26 which will require operators to submit a report by March 1, of each year, detailing the measures taken to effect reclamation during the previous calendar year. The report, as proposed, would consist of a map showing the status of disturbed areas, a narrative description of wildlife and revegetation data collected, and a description of the current status of reclamation.

Regrading or Stabilizing Rills and Gullies

New Mexico proposes to delete the current language found at section 20–106(a) and to replace it with language identical to the Federal language found at 30 CFR 816.95.

Inspection and Enforcement

New Mexico proposes to delete the inspection requirements found at section 29–11 (a) and (b) and to replace it with requirements which are, with minor exceptions, identical to Federal inspection requirements found at 30 CFR 842.11(c).

Permit Conditions

New Mexico proposes to add section 11–27(d) which will require a permittee to notify the Director of the New Mexico Mining and Minerals Division (MMD) of his intentions to begin operations at least 10 days prior to initial surface disturbance.

Permit Applications

New Mexico proposes to add to the current language of section 8–11 the statement that all information required under that section shall be used for the permit application evaluation.

New Mexico proposes to add to section 9–18(b)(4) language requiring the reclamation plan submitted pursuant to that section to also include provisions for the "protection" of topsoil, subsoil, or other material suitable for topdressing (emphasis added).

Permit and Exploration Files

New Mexico proposes to amend section 5–25(b) by making minor language changes for clarification and deleting the $1,000 minimum disturbed acreage permit fee.

Backfilling and Grading

New Mexico proposes to delete the current language found at section 20–103(a)(1) and replace it with language which is identical, with minor exceptions, to the Federal language found at 30 CFR 816.102(f). New Mexico is also adding the provision that the Director of MMD may specify thicker amounts of cover where necessary.

New Mexico proposes to amend section 20–102(b)(3) by deleting the current requirements and replacing them with the provisions that the slope of the terrace outslope shall not exceed 1v:3h (33⅓%), except that steeper outslopes may be approved if they provide adequate erosion control and closely resemble the surface configuration of the land prior to mining; and provided further that in no case may highwalls be left as part of terraces.

Support Facilities

New Mexico proposes to make some minor language and organizational changes to section 20–181(a). The proposed amendments should have no effect on the applicability or regulatory requirements of this section.

Disposal of Noncoal Wastes

New Mexico proposes to amend section 20–89 by deleting the current language and adopting language which, with minor exceptions, is identical to the Federal language found at 30 CFR 816.89. In addition, New Mexico is adding provisions for disposal on the permit area of wastes produced by operations other than the surface coal mining operation. These additional provisions require that the approval of the Director of MMD be obtained prior to disposal; that the Director will specify procedures for the disposal of each type of waste; that all other requirements of section 20–89 will be met; and that during the life of the mine and after mine closure, certain New Mexico ground water quality standards will not be exceeded.

Therefore, OSMRE is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and are no less effective than its implementing regulations.

IV. Procedural Matters

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by *SMCRA* and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 931

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

Date: July 17, 1987.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 87–17059 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

Proposed Regulatory Program Amendment for Ohio; Definition of "Higher or Better Uses"

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing receipt of a proposed amendment submitted by Ohio as a modification to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted will add a definition of the phrase "higher or better uses" to the Ohio Administrative Code.

This notice sets forth the times and locations that the proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments from the public not received on or before 4:00 p.m. on August 27, 1987 if requested, a public hearing on the proposed amendment will be scheduled for 1:00 p.m. on August 24, 1987 and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on August 12, 1987.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone (614) 866–0578. Copies of the Ohio program, the proposed amendment, a listing of any scheduled public meeting, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 "L" Street, NW., Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, Pennsylvania 15220.

Ohio Department of Natural Resources, Division of Reclamation, Fountain Square, Building B–3, Columbus, Ohio 43224.

Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Columbus Field Office.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield (Director), (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Ohio program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Seretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Discussion of the Proposed Amendment

By letter dated June 26, 1987 (Administrative Record No. OH–953), the Ohio Department of Natural Resources (ODNR), Division of Reclamation, submitted a proposed amendment to the Ohio program at Ohio Administrative Code (OAC) section 1501:13–1–02 concerning the definition of "higher or better uses."

Ohio proposes to amend OAC section 1501:13–1–02 to add a new paragraph (DD) in which "higher or better uses" is defined identically to 30 CFR 701.5. Subsequent paragraphs are relettered and paragraph (ZZ) is revised to delete reference to paragraph (EE).

This amendment will establish a definition of "higher or better uses" that is as effective as the definition used in the Code of Federal Regulations.

III. Public Comment Procedures.

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Ohio satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of Ohio program.

Written Comment

Written comments should be specific, pertain only to the issues proposed in the rulemaking, and include explanations in support of the comment's recommendations. Comments received after the time indicated under "DATES" or at locations other than Columbus Ohio Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on August 12, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the Columbus Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections, 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from the requirement to prepare

a Regulatory Impact Analysis, and the regulatory review by OMB is not required.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

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

List of Subjects in 30 CFR Part 935

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

Date: July 13, 1987.

Carl C. Close,

Assistant Director, Field Operations.

[FR Doc. 87-17060 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to Virginia Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is intended to improve the effectiveness of Virginia's alternative bonding program under its Surface Coal Mining Reclamation Fund. This notice sets forth the times and locations that the Virginia program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments relating to Virginia's proposed modification of its program not received on or before 4:00 p.m. on August 27, 1987 will not necessarily be considered in the decision process. A public hearing on the adequacy of the amendment will be held upon request at 1:00 p.m. on August 24, 1987 at the Big Stone Gap Field Office. Any person interested in making an oral or written presentation at the public hearing should contact Mr. William R. Thomas in writing at the Big Stone Gap Field Office by the close of business on or before August 12, 1987. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting may be held in place of the hearing. If possible, a notice of the meeting will be posted in advance at the locations listed under **"ADDRESSES"**.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Attention: Virginia Administrative Record, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219. Copies of the proposed amendment, the Virginia program, the Administrative Record on the Virginia program and a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE office and the offices listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting the OSMRE Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street NW., Washington, DC 20240, Telephone: (202) 343-5492

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Building 10, Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937-2910

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone: (703) 523-2925.

FOR FURTHER INFORMATION CONTACT: Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 Federal Register (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13 and 946.15.

II. Submission of Amendment

By letter dated June 15, 1987 (Administrative Record No. VA 627), Virginia submitted proposed amendments to Section 45.1-270 of its Coal Surface Mining Control Reclamation Act of 1979.

Section 45.1-270.4 increases the cap of the Reclamation Fund from $1,000,000 to $2,000,000 and requires participating operators to resume payment of reclamation taxes when the balance falls below $1,750,000. Section 45.1-270.5:1 will allow Virginia to file a civil action to compel permittees participating in the Reclamation Fund to perform the reclamation work in full compliance with the Virginia program in the event of forfeiture. Section 45.1-2706(B) allows Virginia to file a motion for judgment in any court of competent jurisdiction against the permittee to recover all monies expended by the Reclamation Fund to accomplish reclamation. This section also provides that any operator who has defaulted on any reclamation obligation and caused the Reclamation Fund to incur expenses shall not be eligible for continued participation until restitution of such default has been made. Section 45.1-270.3:1 requires additional reclamation and additional bond in some cases for extended periods of temporary cessation of mining approved under sections 480-03-19.816.131 or 480-03-19.817.131 of the Virginia Coal Surface Mining Reclamation Regulations.

III. Public Comments Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Virginia satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Virginia program.

Written comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Big Stone Gap, Virginia will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by close of business on August 12, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. If only one person requests a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT"**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made part of the Administrative Record.

IV. Procedural Determinations

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this section is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 946

Coal Mining, Intergovernmental relations, Surface Mining, Underground Mining.

Date: July 16, 1987.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 87-17061 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Return of National Forest System Timber

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of public comment period.

SUMMARY: On June 11, 1987, at 52 FR 22348, the Forest Service published a notice of proposed rulemaking concerning return of National Forest System timber under terms of the Federal Timber Contract Payment Modification Act (FTCMPA). In response to legal challenge by members of the timber industry, the rulemaking republished for further notice and comment the requirements for release of a purchaser from further obligations under a contract selected for return to the Government (36 CFR 223.178(b)(4). In addition, the rulemaking proposes a deadline for fulfilling all the requirements for completion of the buy-out process authorized in 1984 by the FTCPMA. Many timber sale puchasers have reported that they have not had time to prepare their comments because of the demands of their field operations. To permit these purchasers a reasonable opportunity to submit their comments, the public comment period is hereby extended.

DATE: Comments not must be received on or before August 12, 1987.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff (202) 447-4051.

Dated: July 22, 1987.

Mark A. Reimers,

Associate Deputy Chief, P&L.

[FR Doc. 87-17113 Filed 2-27-87; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 264, 265, 270, and 271

[FRL-3240-1]

Liners and Leak Detection for Hazardous Waste Land Disposal Units

AGENCY: Environmental Protection Agency.

ACTION: Extension of the comment period.

SUMMARY: On May 29, 1987, EPA published proposed rules regarding requirements for certain land disposal units to utilize an approved leak detection system, install a double liner system, and develop a construction quality assurance program (52 FR 20218). The purpose of today's notice is to extend the comment period on the May 29, 1987, proposed rules by 30 days to give the public additional time to submit comments. We have received three requests to extend the comment period due to the complexity of the background document for the proposed rule and because EPA has requested comments on numerous other Resource Conservation and Recovery Act (RCRA) and Superfund Amendments and Reauthorization Act (SARA) rule packages all with comment deadlines similar to the July 28 deadline for this particular proposed rule. We find the request appropriate and, therefore, have extended the comment period by 30 days.

DATE: The Agency will accept comments submitted on or before August 27, 1987.

ADDRESS: Comments should be addressed to the Docket Clerk at the following address: EPA RCRA Docket (WH-562), 401 M Street SW., Washington, DC 20460. One original and two copies should be sent and identified by regulatory docket reference code F-87-CCDP-FFFF. The docket is open from 9:30 a.m. to 3:30 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review the docket by calling Michelle Lee at (202) 475-9327.

FOR FURTHER INFORMATION CONTACT: Paul Cassidy at (202) 382-4654.

Dated: July 24, 1987.

J.W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 87-17182 Filed 7-27-87; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 347 (Sub-No. 2)]

Rate Guidelines—Non-Coal Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Emergency extension of time to file comments to notice of proposed policy.

SUMMARY: By a decision served April 8, 1987, the Commission proposed guidelines for evaluating rate reasonableness in non-coal proceedings. Notice was published on April 8, 1987 in the **Federal Register** at 52 FR 11295 and the *I.C.C. Register.* May 25, 1987 was specified as the due date for comments. An extension for filing comments was granted on May 22, setting June 25, 1987 as the due date. By decision served June 19, 1987 the filing date for comments was extended to July 24, 1987. This decision further extends the filing date for comments to July 31, 1987.

DATE: Comments are due July 31, 1987.

ADDRESS: Send an original and 15 copies of comments to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ronald S. Young, (202) 275-7565
or
Richard H. Klem, (202) 275-1915

Dated: June 23, 1987.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 87-17191 Filed 7-27-87; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 144
Tuesday, July 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Small Business Innovation Research Program for Fiscal Year 1988; Solicitation of Applications

Notice is hereby given that under the authority of the Small Business Innovation Development Act of 1982 (Pub. L. 97–219), as amended, and section 1472 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3318), the U.S. Department of Agriculture (USDA) expects to award project grants for certain areas of research to science-based small business firms through Phase I of its Small Business Innovation Research (SBIR) Program. This program will be administered by the Office of Grants and Program Systems, Cooperative State Research Service. Firms with strong scientific research capabilities in the topic areas listed below are encouraged to participate. Objectives of the three-phase program include stimulating technological innovation in the private sector, strengthening the role of small businesses in meeting Federal research and development needs, increasing private sector commercialization of innovations derived from USDA-supported research and development efforts, and fostering and encouraging minority and disadvantaged participation in technological innovation.

The total amount expected to be available for Phase I of the SBIR Program in fiscal year 1988 is approximately $1,100,000. The solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications by the closing date of October 1, 1987. The research to be supported is in the following topic areas:

1. Forests and Related Resources
2. Plant Production and Protection
3. Animal Production and Protection
4. Air, Water, and Soils
5. Food Science and Nutrition
6. Rural and Community Development

The award of any grants under the provisions of the solicitation is subject to the availability of appropriations. All grants awarded will be administered in accordance with the USDA's "Uniform Federal Assistance Regulations" (7 CFR Part 3015), as amended. These regulations primarily consolidate internal policies and procedures relating to USDA's assistance programs and implement various Federally issued assistance policies including applicable Federal cost principles and uniform administrative requirements.

The solicitation, which contains research topic descriptions and detailed instructions on how to apply, may be obtained by writing or calling the office indicated below. Please note that applicants who submitted SBIR proposals for 1987, or who have recently requested placement on the list for 1988, will automatically receive a copy of the 1988 solicitation.

Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 010, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, DC 20251–2200, Telephone: (202) 475–5048

Done at Washington, DC, this 22nd day of July 1987.

Clare I. Harris,

Acting Administrator, Cooperative State Research Service.

[FR Doc. 87–17030 Filed 7–27–87; 8:45 am]

BILLING CODE 3410-22-M

Office of Energy

USDA National Panel on Cost Effectiveness of Fuel Ethanol Production; Change in Time and Location of Meeting

AGENCY: Office of Energy, USDA.

ACTION: Notice of change in meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the Office of Energy, USDA announces a change in time and location of a forthcoming meeting of the National Panel on Cost Effectiveness of Fuel Ethanol Production.

The meeting scheduled for August 6, 1987, 1:00 p.m. to 8:00 p.m., and August 7, 1987, 8:30 a.m. to 4:30 p.m. as previously announced in the **Federal Register** (52 FR 27439) has been cancelled. New dates for the meeting have been scheduled and the location changed.

DATES AND TIME: August 10, 1987, 1:00 p.m. to 8:00 p.m. and August 11, 1987, 8:30 a.m. to 4:30 p.m.

ADDRESS: Hyatt Regency/Ohio Center, 350 N. High Street, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Office of Energy, USDA, Washington, DC 20250–2600, 202–447–2634.

SUPPLEMENTARY INFORMATION: The USDA National Panel on Cost Effectiveness of Fuel Ethanol Production was established under section 13 of the Farm Disaster Assistance Act of 1987 (Pub. L. 100–45) to conduct a study of the cost effectiveness of fuel ethanol production for Congress and the Secretary of Agriculture. The Panel is comprised of seven members representing various agricultural, fuel ethanol and government interests. The meeting will be open to the public.

Agenda: August 10, 1987

1:00 p.m.—Opportunity for invited speakers to submit viewpoints; Discussion/Analysis of issues.

8:00 p.m.—Adjourn.

August 11, 1987

8:30 a.m.—Preliminary analysis of recommendations; Preliminary discussion for drafting panel report.

4:30 p.m.—Adjourn.

Earle E. Gavett,

Director, Office of Energy.

[FR Doc. 87–17031 Filed 7–27–87; 8:45 am]

BILLING CODE 3410-KG

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–057]

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

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

SUMMARY: On March 27, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covers three manufacturers/exporters of this merchandise to the United States and the period from September 1, 1983 through August 31, 1986.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from Fortress Allatt Ltd. Based on our analysis of the comments received and correction of clerical errors, we have changed the margin for the period September 1, 1985 through August 31, 1986.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 9904) the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada (42 FR 44811, September 7, 1977). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of replacement parts for self-propelled bituminous paving equipment. The review covers three manufacturers/exporters of this merchandise to the United States and the period from September 1, 1983 through August 31, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from Fortress Allatt Ltd.

Comment 1: Fortress Allatt contends that a computer error resulted in the wrong foreign market values ("FMV") being used for comparisons of Fortress Allatt parts sold during the period September 1, 1985 through August 31, 1986.

Department's Position: We agree . We have recalculated the results for that period.

Comment 2: Fortress Allatt contends that many dumping margins resulted from comparing U.S. sales with home market sales made in later periods, after a new price list had been issued which increased prices. In those cases, Fortress Allatt maintains that adjustments should have been made to the FMV to account for the different prices in effect.

Department's Position: We disagree. We made price-to-price comparisons following our standard policy with respect to contemporaneity of these sales. We calculated FMV using monthly weighted average selling prices without regard to price list prices. Further, our review of the information provided indicates that Fortress was inconsistent in its application and use of its own price lists.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results for Fortress Allatt Ltd. for the final period and we determine that the following weighted average margins exist:

Manufacturer/exporter	Period	Margin (percent)
Fortress Allatt Ltd.	9/1/83–8/31/84	1.31
	9/1/84–8/31/85	0.91
	9/1/85–8/31/86	0.55
General Construction Equipment Manufacturing Co.	9/1/83–8/31/84	1.31
	9/1/84–8/31/85	0.91
	9/1/85–8/31/86	0.59
Parker Hannifin	9/1/83–8/31/86	20.12

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required for these firms. For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after August 31, 1986 and who is unrelated to any reviewed firm, or any other previously reviewed firm, a cash deposit of 0.55 percent shall be required. These deposit requirements are effective for all shipments of Canadian replacement parts for self-propelled bituminous paving equipment entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until pubication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Date: July 23, 1987.

[FR Doc. 87–17071 Filed 7–27–87; 8:45 am]

BILLING CODE 3510–DS–M

[A–428–604]

Final Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts From the Federal Republic of Germany

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain forged steel crankshafts (CFSC) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC, except for entries from Gerlach-Werke GmbH (Gerlach), that are entered or withdrawn from warehouse for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated weighted-average dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Steve Morrison, Roy Van Buskirk, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0189, 377–0631, or 377–0161.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that imports of CFSC from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section

735(a)(1) of the Tariff Act of 1930, as amended (the Act) [19 USC 1673d(a)]. We made fair value comparisons on sales of CFSC to the United States by the respondents during the period of investigation (March 1, 1985, through October 31, 1986). The estimated weighted-average dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the last **Federal Register** publication pertaining to this case (the preliminary determination of sales at less than fair value (52 FR 18002, May 7, 1987)), the following events have occurred. We conducted verification from May 20 through June 10, 1987, of the questionnaire responses of Gerlach and Thyssen Unformtechnik (Thyssen).

Petitioner and respondents filed pre-hearing briefs on June 18, and rebuttal briefs including comments on the verification reports on July 10, 1987. A public hearing was held on July 1, 1987.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Period of Investigation

CFSC are normally sold to the United States on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to the United States, we extended the period of investigation to encompass the 20 months from March 1, 1985, to October 31, 1986, as permitted by § 353.38(a) of our regulations.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value for the companies under investigation, as specified below. We made comparisons on virtually all of the sales of CFSC to the United States during the period of investigation.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for sales by Gerlach and Thyssen in which the merchandise was sold directly to unrelated purchasers prior to its importation into the United States.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the appropriate indicator of the United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

We calculated the purchase price based on the c.i.f. delivered, duty paid price to unrelated purchasers. We made deductions, where appropriate, for foreign inland, ocean and U.S. inland freight; foreign inland, marine and U.S. inland insurance; U.S. customs duties, and brokerage and handling fees. We disallowed an adjustment for tooling costs (costs associated with manufacturing the dies and molds used to produce crankshafts) requested by Thyssen. See DOC Position to Thyssen's Comment 5.

Foreign Market Value

In accordance with sections 773(a)(1)(A) and 773(a)(2) of the Act, we calculated foreign market value for CFSC based on home market sales and, where appropriate, constructed value. For both Gerlach and Thyssen, a constructed value comparison was used for all but one sale by each company in the United States during the period of investigation.

For Gerlach, we based our calculations of foreign market value on the ex-works, packed prices to unrelated purchasers in the home market. Pursuant to section 353.15(a) of our regulations, we made circumstance of sale adjustments for differences in warranty and credit expenses where foreign market value was based on home market sales. However, no adjustments were made for these expenses when foreign market value was based on constructed value because U.S. credit and warranty expenses were included in the constructed value. We allowed an offset for indirect selling expenses in the home market up to the amount of the commissions for certain shipments in the U.S. market in accordance with § 353.15(c) of the Commerce Regulations. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations. We deducted home market packing and added U.S. packing expenses.

We disallowed an offset of indirect selling expenses for 1986 shipments by Gerlach because the 1986 commission was paid to a U.S. selling agent related to Gerlach through ownership by a common holding company.

For Thyssen, we based our calculations on delivered, packed prices to unrelated purchasers in the home market. We deducted home market inland freight and insurance and made circumstance of sale adjustments for differences in warranty and credit expenses where foreign market value was based on home market sales. However, no adjustments were made for these expenses when foreign market value was based on constructed value because U.S. credit and warranty expenses were included in the constructed value. We deducted home market packing and added U.S. packing expenses. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations.

Constructed Value

We used constructed value as the basis for calculating the foreign market value when there were no sales of such or similar merchandise. For both Thyssen and Gerlach, constructed values were based on the respondents' information, except as noted below:

1. We based scrap and material loss on the difference between actual input and output weights as verified.

2. We based the value of the machining services provided by Mavilor to Gerlach on the invoice price paid by Gerlach.

For both Thyssen and Gerlach, actual general expenses were used since these amounts exceeded the ten percent statutory minimum. For Gerlach in 1985,

and Thyssen in 1985 and 1986, the statutory minimum profit of eight percent was used because the actual profit was less than the statutory minimum. For Gerlach in 1986, actual profits exceeded the statutory minimum, therefore actual profits were used.

Currency Conversion

When calculating foreign market value, we made currency conversions from French francs and German marks to U.S. dollars in accordance with § 353.56(a) of our regulations, using certified exchange rates furnished by the Federal Reserve Bank of New York.

Petitioner's Comments

Comment 1: Petitioner argues that the date of sale is *not* the date of written confirmation of sales quantity and price, but is rather the date on which evidence indicates the parties agreed to firm quantity and price terms. They contend that neither the law nor Department practice requires the date of sale to be established by some explicit written statement of sales quantity and price; all that is required is documentary or other evidence of the date the parties reached a "meeting of the minds" with respect to price and quantity. Petitioner further argues that a purchase order does not itself establish a date of sale, but rather is evidence of an earlier agreement on price and quantity.

Doc position: We agree that the date of formal written confirmation on price and quantity is not necessarily dispositive of a date of sale. However, to determine the date of sale, we must have some written evidence in order to establish and verify the date of agreement between the parties. In this investigation, we determined date of sale based on the earliest written evidence of an agreement. We cannot speculate that an earlier date of sale exists based on a *belief* that an earlier agreement *may* have been reached between parties.

Comment 2: Petitioner argues that *all* of Thyssen's 1985–86 shipments of crankshafts to the United States were made pursuant to a unitary "sale" which occurred prior to the beginning of the period of investigation. Therefore, all shipments in both 1985 and 1986 should be excluded from the less-than-fair-value (LTFV) analysis.

Doc position: We disagree. See DOC Position to Thyssen's Comment 2.

Comment 3: Petitioner argues that *all* of Thyssen's 1987–88 shipments of crankshafts to the United States subject to this investigation should be included in the LTFV analysis because agreement on the quantity and price for these sales were reached prior to the end of the period of investigation. Although there were post-filing renegotiations of existing contracts, these should not be permitted to negate the fact that a pre-filing sales agreement existed.

Doc position: We agree. Documentation on the record indicates that an agreement on price and quantity for 1987–88 shipments of crankshafts to the United States subject to this investigation was made prior to the end of the period of investigation. Accordingly, shipments pursuant to this sale have been included in our calculation of sales at LTFV. Also, see DOC Position to Thyssen's Comment 3.

Comment 4: Petitioner argues that for all crankshafts sold to the United States by Thyssen, FMV should be based on constructed value since all of Thyssen's relevant U.S. sales were made at below the cost of production.

DOC position: We disagree. In support of this argument, petitioner refers to Exhibit 15 of Thyssen's questionnaire response which it contends indicates that Thyssen's U.S. crankshaft sales were at a significant operating loss. We have verified that Exhibit 15 did not reflect actual financial costs incurred by Thyssen for the period of investigation. Moreover, the Department's authority to compare U.S. price to constructed value, rather than the preferred home market sales, does not extend to situations where U.S. sales are below cost of production. Section 773(b) of the Act, and § 353.7(b) of the Regulations authorize the Department to reject home market selling prices when those prices are below cost of production. No similar provision exists when U.S. prices are below cost of production.

Comment 5: Petitioner contends that the home market crankshaft proposed by Thyssen as "such or similar" is not appropriate for comparison to U.S. sales. They argue that the home market crankshaft proferred for comparison is in effect a semi-finished product and is therefore unusable as a comparison.

DOC position: We disagree. See DOC Position to Thyssen's Comment 8.

Comment 6: Petitioner states that, when calculating constructed value for Thyssen, the Department should use Thyssen's Exhibit 15, which purportedly reports actual operating results for forged steel crankshafts.

DOC position: For constructed value, the Department has used the actual costs incurred by Thyssen during the period of investigation. Thyssen's Exhibit 15 was submitted for use in identifying *certain* costs (*i.e.*, U.S. and home market profit); it does not reflect other actual costs incurred by Thyssen for *all* elements of constructed value. Rather, Exhibit 15 reports as current expenses certain costs that benefit future periods. Therefore, these costs are not representative of the actual expenses incurred during the period of investigation.

Comment 7: Petitioner argues that the GS&A costs reported by Thyssen do not include selling expenses and that the selling expenses we should use for constructed value are those contained in Exhibit 15.

DOC position: We disagree. In our preliminary determination, we added U.S. credit and warranty expenses to the constructed values reported by Thyssen. However, at verification, we found that these U.S. costs were already included in GS&A expenses. Therefore, we have not added these costs for purposes of our final LTFV analysis. With regard to Exhibit 15, see DOC response to Petitioner's Comment 6.

Comment 8: Petitioner states that the Department should reject Thyssen's new cost of production submission of May 29, 1987, because this new cost data is at considerable variance with the cost data previously submitted by Thyssen.

DOC position: The Department has verified the costs submitted by Thyssen on June 12, 1987. These costs, rather than the costs presented in the May 29 submission, were used in calculating constructed value for purposes of our final determination.

Comment 9: Petitioner argues that the Department should add the full amount of Thyssen's U.S. technical services expenses to foreign market value as a circumstance of sale adjustment. Petitioner further contends that these technical services should be allocated over only those sales during the period of investigation of the particular crankshaft to which these expenses where directly connected.

DOC position: We disagree. We have not made a circumstance of sale adjustment for technical services expenses because these expenses could not be tied to the specific sale under investigation.

Comment 10: Petitioner argues that the Department should recalculate Thyssen's U.S. credit costs based on the full purchase price to the U.S. customer, rather than on the transfer price to its related U.S. subsidiary.

DOC position: We agree with respect to credit expenses in 1985 and 1986. These expenses have been recalculated for purposes of our final determination. For 1987, Thyssen reported credit expenses based on full purchase price; therefore, no adjustment was made.

Comment 11: Petitioner argues that, in its constructed value calculations, the Department should disregard the steel

prices reported by Thyssen since they were not at market prices and should instead use the steel prices it provided in its April 24, 1987, submission as best information available.

DOC position: We disagree. Under section 773(e)(2) of the Act, the Department *may* disregard transactions between related parties if "in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration." In this case, Thyssen's sole supplier of the steel used to produce the subject merchandise is a related company. Further, Thyssen is the only purchaser of that related party's product in the FRG. The "market price" referred to by petitioner purportedly comes from a market research report of prices in the FRG covering only one month during the period of investigation. That report has not been submitted on the record, and we do not know the grade of steel the reported price is for. While the section of the Act cited above permits the Department to use best information available when it can be demonstrated that the price of the constructed value element is not at market prices, we have no evidence which would lead us to believe that the price paid by Thyssen for steel is not representative of a market price in the FRG. We further note that this price is above the related party's cost of producing the steel used by Thyssen in CFSC. Therefore, we have not disregarded the related transactions.

Comment 12: Petitioner argues that Gerlach has inappropriately reported a sale based on the date of a contract which effected no change in prices and terms over an earlier memorandum referring to an agreement on those same prices and terms. In addition, petitioner urges the Department to scrutinize the verification exhibits to determine the date of the actual agreement pursuant to which the memorandum was issued and to apply the appropriate exchange rate for that sale date.

DOC position: Although the later contract led to no change in price over the earlier memorandum, we found that the contract changed other terms of sale from an earlier memorandum so as to constitute a new date of sale. With regard to the date of the earlier memorandum, the information contained in this memorandum indicated a change in price from an agreement prior to the period of investigation, effective as of the date of the memorandum. Therefore, the date of the memorandum is the proper date of sale for shipments for the interim period between the memorandum and the later contract.

Comment 13: Petitioner argues that Gerlach's 1987 shipments of a particular crankshaft were made pursuant to a new sale consummated during the period of investigation and were not, as the verification reports indicated, part of the same sale under which 1986 shipments were made.

DOC position: We agree. The earlier sale was determined pursuant to a document which stated a definitive time period for which prices and terms were in effect. Because the earlier document by its own terms was due to expire imminently, the agreement to continue the price and terms into 1987 was therefore considered by the Department to constitute a new sale.

Comment 14: Petitioner argues that the Department should recalculate Gerlach's depreciation costs by using an historical-based straight line methodology, rather than the replacement cost methodology submitted by Gerlach in its response.

DOC position: We agree. For this final determination, we did not use replacement cost originally reported by Gerlach to establish asset values. During verification, Gerlach resubmitted, and we verified, depreciation schedules prepared on an historical cost basis.

Comment 15: Petitioner argues that the Department should use Gerlach's actual tooling costs incurred during the period of investigation for purposes of constructed value rather than the average tooling costs over several years reported by Gerlach.

DOC position: We disagree. The Department used the tooling costs as presented by the respondent. This amount approximated the average for the period of investigation. We verified that tooling costs fluctuate widely from one year to the next and are not tied to any particular sales. Therefore, we believe it is more appropriate to use an average tooling cost rather than the costs incurred during the period of investigation.

Comment 16: Petitioner argues that, without documentation of actual quantities of scrap steel recovered, actual quantities of scrap steel sold, and the price per ton of scrap steel paid by the purchaser of the scrap steel, the Department should reject Gerlach's and Thyssen's claim for scrap credit.

DOC position: We disagree. At verification, we tested scrap calculations and forged weights, and examined invoices on sales of scrap in order to check the accuracy of the scrap values reported. We are satisfied that the quantity and value of scrap as reported by both Gerlach and Thyssen are reasonable.

Comment 17: Petitioner argues that the Department should calculate the constructed value of certain crankshafts based on actual forging weights discovered during verification rather than the theoretical weights presented in Gerlach's response.

DOC position: We agree. Where possible, actual forged crankshaft weights were used in the final determination instead of theoretical forged weights.

Comment 18: Petitioner argues that the Department should continue to calculate the price Gerlach pays for steel without regard to rebates and other credits granted by its related supplier.

DOC position: We disagree. During verification, rebates and credits were found to be typical deductions from prices charged steel purchasers and have, therefore, been accepted for purposes of our final determination.

Comment 19: Petitioner argues that a majority of Gerlach's reported indirect selling expenses are relevant only to U.S. or other export sales. Therefore, petitioner contends that the proper calculation of home market indirect selling expenses would involve dividing those expenses by the value of home market sales.

DOC position: We disagree. Indirect selling expenses pertain to all sales made and cannot be tied to a particular market. These expenses would remain constant over a certain level of sales regardless of where those sales occur.

Comment 20: Petitioner argues that the Department should continue to base Gerlach's GS&A factor on manufacturing costs rather than on the cost of goods sold.

DOC position: In this case, the Department calculated GS&A as a percentage of cost of manufacturing, since we were unable to verify the cost of sales.

Comment 21: Petitioner argues that the Department should take the "interest expense" incurred by Gerlach in connection with its purchase of Mavilor into account in the constructed value calculations for the final LTFV determination.

DOC position: We agree. Interest expense paid for the purchase of Mavilor is a cost related to producing cranshafts and was used in the final determination.

Gerlach's Comments

Comment 1: Gerlach contends that machined crankshafts constitute a separate class or kind of merchandise

from unmachined crankshafts. Gerlach argues that machined and unmachined crankshafts differ substantially in physical characteristics, do not compete for the same customers, move in different channels of trade, and require different manufacturing facilities. Also, machined crankshafts undergo a labor-intensive process that increases the value of an unmachined crankshaft by more than 100 percent. In support of its argument, Gerlach cites *Certain Carbon Steel Butt-Weld Pipe Fittings From Brazil (Pipe Fittings)* (51 FR 37770, October 24, 1986) in which the Department excluded from its investigation forged products which had not been advanced in value by processes such as coining, heat treatment, shot blasting, grinding, die sampling, or plating. Gerlach argues that because these finishing processes transform a forged product far less substantially, and add far less value, than does the machining process which renders a crankshaft usable in an engine, the Department should reach separate fair value determinations for these two products.

DOC position: We disagree. In order to determine whether certain goods constitute a separate "class or kind" of merchandise, the DOC must examine those goods in light of the following five criteria:

(a) the general physical characteristics;

(b) the expectations of the ultimate purchaser;

(c) the channels of trade in which the product is sold;

(d) the manner in which the product is advertised and displayed; and

(e) the ultimate use of the merchandise in question.

Although machined and unmachined crankshafts differ in outward appearance, the general size, configuration, design, and material properties are the same.

Second, an unmachined crankshaft is simply a preliminary stage in the production of a finished product. It is produced exclusively for machining and end use as an integral part of an internal combustion engine. Unmachined crankshafts have no use other than for machining. Therefore, the ultimate purchaser is *always* the same for both machined and unmachined crankshafts and the ultimate use is *always* as the identical component in an internal combustion engine. Furthermore, both products are sold through the same channels of trade. Finally, because of the nature of the product, little advertising for either product exists, other than product brochures provided by the company.

With regard to *Pipe Fittings*, our scope in that investigation was limited to the products specifically named in the petition. The Department made no determination on whether to exclude certain pipe fittings from the scope of investigation.

Comment 2: Gerlach contends that, in the preliminary determination, the Department improperly adjusted labor and factory overhead costs to compensate for a reported increase in input units during the fabrication process.

DOC position: We agree. During verification this point was resolved. The Department obtained the facts concerning labor and overhead, and thus, no adjustment was necessary.

Comment 3: Gerlach contends that the net raw material prices paid by Gerlach to its related steel supplier, including adjustments for special rebates and credits, were comparable to arms-length prices that this supplier charged unrelated German customers for similar merchandise. Thus, these raw material prices should be used in calculating constructed value.

DOC position: We agree. The Department determined during verification that prices paid by Gerlach appoximated market prices published in a public price list for that grade of steel, and has used those prices for constucted value.

Comment 4: Gerlach contends that the use of intra-corporate transfer prices for machining from Mavilor to Gerlach double counts profits, thereby improperly inflating Gerlach's constructed value. Therefore, Gerlach argues that the Department should utilize the costs incurred by Mavilor to calculate constructed value for the final determination.

DOC position: We disagree. The prices paid for machining services to Mavilor by Gerlach were identical to those paid by Gerlach prior to its purchase of Mavilor. Therefore, we find these prices approximate market value and used them in accordance with section 773(e)(2) of the Act. With respect to Gerlach's contention that by using transfer prices we would be double-counting profit, we note that a component of any market price is the profit margin of the seller. In this case, since we have determined that the price charged by Mavilor was a market price, we would expect that price to include Mavilor's profit on its sale to Gerlach.

Comment 5: Gerlach contends that, because it does not sell machined crankshafts in its home market, the Department should assess profits on machined crankshafts for use in constructed value based on Mavilor's profits on its home market (*i.e.*, French) sales of machined crankshafts.

DOC position: We disagree. Mavilor only provides machining services for Gerlach. All sales related activities are performed by Gerlach, with such sales reported in their audited financial statements. Therefore, Gerlach's home market profit was used for purposes of constructed value in our final determination.

Comment 6: Gerlach contends that 1986 shipments of leftover crankshafts produced and sold pursuant to sales consummated prior to the review period should not be used in the Department's fair value analysis, even though the invoiced price for these crankshafts was not the price agreed upon in the original contract. Gerlach contends that this sale was made pursuant to an agreement made prior to the period of investigation.

DOC position: We agree. The agreement referred to indicates that Gerlach agreed to a new price with its U.S. customer. This is the earliest written documentation with regard to this agreement. This sale was not included in our fair value determination since it occurred before the period of investigation.

Thyssen's Comments

Comment 1: Thyssen argues that, in determining the date of sale for shipments of crankshafts to the United States, the Department must apply the following basic principles: (1) the buyer and seller must have agreed to basic sales terms regarding price and quantity; (2) by application of law and by requirement of Thyssen's customer, the terms of the long-term requirements contract must be reduced to writing to be binding on the parties; (3) the written agreement must properly memorialize the meeting of the minds and cannot merely reflect the fact that individual shipments will be made; and (4) since business considerations often require that individual shipments predate the actual date of contract, the existence of these shipments does not create a binding agreement for the entire term at issue. In support of its argument, Thyssen cites *64K Dynamic Random Access Memory Components from Japan (64K DRAMS)*, (51 FR, 15943, Apr. 29, 1986); *Brass Sheet and Strip from France (Brass Sheet)*, (52 FR 812, Jan. 9, 1987); and *Cellular Mobile Telephones and Subassemblies from Japan (CMTs)*, (50 FR 45447, Oct. 31, 1985). Thyssen asserts that, in all of these determinations, the Department has held that the date of sale for antidumping purposes is the date on which the basic terms of the

contract (price and quantity) are agreed to irrevocably—that is, the date on which a binding commitment exists. In making these deteminations, Thyssen states that the Department has followed basic principles of contract law in which a binding commitment for a long-term requirements contract only exists when: (1) the contracting parties have a meeting of the minds on all essential terms and conditions; and (2) the parties bind themselves to abide by this understanding by entering into a formal written agreement not just an offer or price quotation. Moreover, Thyssen asserts that even if the statute of frauds and sound public policy did not dictate that a long-term multi-million dollar requirements contract be reduced to writing to be binding on the parties, the statement by Thyssen's customer in its purchase order that "verbal understandings or agreements are not valid and will not be recognized," makes a written offer and a written acceptance mandatory in this situation. Thyssen cites certain U.S. state law as authority for its position.

DOC position: In determining the appropriate date of sale, we focused on the initial written documentation in each case that specified price and quantity terms which were agreed to by the parties involved, for it is on that date that the petitioning U.S. industry lost the ability to sell its product to the U.S. customer. For each of the sales in question, Thyssen produced a crankshaft to the customer's specifications, and the customer accepted delivery and made payment based on a written agreement which we have determined to be the date of sale. Thus, the parties clearly acted in a manner consistent with a determination that there was a "meeting of the minds" as to the terms.

We do not agree with Thyssen that we may look only to a formal memorialization of the agreement of sale. This case presents a factual situation in which the formal documentation of the terms between Thyssen and its customer is sometimes never executed, or is executed at a time long after the parties have already begun performance. We have determined that this commercial arrangement does not necessarily make reliance upon the formal documentation as the date of sale appropriate. In the case of one of the crankshafts covered by this investigation, Thyssen and the same U.S. customer ordered, shipped and paid for the model based exclusively on a purchase order. No other written documentation of this agreement was ever issued. This reinforces our position that it is appropriate to look at a purchase order and we need not look only to a formal memorialization to determine the proper date of sale in this case.

In prior determinations, we have looked to the first documentation indicating an agreement as to terms of sale of the merchandise involved. See *Brass Sheet.* Our decision in the present case is also consistent with *CMTs,* where we decided that a purchase order constituted a sale since it was the date of the first documentation which indicated that the terms were agreed upon by both parties.

The *64K DRAMS* decision cited by Thyssen is distinguishable from the fact situation at hand. In that case, we declined to use the dates of the purchase orders because the performance of the parties indicates that the purchase order did not represent an agreement between the parties as to significant terms, such as price, which were included in the purchase orders. In the present case, the performance of the parties indicated that the purchase orders reflect an understanding as to the price and quantity under which the shipments were made. The subsequent formalization of these agreements in a contract does not alter this conclusion.

Furthermore, Thyssen's argument, if followed, would allow respondents to manipulate our investigations, simply by subsequently signing a contract after our period of investigation, despite the fact that merchandise is delivered prior to such signing. The fact that merchandise is delivered and paid for indicates the existence of an agreement for sale. The fact in this case, that the price terms in question for the 1985 requirements, and for the 1987 requirements did not change upon signing the formal contract indicates that the prices were in fact determined in the earlier documentation. See also DOC Position to Thyssen's Comments 2 and 3.

Comment 2: Thyssen contends that *all* of its 1985 shipments (as well as its 1986 shipments) of a particular crankshaft model category were made pursuant to a contract issued during the period of investigation and, therefore, should be included in the Department's LTFV calculations. Thyssen states that although a purchase order for shipments of that crankshaft was issued prior to the period of investigation, neither Thyssen nor its customer recognized it as a binding agreement. They contend that had the parties intended this purchase order to represent the binding contract needed to consummate the entire sale, there would have been no need to issue a formal order confirmation. They assert that it was not until the contract was issued that the two year sales agreement was firm and irrevocable. As such, they contend that the Department should use the date of the contract as the date of sale for all 1985 shipments.

DOC position: We disagree in part. We determine that, for two long-term periods, there were two relevant dates of sale for the 1985 shipments; one for crankshafts for one type of heat treatment (crankshaft "A"), and one for crankshafts with another type of heat treatment (crankshaft "B") (with one exemption as noted below). For crankshaft "A", verified information on the record indicates that Thyssen and its U.S. customer regarded the terms specified in the purchase order issued before the period of investigation as definite and determinable. Production, acceptance of delivery and payment were made in accordance with this purchase order for crankshafts delivered in 1985. We determined the date of this purchase order was the appropriate date of sale, since the price and quantity (1985 requirements) specified by Tyssen's customer in that document were the same as those previously offered by Thyssen.

Since this purchase order was issued prior to the period of investigation, we have not included shipments pursuant to this purchase order in our LTFV calculations.

For crankshaft "B", we have determined that the date of sale was within our period of investigation. The first documentary evidence establishing the price and quantity for those products was the contract issued during the period of investigation. We have found no other documentation that would lead us to believe that the terms of sale for those products were established any earlier than the date of the contract.

We note that for one of the crankshaft "B" models covered by the contract, the price charged during the three months immediately following the date of the contract was at variance with the price specified in the contract. The only documentary evidence we have concerning those prices are the invoices for each shipment. Therefore, for sales of that model at the non-contract price, we have used as the date of sale the dates of the invidual shipping invoices. Once shipments commenced at the contract price, we used the date of the contract as the date of sale. See also DOC Position to Thyssen's Comment 1.

Comment 3: Thyssen argues that 1987–88 shipments of certain crankshafts are made pursuant to a sale consummated on a shipment-by-shipment basis

subsequent to the period of investigation and should not be included in the LTFV analysis. Thyssen states that due to exchange rate fluctuations during 1986, price negotiations between Thyssen and its customer continued throughout 1986, concluding in April 1987. At that time, the buyer and seller reached an agreement on future crankshaft prices. Even though the price paid for crankshafts prior to the effective date of the April 1987 agreement was the same as that agreed to in October of the previous year, Thyssen contends that a binding long-term contract did not exist. The Department cannot ignore the characterization of the respondent and its customer that a contract did not exist before the April 1987 agreement.

Accordingly, since the requisite meeting of the minds between buyer and seller did not take place prior to the end of the period of investigation, certain of Thyssen's 1987 shipments of those crankshafts should not be the subject of this investigation.

DOC position: We disagree. All shipments in the interval from the end of the period of investigation to a date over half a year later (when new terms were put into effect), were covered by a telex from Thyssen's customer accepting the price and quantity terms Thyssen previously proposed. This telex as dated just prior to the end of the period of investigation. After Thyssen received the telex, it attempted to negotiate changes to price and quantity. However, Thyssen shipped crankshafts for more than six months under the terms specified in the telex. The 1987 formal contract changed the price and quantity terms prospectively, but did not alter the telex price for quantities already shipped. Thus, deliveries made during this interval of over six months were made pursuant to price and terms specified in the telex. Therefore, we have used the date of the telex as the date of sale and have included 1986–87 shipments made pursuant to the price and quantity terms in the telex in our fair value comparison.

Comment 4: Thyssen, citing the Amendment of Final Determination, *Melamine in Crystal Form From the Netherlands*)45 FR 29619, May 5, 1980), argues that if crankshafts shipped to its U.S. customer in 1987 are included in this investigation, the Department must take into account the sustained depreciation of the U.S. dollar vis-a-vis the German mark during the period of investigation, as required in § 353.56(b) of the Commerce Regulations. Thyssen suggests that the Department convert dollars to marks using the exchange rate existing in the second quarter of 1986 (when the request for quotation and Thyssen's pricing proposal were made).

DOC position: We disagree. Section 353.56 (b) states that manufacturers, exporters and importers will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. In this instance, we see no evidence that Thyssen adjusted its prices to respond to exchange rate changes within a reasonable period of time. For the sale in question, Thyssen made no adjustments in its prices over a seven month period, and, when it did negotiate a new price, it specifically stated that the price on prior shipments would not be changed retroactively. Therefore, we are not using the prior quarter exchange rates for this sale.

Comment 5: Thyssen argues that an adjustment should be made to the United States price to reflect tooling costs. Thyssen notes that such costs are invoiced separately on sales to its U.S. customers while in the home market they are allocated over sales and are included in the crankshift price. Therefore, Thyssen argues these costs should either be included in the United States price or an adjustment should be made to the FMV as a circumstance of sale adjustment.

DOC position: Tooling expenses do not qualify as an addition to purchase price pursuant to section 772(d)(1) of the Act. Furthermore, at verification, Thyssen was unable to provide tooling costs associated with sales in the home market nor was it able to present a consistent or verifiable method for allocating tooling costs over sales. Therefore, we did not have adequate information on either U.S. or home market tooling costs and could not make any adjustments for these costs.

Comment 6:Thyssen asserts that while the Department correctly realized that it was required to adjust its price-by-price comparison to account for differences in material and production processes between crankshafts sold by Thyssen in the home market and to the United States, the Department's preliminary calculation was premised on an improper methodology. Thyssen contends that the Department should adjust for physicial differences on a per pound, rather than a per piece basis.

DOC position: The difference in merchandise adjustment should take into account differences in material, differences in variable manufacturing costs and differences in the weight of the two crankshafts. The method suggested by Thyssen eliminates the last factor (weight difference) and is, therefore, incorrect.

Comment 7: Thyssen argues that in calculating constructed value, the Department imputed an additional material cost in error and should use actual material and manufacturing costs as verified by the Department.

DOC position: We agree. The Department determined during verification that these costs were already included in the constructed value submission.

Comment 8: Thyssen claims that its sale of the smallest crankshaft covered by the scope of investigation in the United States should be compared with the home market crankshaft it suggested. Even if the U.S. crankshaft was sold below its cost, price to price comparisons are required (see section 773(b) of the Act and § 353.7(b) of the Regulations).

DOC position: We agree. We have used the home market crankshaft proferred by Thyssen for our final determination. The crankshafts compared for the preliminary determination are such or similar merchandise notwithstanding that the home market unit has counterweights subsequently attached by the manufacturer. Both crankshafts are unmachined, forged of steel, made with the same number of throws and bearings by substantially the same process, formed in the same forging press with similar "as forged" weights, and cleaned and inspected in substantially the same way. The absence of integral counterweights on the as-forged home market crankshaft model does not provide a proper basis to reject a price to price comparison.

Comment 9: Thyssen contends that during verification, it advised the Department that certain discrepancies for charges relating to brokerage and handling were caused by the allocation from a customs entry other than the entry at issue, and that the vast majority of the charges reported were correct.

DOC position: We verified brokerage and handling expenses and have included the corrected values in our final calculations.

Comment 10: Thyssen contends that the charges reported for credit expenses were properly based on the Thyssen transfer price to its related selling agent and not the contract price due from the purchaser. They argue that these charges are not understated since the credit to Thyssen is equal to the amount of its outstanding receivables multiplied by the time that such receivables remain unpaid.

DOC position: We disagree. The amount which Thyssen, through its wholly owned U.S. selling agent, received from the purchaser on a deferred basis is the appropriate basis for calculating credit expenses. We used the same methodology in the home and U.S. markets.

Comment 11: Thyssen contends that the one percent scaling material loss represents an extremely conservative calculation of the difference between input weight and weight after forging plus scrap recovered. Thyssen argues that it has established the accuracy of its claimed material loss by confirming that the actual credit could not have exceeded its claim.

DOC position: We agree. The Department tested the scrap calculation and the scrap value appears reasonable.

Comment 12: Thyssen contends that at verification, it provided the Department with all requested source documentation relating to the cost of iron ore, natural gas and coke, as well as a complete analysis of the gas credit, and that the verification report was in error in stating that certain items of cost of production were not supported with source documents.

DOC position: This issue is moot because we have not used Thyssen's related party's cost of producing steel. See DOC Position to Petitioner's Comment 11.

Verification

We verified the information used in making our final determination in accordance with sectioin 776(a) of the Act and followed standard verification procedures, including examination of relevant sales and financial records of the companies under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC from the FRG, except from Gerlach, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the amount by which the foreign market value of CFSC from the FRG, except from Gerlach, exceeds the United States price, as shown in the table below.

The cash deposit or bonding rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals from warehouse made prior to the date of publication of this notice in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Estimated weighted-average margin percentage
Gerlach-Werke GmbH	0.43 (*de minimis*).
Thyssen Umformtechnik	2.02
All others	2.02

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on CSFC from FRG, except from Gerlach, entered or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

July 21, 1987.

[FR Doc. 87-17073 Filed 7-27-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-609]

Suspension of Countervailing Duty Investigation; Certain Forged Steel Crankshafts From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving certain forged steel crankshafts ("CFSC" or "the subject merchandise") from Brazil. The basis for the suspension is an agreement to eliminate completely all benefits provided by the Government of Brazil that we find to constitute subsidies on exports of CFSC to the United States.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Bradford Ward or Barbara Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2239, 377-2438, or 377-2786.

SUPPLEMENTARY INFORMATION:

Case History

Since the last **Federal Register** publication pertaining to this case [the notice of extension of the deadline date for this final determination (52 FR 7286, March 10, 1987)], the following events have occurred. Verification of the questionnaire response in this investigation was held from February 11 through 13, and from March 23 through 31, 1987.

On June 19, 1987, we initialed a proposed Suspension Agreement (the Agreement) with respect to CFSC from Brazil. Petitioner and respondents have had 30 days during which to submit comments regarding the proposed Suspension Agreement. Their comments have been received and taken into consideration.

There were two known manufacturers and producers in Brazil of CFSC that exported to the United States during the review period. These are Krupp Metalurgica Campo Limpo Ltda. (Krupp), and Sifco S.A. (Sifco). In addition, Brasifco S.A. (Brasifco), is a trading company which exported the subject merchandise from Brazil to the United States during the review period. We verified the Krupp, Sifco, and Brasifco account for substantially all exports of CFSC to the United States.

We determined that the following programs conferred countervailable benefits on the respondent companies during the review period:

- Income Tax Exemption for Export Earnings;
- Preferential Working-Capital Financing for Exports (including Incentives for Trading Companies); and
- Import Duty and IPI Tax Exemptions Under Decree-Law 1189 of 1971, as amended.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7147 of the *Tariff Schedules of the United States, Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Changes Since the Preliminary Determination

Import Duty and IPI Tax Exemptions under Decree-Law 1189 of 1971: Our examination of company documents at verification revealed that the respondent companies had imported certain items free of the normal import duty and the IPI tax (Imposto Sobre Produtos Industrializados, or Tax on Industrial Products) during the review period. These exemptions were granted under a provision of Decree-Law 1189 of 1971, as amended, which allows for the duty- and tax-free importation of certain non-physically incorporated merchandise based on a percentage of a company's increase in exports. Because these exemptions from import duty and the IPI tax are contingent upon export production, we determine that this program constitutes an export subsidy.

Petitioner's Comments

Comment 1: Petitioner stated that it is amenable to termination of this investigation by a suspension agreement so long as the agreement is comprehensive, enforceable and requires timely, detailed reports.

DOC position: The Department believes the Agreement attached to this notice satisfies the legal requirements of the Act, provides sufficient reporting, and adequately addresses the enforcement concerns of both the petitioner and the Department.

Comment 2: Petitioner requested that the provision in the Agreement regarding the income tax exemption for export earnings be amended to prohibit respondent companies from receiving as well as applying for such benefits.

DOC position: We agree and have incorporated that change into the Agreement.

Comment 3: Petitioner requested that reports required by the Agreement include data beginning on the effective date of the Agreement rather than data beginning with the final calendar quarter of 1987.

DOC position: We agree and have incorporated that change into the Agreement.

Comment 4: Petitioner requested that the Department be notified in writing of certain matters where the initialed agreement was silent on the form of notification.

DOC position: We agree and have incorporated that requirement into the Agreement.

Comment 5: Petitioner requested that, in addition to other separate recordkeeping requirements, the respondents be required to maintain records of all applications for or receipt of benefits under the named subsidy programs.

DOC position: We have required the respondent companies to maintain the requested records but find such a requirement of the Government of Brazil to be unnecessary because of reporting requirements elsewhere in the Agreement.

Comment 6: Petitioner requested that the Government of Brazil be required to notify agencies administering subsidy programs of the Agreement within 7 days of signature and to confirm to the Department that such notification has been made.

DOC position: We disagree. The Government of Brazil has undertaken in the Agreement to inform all relevant authorities of the terms of the Agreement and we do not believe that written confirmation is necessary.

Comment 7: Petitioner requested that reports required from the Government of Brazil recite in detail any and all applications for or receipt of the subsidies specified in the Agreement.

DOC position: We disagree. The respondent companies are required to notify the Department in writing 30 days prior to applying for or accepting any benefits specified in the Agreement, and also to maintain separate records of such applications or receipt. Further, the Government of Brazil must notify the Department within 45 days if the exporters apply for or receive the subsidies specified in the Agreement. Given these requirements, we do not believe it necessary that the Government of Brazil be required to report application for or receipt of benefits by parties not subject to the Agreement.

Comment 8: Petitioner requested that "surge" restrictions agreed to by the Government of Brazil also be accepted by the respondent companies.

DOC position: We disagree. The Government of Brazil is the appropriate entity to monitor and enforce the volume restrictions in paragraph V.4 of the Agreement. Volume restrictions are relevant only to the overall level of imports of the subject merchandise from Brazil. Since the individual respondent companies are only able to control their own levels of shipments of CFSC to the United States, it is the responsibility of the Government of Brazil to ensure that there is no surge in exports of CFSC to the United States.

Comment 9: Petitioner requested that the respondents be required to report to the Department 45 days after the effective date of the Agreement that the subsidies have been eliminated and enumerate the steps taken to that end.

DOC position: We disagree. The respondent companies and the Government of Brazil have undertaken through this Agreement to eliminate the subsidies on CFSC to the United States and to notify the Department of compliance with all terms of the Agreement in a timely and regular manner, as specified in paragraphs III.5 and V.2. a & c. The additional reports requested by petitioner would therefore be duplicative.

Comment 10: Petitioner submitted several comments requesting that certain reporting and notification provisions be amended as follows:

a. That quarterly reports by the respondent companies and the Government of Brazil be submitted to the Department 15 rather than 45 days after the end of the quarter;

b. That the respondent companies report to the Department 15 rather 45 days after they apply for, receive, or become eligible for any new or existing subsidies; and

c. That the respondent companies and the Government of Brazil should inform the Department 75 rather than 30 days prior to application or acceptance of subsidies.

DOC position: We disagree. As to a. and b. above, we believe that 45 days is a reasonable time for the respondents to collect the necessary information, prepare it for submission, and transmit it to the Department. As to c. above, we believe it unlikely that the respondents would be aware of the application for or acceptance of subsidies so far in advance. In our view, 30 days is a more reasonable advance notice requirement.

Respondents' Comment

Comment 1: Respondents claim that the petitioner's suggested revisions to the Agreement would pose additional reporting requirements and time deadlines that are impossible to meet. Furthermore, counsel argues that the additional information on subsidy programs requested by petitioner is

unnecessary, since the Department will be able to verify all information.

DOC position: We have modified certain aspects of the Agreement as we believe appropriate and necessary, in consultation with the respondents, and we have taken into consideration the written comments submitted by petitioner. For a more specific discussion of petitioner's suggested revisions and our responses, see the *Petitioner's Comments* section above.

Suspension of Investigation

We have determined that the Agreement will eliminate completely the amount of the estimated net subsidy on the subject merchandise exported, directly or indirectly, to the United States, that the Agreement can be monitored effectively, and that the Agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the Agreement, signed July 21, 1987, are set forth in Appendix A to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries of CFSC from Brazil entered, or withdrawn from warehouse, for consumption effective January 8, 1987, as directed in our notice of *Preliminary Affirmative Countervailing Duty Determination: Certain Forged Steel Crankshafts from Brazil* (52 FR 699, January 8, 1987) is hereby terminated. To comply with the requirements of Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, the Department directed the U.S. Customs Service to terminate the suspension of liquidation in this investigation on May 8,1987, which is 120 days from the date of publication of the preliminary determination in this case. Therefore, we are directing Customs to liquidate all entries suspended on or after January 8, 1987 and prior to May 8, 1987. Any cash deposit on entries of the subject merchandise from Brazil pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the Agreement, the Department will continue the investigation if we receive a request to do so in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act (19 U.S.C. 1671c(f)(1)(A)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 21, 1987.

Appendix A—Suspension Agreement Concerning Certain Forged Steel Crankshafts From Brazil

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and section 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department"), the Government of Brazil, and the Brazilian manufacturers, producers, and exporters ("the exporters") of certain forged steel crankshafts ("the subject merchandise," as defined in paragraph I below) enter into the following Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Brazil agrees to take such steps as are necessary to ensure that the renunciation of subsidies by the exporters is effectively implemented and monitored, and that the Department is informed of any other companies that begin exporting the subject merchandise to the United States. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on October 29, 1986 (51 FR 40240, November 5, 1986) with respect to certain forged steel crankshafts from Brazil subject to the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to certain forged steel crankshafts manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. Certain forged steel crankshafts include forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA) and under items 8483.10.10 and 8483.10.30 of the Harmonized System. Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are included.

II. Basis of the Agreement

The exporters, listed in Appendix I, accounting for more than 85 percent by volume of the total exports of the subject merchandise imported from Brazil into the United States, agree to the following:

a. The exporters will not claim or receive any exemption from income tax under Decree-Laws No. 1158, No. 1721, and No. 2303 on that portion of profits attributable to exports of the subject merchandise exported, directly or indirectly, from Brazil to the United States on any tax return filed on or after the effective date of the Agreement. This requires that the exporters deduct the value of export revenue derived from direct or indirect sales of the subject merchandise to the United States from total export revenues before calculating the value of the income tax exemption for export earnings.

b. With respect to any short-term export financing provided by CACEX pursuant to Resolutions 882, 883, 950 or 1009, as amended, the exporters will comply with the following conditions:

1. Unless it is demonstrated to the satisfaction of the Department within 30 days of the effective date of this Agreement that the certificates which underlie all outstanding CACEX loans were not in any manner based on exports of the subject merchandise to the United States, all CACEX financing pursuant to Resolutions 882, 883, 950, and 1009, as amended, outstanding as of the effective date of the Agreement shall be:

(a) repaid; or

(b) refinanced on nonpreferential terms (without accepting any interest rate rebate or reduction provided from CACEX through the lending bank and without any exemption from normal IOF charges); by the original due date of the loan, or by the thirtieth day from the effective date of the Agreement, whichever comes first;

2. As of the effective date of the Agreement, the exporters shall not use export licenses of the subject merchandise exported, directly or indirectly, to the United States to meet their export commitments for CACEX financing;

3. As of the effective date of the Agreement, the exporters shall not use that portion of any outstanding CACEX certificate which was issued based upon the subject merchandise exported, directly or indirectly, to the United States for CACEX financing; and

4. As of the effective date of the Agreement, the exporters shall not use direct or indirect exports of the subject merchandise to the United States in any proposal submitted to CACEX to obtain CACEX financing.

c. The exporters agree that they will not apply for, or receive, as of the effective date of the Agreement, any other subsidies on the manufacture, production, or export of the subject

merchandise exported, directly or indirectly, from Brazil to the United States which are countervailable under the Act. Subsidies on the manufacture, production, or export of the subject merchandise include any subsidy which the Department has found or may find to be countervailable in this or any previous or subsequent countervailing duty processing (including section 751 reviews) involving imports from Brazil, specifically, but not limited to, the following:

- CIC-CREGE 14–11 financing;
- the BEFIEX program;
- the CIEX program;
- Resolutions 68 and 509 (FINEX) financing;
- Resolutions 330 financing;
- trading company incentives under Resolution 643 as amended;
- duty and tax exemptions under Decree Law 1189 of 1971 as amended;
- duty and tax reductions or exemptions under the CDI program;
- accelerated depreciation under the CDI program;
- FINEP/ADTEN long-term loans; and
- IPI tax rebates for capital investments.

Such subsidies also include those determined by the Department to apply to other products or exports to other destinations, the benefits of which cannot be segregated as applying solely to such other products or exports.

d. The exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable subsidy on the manufacture, production or export of the subject merchandise exported, directly or indirectly, from Brazil to the United States, including subsidies which may apply to other products or exports to other destinations, the benefits of which cannot be segregated as applying solely to such other products and exports; and

e. If any program under which subsidies have been received in the past, and which is included in the Agreement, is found by the Department not to constitute a subsidy under the Act, then the renunciation of the subsidies under that program will no longer be required.

III. Monitoring of the Agreement

1. The exporters agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of the Agreement, including the volume and value of exports of the subject merchandise to the United States, within 45 days from the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987.

2. The exporters will notify the Department in writing at least thirty days in advance if they:

a. transship the subject merchandise through third countries to the United States;

b. alter their position with respect to any terms of the Agreement; or

c. apply for, or receive, directly or indirectly, the subsidies from the programs described in Section II for the manufacture, production, or export of the subject merchandise exported, directly or indirectly, from Brazil to the United States.

3. The Department may request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.1 and 2, above.

4. The exporters agree to permit such verification and data collection as deemed necessary by the Department in order to monitor the Agreement.

5. The exporters agree to provide to the Department a periodic certification that they continue to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar quarter beginning with the partial quarter ending September 30, 1987.

6. In order to ensure compliance with the terms and scope of this Agreement, the exporters agree to implement the following measures:

a. Separate invoicing and documentation of the subject merchandise exported to the United States;

b. Separate accounting treatment for tax purposes of income derived from exports of the subject merchandise to the United States; and

c. Maintenance of records of application for, and receipt of, benefits under any of the subsidy programs described in paragraph II, above.

IV. General Provisions

1. In entering into the Agreement, the exporters do not admit that any of the programs investigated constitute subsidies within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(i) shall apply if:

a. The exporters withdraw from this Agreement; or

b. the Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. Additionally, should exports to the United States by the exporters of the subject merchandise account for less than 85 percent of the subject merchandise imported, directly or indirectly, into the United States from Brazil, the Department may seek to negotiate an agreement with additional exporters or may terminate the Agreement and reopen the investigation or issue a countervailing duty order as appropriate under section 355.32 of the Commerce Regulations.

4. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of the Agreement shall be consistent with the final determination issued in the continued investigation.

V. Undertaking by the Government of Brazil

1. In consideration of the foregoing Agreement between the exporters and the Department, the Government of Brazil agrees to take such steps as are necessary to ensure that the renunciation of subsidies in the Agreement by the exporters is effectively implemented and monitored, including:

a. notifying the relevant authorities of the Government of Brazil of the terms of the Agreement in order to ensure action by those agencies consistent with the terms of the Agreement;

b. supplying any information and documentation that the Department deems necessary to demonstrate full compliance by the exporters with the terms of the Agreement;

c. permitting such verification and data collection as deemed necessary by the Department in order to monitor the Agreement;

d. notifying the Department within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, if exporters other than the exporters party to the Agreement export the subject merchandise to the United States and whether such exporters have agreed to undertake the obligations specified under the Agreement;

e. notifying the Department within 45 days if the Government of Brazil becomes aware that the exporters are transshipping the subject merchandise through third countries to the United States;

f. notifying the Department within 45 days if the Government of Brazil alters its position with respect to any of the terms of the Agreement;

g. notifying the Department within 45 days if the exporters apply for, or receive, directly or indirectly, the subsidies described in paragraph II(a–c)

on exports of the subject merchandise, directly or indirectly, from Brazil to the United States;

h. notifying the Department within 45 days if the exporters become eligible for, apply for, or receive any new or substitute subsidies on the subject merchandise exported, directly or indirectly, from Brazil to the United States in contravention of paragraphs II(c) and II(d) of the Agreement; and

i. notifying the Department within 45 days of any changes, alterations, or amendments that are made to:

- income tax exemption for export earnings under Decree-Laws No. 1158, No. 1721, and No. 2303;
- CACEX financing pursuant to Resolutions 882, 883, 950, and 1009, as amended;
- duty and tax exemptions under Decree-Law 1189 of 1971 as amended; and
- duty and tax exemptions or reductions, or accelerated depreciation under the CDI program.

j. using its best efforts to facilitate the negotiation of agreements with other exporters of the subject merchandise to the United States when such agreements are deemed necessary by the Department.

2. The Government of Brazil agrees to provide to the Department within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, all relevant information deemed by the Department to be necessary to maintain the Agreement. The information shall include, but not be limited to:

a. a certification (provided after consultation with each agency responsible for administering the programs in Section II) that the exporters have not applied for or received any subsidies described in Section II on shipments of the subject merchandise exported, directly or indirectly, from Brazil to the United States;

b. a certification that the exporters continue to account for over 85 percent of total exports of the subject merchandise exported, directly or indirectly, from Brazil to the United States; and

c. a certification that the exporters continue to be in full compliance with the Agreement.

3. The Government of Brazil agrees to provide to the Department, within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, the volume and value of exports of the subject merchandise to the United States.

4. The Government of Brazil agrees, and will ensure, that from the effective date of the Agreement and until the complete elimination of the net subsidies (no later than 30 days after the effective date), the volume of exports of the subject merchandise exported to the United States will not exceed the greatest volume of imports of the subject merchandise for any one month in the six month period immediately preceding the month in which the petition in this investigation was filed. The volume of such exports shall be reported by the exporters to the Department pursuant to paragraph III and be certified by the Government of Brazil pursuant to paragraph V.2.

5. The Government of Brazil's undertaking under this section is not an admission that any of the programs investigated constitute subsidies under the Act or the Subsidies Code.

6. The Government of Brazil recognizes that its undertaking is essential to the continuation of the Agreement.

VI. Effective Date

The effective date of the Agreement is the date of publication in the **Federal Register.**

Signed on this 21st day of July 1987, for the Government of Brazil.

Jose-Artur Denot Medeiros,

Minister-Counselor, Embassy of Brazil.

Signed on this 21st day of July, 1987, for the exporters.

Walter J. Spak,

Willkie Farr & Gallagher.

I have determined, pursuant to section 704(b) of the Act, that the provisions of Section II completely eliminate the subsidies that the Government of Brazil is providing with respect to certain forged steel crankshafts exported, directly or indirectly, from Brazil to the United States. Furthermore, I have determined that the suspension of the investigation is in the public interest, that the provisions of Sections III and V ensure that the Agreement can be monitored effectively, and that the Agreement meets the requirements of section 704(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration, United States Department of Commerce.

Appendix I—List of Brazilian Manufacturers, Producers, and Exporters of the Subject Merchandise Subject to the Agreement

SIFCO, S.A., Rua Libero Badaro, 377–6° Andar, 01009 Sao Paulo, Brasil

BRASIFCO, S.A., Rua Libero Badaro, 377–6° Andar, 01009 Sao Paulo, Brasil

Krupp Metalurgica Campo Limpo Ltda., Avenide Alfred Krupp 1050, Campo Limpo Paulista, SP, Brasil.

[FR Doc. 87–17072 Filed 7–27–87; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Financial Assistance Application Announcements; North Carolina

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Indian Business Development Center (IBDC) Program to operate an IBDC for a 3 year period, subject to available funds and satisfactory performance. The cost of performance for the first 12 months is estimated at $165,000 for the budget period January 1, 1988, to Metropolitan Statistical Area (MSA).

The funding instrument for the IBDC will be a cooperative agreement and competition is open to American Indian non-profit organizations and for profit firms (those entities which are owned or controlled by one or more American Indian persons).

The IBDC is designed to provide management and technical assistance to eligible American Indian clients for the establishment and operation of businesses. In order to accomplish this, MBDA supports IBDC programs that can: coordinate and broker public and private sector resources on behalf of American Indian individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of American Indian 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 in the application; and the firm's estimated cost for providing such assistance.

The IBDC 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 IBDC'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.

11.801 Minority Business Development.

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

Date: July 21, 1987.

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.

[FR Doc. 87–17014 Filed 7–27–87; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[Modification No. 3 to Permit No. 374]

Endangered Species; Permit Modification: Mr. Harold Brundage, III

Notice is hereby given that, pursuant to the provisions of § 220.24 of the regulations endangered species (50 CFR Parts 217–227), Scientific Research Permit No. 374 issued to Mr. Harold Brundage, III, Ichthyological Associates, Inc., 100 Cass Street, Middletown, Delaware 19709, on March 24, 1982 (47 FR 13399), as modified on February 11, 1983 (48 FR 6381), and September 18, 1985 (50 FR 39753), is further modified as follows:

Section B.1 is deleted and replaced by:

1. The animals shall be taken in the areas by the means, and for the purposes set forth in the application and the modification requests.

This modification became effective on July 21, 1987.

As required by the Endangered Species Act of 1973 issuance of this modification is based on a finding that such modification (1) was applied in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of the modification, and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This modification was issued in accordance with, and is subject to, Parts 220–222 of Tile 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Date: July 22, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–17041 Filed 7–27–87; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit: Dolfinarium Brugge (P399)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

Boudewijnpark
Dolfinarium Brugge
A.De Baechestraat 12
B–8200 Brugge, St. Michiels, Belgium

2. Type of Permit: Public Display

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 4.

4. Type of Take: The animals will be captured and maintained.

5. Location of Activity: Waters to the east and west between Mobile Bay and the mouth of the Mississippi River.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the descretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless;

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It include:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms and conditions of the permit, and that the government will enforce such terms; and

iii. A statement that the government concerned will afford comity to the National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the General Inspector, Ministerie Van Landbouw, Belgium, have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: July 23, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-17040 Filed 7-27-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Calcol, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Calcol, Inc. having a place of business in Beachwood, OH an exclusive right in the United States to manufacture, use, and sell products embodied in the inventions entitled "5-Deoxy-5-(Isobutylthio)-3-Deazaadenosine" U.S. Patent 4,210,630 and "3-Deazaadenosine," U.S. Patent 4,148,999. The patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-17006 Filed 7-27-87; 8:45 am]

BILLING CODE 3510-04-M

Intent to Grant Exclusive Patent License; Selcore Laboratories

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Selcore Laboratories, having a place of business at 2300 M Street, NW. Suite 800, Washington, DC 20037, an exclusive right in the United States to practice the invention embodied in U.S. Patent Applications S.N. 7-874,637 and S.N. 6-889,621, "Novel Method of Preparing Toxoid" and "Fermentation Level Cultivation of Bordetella Pertussis," respectively. The patent rights in these inventions will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Robert P. Auber, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-17007 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Commercial Gateways function at St Louis, MO, and Oakland CA, will be examined for possible conversion to contract.

For further information contact Mr. Noble Loucks, MAC/XPMRS, Scott AFB, IL 6225-5001, telephone (618) 256-5268.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-17027 Filed 7-27-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Construction of a Ship Fuel Replenishment System at Naval Weapons Station Earle, NJ

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40 CFE, and the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs, the Navy announces its intention to prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the construction of a Ship Fuel Replenishment System near NWS Earle piers in Middletown Township, Monmouth County, New Jersey. On June 20, 1986 and November 21, 1986 the Navy filed Draft and Final Supplemental Impact Statements respectively for the Modernization and Expansion of Logistic Support Systems (MELSS) at Naval Weapon Station Earle, Colts Neck, New Jersey.

On February 11, 1987, the Navy published a Record of Decision to implement the following actions associated with the MELSS proposal:

- Construction of a pile-supported pier.
- Dredging and disposal of 8.2 million cubic yards of material.
- Construction of six smokeless powder and projectile magazines at Main Station.
- Construction of the oil/water separation system portion of the Ship Fuel Replenishment System (SFRS) at the NWS Earle waterfront.
- Deferral of the fuel storage portion of the Ship Fuel Replenishment System (SFRS) until additional analyses are conducted and NEPA requirements are met.

The SFRS consists of a fuel storage facility (300,000 bbls) and an oil/water separation system. The fuel storage portion of the SFRS, deferred by the Record of Decision, is necessary to achieve enhanced military readiness and provide the Navy with a more economical fueling and defueling operation than is currently in effect. The SFRS oil/water separation system is required to service the AOE's regardless of the means to fuel and defuel the ships, and is currently proposed to be constructed at the NWS Earle waterfront.

Pursuant to the Record of Decision, the Navy commenced to study siting alternatives for the SFRS, and included the oil/water separation system in the study in response to local officials' requests. Based on the analyses in the siting alternatives study, which included substantial input from local leaders and elected officials, the Navy identified five sites which will be studied in greater detail in the DSEIS. These sites are the central portion of the NWS Earle Chapel Hill parcel (underground tanks); the western portion of the Chapel Hill parcel; the Belford landfill site; and NWS Earle softball field site (underground tanks). It is proposed to site the total facility at one of the first four sites listed above. It may be necessary to utilize either the softball field or the waterfront site for the oil/water separation system. The Draft

Supplemental Environmental Impact Statement will discuss the foregoing site alternatives and analyze associated environmental impacts. The Navy has no preferred alternative for the SFRS and all sites will be studied equally.

The Navy has retained an unaffiliated consulting firm to prepare the DSEIS. Work is expected to commence in August, 1987 with publication of the completed document in November, 1987.

Local and regional concerns will be carefully considered in the Scope of Work under which the DSEIS will be developed. Comments and concerns should be forwarded to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Bldg 77-L, (Code 202.2), Philadelphia Naval Base, Philadelphia, PA 19112-5094.

Comments will be accepted until August 19, 1987.

Additionally, to effectuate the scoping process, the Navy will conduct a public meeting to elicit comments/concerns to be addressed in the DSEIS. Details of the meeting are as follows:

Date: August 5, 1987.

Time: 2:00 pm-5:00 pm; 6:00 pm-11:00 pm.

Place: Auditorium, Middletown Twp. High School (North), 63 Tindall Rd. Middletown, NJ.

Phone: (201) 671-3850.

The meeting will be conducted by Captain E. Nicholson, Commanding Officer of NWS Earle. The meeting will be informal. Attendees will speak in the order that they register. Written statements will be accepted at the meeting or they may be mailed to the address of Northern Division, Naval Facilities Engineering Command noted in the preceding paragraph. Comments will be accepted until August 19, 1987.

If further assistance is required in regard to the Notice of Intent, please contact Ms. Kim DePaul at (215) 897-6262.

Dated: July 22, 1987.

Jane M. Virga,

LT, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 87-17011 Filed 7-27-87; 8:45 am]

BILLING CODE 3810-AE-M

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet 23 October 1987, at the U.S. Naval Academy, Annapolis, Maryland. The session, which is open to the public, will commence at 8:30 a.m. and terminate at 4:30 p.m., 23 October 1987, in Room 301, Rickover Hall.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic method of the Naval Academy.

For further information concerning this meeting contact: Captain John W. Renard, U.S. Navy, Retired, Secretary to the Board of Visitors, Dean of Admissions, United States Naval Academy, Annapolis, Maryland 21402-5017, (301) 267-4361.

Dated: July 22, 1987.

Jane M. Virga,

LT, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 87-17012 Filed 7-27-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133G]

Invitation of Applications for Field-Initiated Research Grants Under the National Institute on Disability and Rehabilitation Research for Fiscal Year 1988

Purpose: Provides support to public and private agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations, for planning and conducting research related to the rehabilitation of individuals with disabilities. Historically Black Colleges and Universities are encouraged to apply. These funds are for the first cycle of this program; NIDRR expects to announce a closing date for the second cycle later in the year.

Deadline for transmittal of applications: September 14, 1987.

Applications available: July 29, 1987.

Available funds: $500,000.

Estimated range of awards: $90,000-$110,000.

Estimated average size of awards: $100,000.

Project period: 36 months.

Applicable regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Parts 350 and 357.

For applications or information contact: 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.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 87-17105 Filed 7-27-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87-18-NG]

Order Approving Blanket Authorization to Import Natural Gas; Minnesota Methane, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Approving Blanket Authorization to Import Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to Minnesota Methane, Inc. (MnM), to import Canadian natural gas on a short-term basis. The order issued in ERA Docket No. 87-18-NG authorizes MnM to import up to 182.5 Bcf of Canadian natural gas during a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Commission.

[FR Doc. 87-17023 Filed 7-27-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meetings:

Name: Basic Energy Sciences Advisory Committee (BESAC).

Date and time: August 26, 1987—9:00 a.m.-5:00 p.m.; August 27, 1987—9:00 a.m.-5:00 p.m.

Place: Berkner Hall, Room B, Brookhaven National Laboratory, Upton, New York 11973.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER-11), Office of Energy Research, Washington, DC 20545, Telephone: 301/353/3081.

Purpose of the committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

Tentative agenda: Briefings and discussions of:

August 26, 1987

- Basic Energy Sciences Status Report
- Working Group Reports on BES Programs
- Visit and Discussions of Brookhaven BES National Facilities
- Public Comment (10 minute rule)

August 27, 1987

- Panel Study on High Temperature Superconductors
- Discussion of BESAC Report on Research
- BES Research at Brookhaven
- Next Meeting and Agenda
- Public Comment (10 minute rule)

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 22, 1987.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 87-17025 Filed 7-27-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP87-73-001]

Proposed Changes in FERC Gas Tariff; Algonquin Gas Transmission Co.

July 22, 1987.

Take notice that Algonquin Gas Transmission company (Algonquin) on 7-14, 1987 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Substitute Original Sheet No. 562
Substitute Original Sheet No. 564
Substitute Original Sheet No. 566
Substitute Original Sheet No. 583
Substitute Original Sheet No. 584
Substitute Original Sheet No. 654

The purpose of this filing is to make revisions to Algonquin's July 2, 1987 tariff filing in Docket No. RP87-73 as required by the Commission's July 2, 1987 "Order Accepting For Filing and Suspending Tariff Sheets Subject to Refund and Conditions, Granting Waiver, and Convening Technical Conference" (July 2 Order) and further to make certain corrections and changes to the tariff sheet filed on June 2, 1987.

Algonquin's June 2, 1987 filing was accepted subject to refund and conditions imposed by the Commission's July 2, order. Ordering Paragraph (C) requires Algonquin to refile its tariff sheets submitted June 2, 1987 within 15 days of the date of the July 2, 1987 order to (1) eliminate § 30.3 of the General Terms and Conditions, (2) eliminate the minimum ten-year term for converted service under Rate Schedule AFT-1 and (3) specify that refunds of prepayments for firm service under Rate Schedule AFT-1 shall bear interest at the rate specified in § 154.67 of the Commission's regulations. In compliance with the July 2 Order, Sheet No. 562 has been revised to delete the ten year requirement from setion 2.4 of Rate Schedule AFT-1, Sheet No. 566 has been revised to incorporate provisions providing for interest pursuant to the Commission's Regulations, and Sheet No. 654 has been revised to delete section 30.3 of the General Terms and Conditions. The July 2 Order also required Algonquin to provide workpapers to support the derivation of the transportation rates. Algonquin submitted such workpapers on June 30, 1987, pursuant to Commission Staff request, and a copy of such filing is attached hereto.

In addition, Algonquin proposes for filing herein substitute tariff sheets to make certain corrections and changes to the tariff sheets filed on June 2, 1987. In particular, Substitute Original Sheet Nos. 564 and 584 have been corrected to reflect the proper description of types of companies that can request transportation service under Rate Schedules AFT-1 and AIT-1. Due to an inadvertent error, "interstate pipeline" was listed in section 4.1(c) of both rate schedules. The substitute tariff sheets reflect the removal of that description as to types of companies eligible for service to be implemented pursuant to section 311 of the NGPA. Substitute Original Sheet No. 583 has been revised to reflect a correction in the definition of Maximum Daily Delivery Obligation (at Individual Delivery Point) in section 3.5 of Rate Schedule AIT-1. The correction in the definition of Maximum Daily Delivery Obligation allows the sum of all Maximum Daily Delivery Obligations at all Delivery Points listed in the executed Service Agreement to exceed the Maximum Daily Transportation Quantity. Also, Substitute Original Sheet No. 583 has been revised to correct a typographical error in section 4.1 as originally filed i.e. the date for commencement of interruptible transportation service has been corrected to read June 2, 1987, not June 1, 1987 as was previously filed.

The proposed effective date of the above listed tariff sheets is June 2, 1987, the effective date of the initial tariff sheets filed in this proceeding.

Copies of this filing were served on Algonquin's jurisdictional customers, interested state commissions, all parties of record in Docket No. RP87-73-000 and have been mailed to all parties requesting transportation service to date under either Rate Schedule AFT-1 or AIT-1.

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. All such motions or protests should be filed on or before 7-29-87. 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. 87-17063 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-12-20-000]

Proposed Change in FERC Gas Tariff; Algonquin Gas Transmission Co.

July 22, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on July 15, 1987 submited for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies each of the following tariff sheets:

Revised Thirteenth Revised Sheet No. 204

Thirteenth Revised Sheet No. 205
Sixth Revised Sheet No. 214

Algonquin states such tariff sheets are being filed pursuant to the provisions of Algonquin's tariff for the purpose of revising Algonquin's rates to reflect the effect of Texas Eastern Transmission Corporation's ("Texas Eastern") and National Fuel Gas Supply Corporation's ("National Fuel") PGA filings of June 30, 1987 and July 1, 1987, respectively.

Algonquin requests that the Commission accept Revised Thirteenth Revised Sheet No. 204, Thirteenth Revised Sheet No. 205 and Sixth Revised Sheet No. 214 to be effective August 1, 1987 to coincide with the proposed effective dates of National Fuel's and Texas Eastern's rate changes.

Algonquin notes that a copy of this filing is being serviced upon each affected party and interested state commissions.

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, 385.214). All such motions or protests should be filed on or before July 29, 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. 87-17064 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket RP86-105-010 and RP86-169-005]

Tariff Revision; ANR Pipeline Co.

July 22, 1987.

Take notice that on July 15, 1987, ANR Pipeline Company ("ANR"), 500 Renaissance Center, Detroit, Michigan 48243, tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following revised tariff sheets or Original Volume No. 1-A of its F.E.R.C. Gas Tariff in compliance with the Commission Order issued June 30, 1987 at Docket Nos. RP86-105-007 and RP86-169-004:

Second Substitute First Revised Sheet No. 13
Second Substitute First Revised Sheet No. 14
Substitute Original Sheet No. 14A
Second Substitute First Revised Sheet No. 35
Second Substitute First Revised Sheet No. 36
Substitute Original Sheet No. 36A
Second Substitute First Revised Sheet No. 55
Second Substitute First Revised Sheet No. 56
Original Sheet No. 56A

ANR states that the Commission Order accepted the Original Volume No. 1-A tariff sheets submitted by ANR in its filing of May 7, 1987 subject to ANR refiling certain of those tariff sheets to reflect the modifications and clarifications required in the Commission's Order. Said Order required that ANR refile its tariff sheets in 15 days and to state clearly that it will not retain excess volumes of gas resulting from overdeliveries, and to provide for a period of at least 45 days, from the date notice is given of an overdelivery or underdelivery, for the shipper to correct the imbalance and avoid the penalty.

ANR has requested an effective date of July 1, 1987 for these tariff sheets. ANR has served copies of this filing on all parties to the captioned proceedings.

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, NW., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before July 29, 1987. Protests will be considered by the Commission 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. 87-17068 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-80-000]

Filing; Northern Natural Gas Company Division of Enron Corp.

July 22, 1987.

Take Notice that on July 13, 1987, Northern Natural Gas Company, Divison of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1,

Third Revised Sheet No. 4g.1
First Revised Sheet No. 52.a
First Revised Sheet No. 52c.5
First Revised Sheet No. 52f.7

Third Revised Sheet No. 4g.1 is being filed to establish a fee for compression service provided pursuant to Rate Schedule FT-1 or IT-1 in situations where there is no additional transportation service provided (stand alone compression), and to establish minimum and maximum transportation rates for Northern's Matagorda Island Area Block (MAT) 622C facilities.

First Revised Sheet Nos. 52.a, 52c.5 and 52f.7 are being filed to establish an alternative reimbursement mechanism for fuel, use and unaccounted for volume provided in connection with service under Rate Schedules GT-1, FT-1 or IT-1.

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 the Commission's Rules of Practice & Procedure (18 CFR 385.211, 395.214). All such motions or protests should be filed on or before July 29, 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 Commisson and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-17067 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-7-019]

Tariff Filing; Transcontinental Gas Pipe Line Corp.

July 22, 1987.

Take notice that on July 13, 1987, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Second Revised Sheet No. 246 to its FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date of the revised tariff sheet is April 1, 1987.

Transco states that the purpose of this filing is to revise Section 21 of the General Terms and Conditions of its tariff to include a description of the "production area" on its system. The

description as provided, conforms Transco's tariff to the basis on which Transco's production area transportation rates are designed, which rates became effective April 1, 1987, subject to refund.

Transco further states that copies of the filing have been mailed to each of its customers, state commissions, and other parties to this proceeding.

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 29, 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. 87-17066 Filed 7-27-87; 8:45]

BILLING CODE 6717-01-M

[Docket No. RP86-115-009]

Compliance Filing; Trunkline Gas Co.

July 22, 1987

Take notice that on July 16, 1987, Trunkline Gas Company (Trunkline) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, pursuant to Ordering Paragraph (D) of the Commission's July 1, 1987 order:

First Substitute Second Revised Sheet No. 9-BN
First Substitute First Revised Sheet No. 9-BO
First Substitute First Revised Sheet No. 9-BR
First Substitute First Revised Sheet No. 9-CR
First Substitute First Revised Sheet No. 9-CS
First Substitute Original Sheet No. 9-CV

The proposed effective date of these revised tariff sheets is May 1, 1987.

Further, pursuant to Ordering Paragraph (E) of the Commission's July 1, 1987 order, Trunkline submits for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Third Revised Sheet No. 9-BK
Second Revised Sheet No. 9-CO

The proposed effective date of these revised tariff sheets is July 1, 1987.

Trunkline requests waiver of such provisions of the Commission's regulations, as may be necessary, so that this compliance filing and the accompanying tariff sheets may be accepted.

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 29, 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. 87-17065 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-24-002, et al.]

Electric Rate and Corporate Regulation Filings; Utah Power & Light Co., et al.

July 22, 1987.

Take notice that the following filings have been made with the Commission:

1. Utah Power & Light Company

[Docket No. ER87-24-002]

Take notice that on July 16, 1987, Utah Power & Light Company (Utah) tendered for filing an amended compliance filing. The amendment affects only the amount of refund. No other change has been made to the original compliance filing.

Utah states that the error resulted from inadvertently applying the wrong interest rate to the Fourth Quarter of 1986 which was carried through the first two quarters of 1987. The error resulted in an over-refund to the resale customers. Utah proposes to cure the problem by making a billing adjustment.

Comment date: August 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Power & Light Company

[Docket No. ER87-460-000]

Take notice that on July 15, 1987, Utah Power & Light Company (Utah) tendered for filing an amendment to its original filing of FERC Electric Tariff, Fourth Revised Vol. No. 1 which was submitted on May 28, 1987. The amendment being submitted makes corrections to the pagination of certain revised tariff sheets. Copies of the amended filing were served on Manti City, Utah and the Utah Public Service Commission.

Utah requests a waiver of the Commission's notice requirements of 18 CFR 35.3 as provided in 18 CFR 35.11 to permit the filing to become effective retroactively as of April 1, 1987, the date Manti City, Utah terminated its resale service with Utah. Utah states that no other customer will be adversely affected by granting the waiver.

Comment date: August 5, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Idaho Power Company

[Docket No. ER87-536-000]

Take notice that on July 16, 1987, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during May 1987, along with cost justification for the rate charged. This filing includes the following supplements:

Montana Power Company, Supplement No. 51
Sierra Pacific Power Company, Supplement No. 64
Washington Water Power Company, Supplement No. 49
Pacific Power & Light Company, Supplement No. 19
Utah Power & Light Company, Supplement No. 66

Comment date: August 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas City Power & Light Company

[Docket No. ER87-537-000]

Take notice that on July 16, 1987, Kansas City Power & Light Company (KCPL) tendered for filing a Letter Agreement dated May 28, 1987, between KCPL and the Empire District Electric Company (EDE). KCPL requests an effective date of June 1, 1987. EDE has requested that KCPL provide Peaking Capacity during the six month period from June through November, 1987.

In its filing, KCPL states that the rates included in the above-mentioned Agreement are negotiated rates and charges based on incremental energy costs and a contribution to fixed capacity costs.

Comment date: August 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Niagara Mohawk Power Corporation

[Docket No. ER87-418-000]

Take notice that on July 15, 1987, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an amendment with additional information to the application filed May 1, 1987 in this docket for a change in the rates Niagara Mohawk charges the New York Power Authority (Power Authority) for the transmission and delivery of power and energy under Niagara Mohawk FERC Rate Schedule No. 138. This filing was in response to a June 15, 1987 letter from Mr. Jerry R. Milbourn requesting additional information.

Pursuant to 18 CFR 35.11 (1987), Niagara Mohawk requests that the Commission waive its notice requirements for good cause shown and allow the proposed rates to become effective on July 1, 1987, the effective date requested in the May 1, 1987 application. Niagara Mohawk states the affected customers and the Commission have had notice of the proposed change in rates and the proposed effective date sinde May 1, 1987, and that this amendment to the filing does not involve revisions to the originally proposed rates. Thus, neither the affected customers nor the Commission would not be prejudiced by such waiver.

Niagara Mohawk also renews its request, as set forth in its May 1, 1987 transmittal letter, that the Commission suspend the proposed rates, if at all, for no more than one day.

Niagara Mohawk states that copies of this filing have been served on the New York Public Service Commission, the Power Authority, and the entities that received the May 1, 1987 application.

Comment date: August 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Northwest Public Service Company

[Docket No. ES87-36-000]

Take notice that on July 13, 1987, Northwest Public Service Company filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue first mortgage bonds in the principal amount not exceeding $8,000,000. The proceeds from the sale of the bonds will be used to refund outstanding bonds which carry a higher interest rate.

Comment date: August 12, 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. 87-17062 Filed 7-27-87; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Jim Woodruff Project

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of order confirming and approving power rates on an interim basis for the Jim Woodruff project.

SUMMARY: Notice is given of Rate Order No. SEPA-24 of the Under Secretary of the Department of Energy, confirming and approving, on an interim basis, Rate Schedule JW-1-B and JW-2-B for the Jim Woodruff Project. The rates were approved on an interim basis through August 19, 1992, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

EFFECTIVE DATE: Approval of rates on an interim basis is effective on August 20, 1987.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

J. Emerson Harper, Office of Management and Review, CE-41, Department of Energy, James Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued January 10, 1983, in Docket No. EF82-3031 confirmed and approved Wholesale Power Rate Schedules JW-1-A and JW-2-B through August 19, 1987. Rate Schedule JW-1-B replaced JW-1-A. Rate Schedule JW-2-B has been extended.

Issued in Washington, DC, July 21, 1987.

Joseph F. Salgado,

Under Secretary.

Wholesale Power Rate Schedule JW-1-B

Availability

This rate schedule shall be available to public bodies and cooperatives served by the Florida Power Corporation and having points of delivery within 150 miles of Jim Woodruff Project (hereinafter called the Project).

Applicability

This rate schedule shall be applicable to firm power and accompanying energy made available by the Government from the Project and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the customer.

Monthly Rate

The monthly rate for capacity and energy made available or delivered under this rate schedule shall be:

Demand Charge: $2.70 per kilowatt of monthly billing demand.

Energy Charge: 8.0 mills per kilowatt-hour.

Billing Demand

The monthly billing demand for any billing month shall be the lower of (a) the Customer's contract demand or (b) the sum of the maximum 30-minute integrated demands for the month at each of the Customer's points of delivery; provided, that, if an allocation of contract demand to delivery points has become effective, the 30-minute maximum integrated demand for any point of delivery shall not be considered to be greater than the portion of the Customer's contract demand allocated to that point of delivery.

Capacity Made Available

The capacity which the Government will supply to meet the demand of the Customer in any billing month will be the maximum amount of capacity required for that purpose up to the contract demand. Such maximum amount of capacity required will be determined by adding the maximum 30-minute integrated measured demands at all points of delivery of the Customer

located within 150 miles of the Project power station. At such time as the demand of the Customer approximates the contract demand, the Government will allocate the contract demand among the Customer's then existing delivery points on the basis of the demands recorded as of that time at each such point of delivery adjusted to round each point's allocation to the nearest 10 kilowatts. The allocation of contract demand to delivery points shall become effective the billing month that the Customer's total demand at said delivery points exceeds its contract demand.

Energy Made Available

During any billing month in which the Government supplies all the Customer's capacity requirements, the Government will make available such energy as the Customer may require to supply its load. In any billing month when both the Government and the Florida Power Corporation are supplying capacity to a delivery point, each kilowatt of capacity supplied to such point during such month will be considered to be accompanied by an equal quantity of energy.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Florida Power Corporation on its side of the delivery point.

Service Interruption

When energy delivered to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system or has not been planned and agreed to in advance, the demand charge for the month shall be appropriately reduced.

August 20, 1987.

Wholesale Power Rate Schedule JW–2–B

Availability

This rate schedule shall be available to the Florida Power Corporation (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric energy generated at the Jim Woodruff Project (hereinafter called the Project) and sold to the Company in wholesale quantities.

$$\text{Energy Rate} = 60\% \times \frac{Fm}{Sm}$$

[Computed to the nearest $0.00001 (1/100 mill) per KWH]

Where:

Fm = Company fuel cost in the current period as defined in Federal Power Commission Order 517 issued November 13, 1974, Docket No. R–479.

Sm = Company sales in the current period reflecting only losses associated with wholesale sales for resale. Sale shall be equated to the sum of (a) generation, (b) purchases, (c) interchange-in, less (d) intersystem sales, less estimated wholesale losses (based on average transmission loss percentage for preceding calendar year).

Method of Application: The energy rate applied during the current billing month will be based on costs and equated sales for the second month preceding the billing month.

Determination of Energy Sold

Energy will be furnished by the Company to supply any excess of Project use over Project generation. Energy so supplied by the Company will be deducted from the actual deliveries to the Company's system to determine the net deliveries for energy accounting and billing purposes. Energy for Project use shall consist of energy used for station service, lock operation, Project yard, village lighting, and similar uses.

The on-peak hours shall be the hours between 7:00 a.m. and 11:00 p.m., Monday through Sunday, inclusive. Off-peak hours shall be all other hours.

All energy made available to the Company, exclusive of transfers to the Georgia Power Company for the account of the Government, shall to the extent required be classified as energy transmitted to the Government's preference customers served from the Company's system. All energy made available to the Company from the Project shall be separated on the basis of the metered deliveries to it at the Project during on-peak and off-peak hours, respectively. Such on-peak energy as is made available to the Company at the points of interconnection with Georgia Power Company shall be determined from schedules of deliveries. Deliveries to preference customers of the Government shall be divided on the basis (with allowance for losses) of 77 percent being considered as on-peak energy and 23 percent being off-peak energy. Such percentages may by mutual consent be changed from time to time as further studies show to be appropriate. Deliveries made to the Georgia Power Company shall be on the basis (with allowances for losses) of schedules of deliveries. In the event that in classifying energy there is more than enough on-peak energy available to supply on-peak requirements of the Government's preference customers but less than enough off-peak energy available to supply such customers off-peak requirements, such excess on-peak energy may be applied to the extent necessary to meet off-peak requirements of such customers in lieu of purchasing deficiency energy to meet such off-peak requirements.

Points of Delivery

Power sold to the Company by the Government will be delivered at the connection of the Company's transmission system with the Project bus.

Character of Service

Electric power delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second.

Monthy Rate

The monthly rate for energy sold under this schedule shall be equal to 60 percent of the calculated saving in the cost of fuel per KWH to the Company determined as follows:

Any on-peak and off-peak Project energy made available in any billing month over and above that required for transfers to the Georgia Power Company for the account of the Government and to meet the above requirements of preference customers shall be classified as energy sold under this rate schedule.

The energy requirements of the Government's preference customers shall be the total energy requirements of such customers so long as the Government is supplying the total capacity required. In any month when both the Government and the Company are supplying capacity to a preference customer, each kilowatt of capacity shall be considered to be accompanied by an equal quantity of energy. The energy supplied by the Government shall come from its own resources or from purchases from the Company and shall be accounted for as transmitted for the account of the Government. Energy delivered to preference customers by the Company shall be increased by 7 percent to provide for losses in transmission.

Billing Month

The billing month under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor

The purchaser and seller under this rate schedule agree that they will both so operate their respective systems that neither party will impose an undue reactive burden on the other.

August 20, 1987.

[FR Doc. 87-17024 Filed 7-27-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200010.

Title: City of Milwaukee Terminal Lease Agreement.

Parties:

City of Milwaukee

Meehan Seaway Service, Ltd.

Synopsis: The proposed agreement provides for the exclusive use by Meehan Seaway Service, Ltd. of certain real property and improvements on the South Harbor Tract of the City of Milwaukee pursuant to specified terms and conditions in the Agreement. The term of this lease is one year and shall be extended automatically for three successive one year periods unless terminated by either party, as provided in the Agreement.

Agreement No.: 224-200009.

Title: San Francisco Port Commission Terminal Agreement.

Parties:

San Francisco Port Commission.

Transportacion Maritima Mexicana S.A. de C.V.

Synopsis: The proposed agreement provides for reduced rates for wharfage, dockage and other port charges based upon levels of service at the port.

By order of the Federal Maritime Commission.

Dated: July 23, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-17043 Filed 7-27-87; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; Mega Shipping & Forwarding, Ltd., et al

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Mega Shipping & Forwarding, Ltd., 51 East 42nd Street #1812, New York, New York 10017, Principal: Behcet N. Tuysuzoglu—President/stockholder

Meridian Cargo, Inc., 10,086 NW 5th Terrace, Miami, Florida 33172, Principals: Emilio Requena, President/stockholder, Vivian Requena, Secy/Treasurer/stockholder, Fernando Lobeto, Vice President/stockholder

Global Moving & Storage, Inc., 99 Clifton Place, Brooklyn, New York 11238, Principals: Steven Donenfeld, President/stockholder, Leslie Parris

Kenneth Norman Garrison, d/b/a Tri-Star Freight Systems, 3703 Golden Lake Drive, Kingwood, Texas 77339

Beacon International U.S.A., Inc., 990 Lunt Avenue, Elk Grove Village, Illinois 60007, Principals: Jean O. DeKeyser, President/stockholder, Rolf von Fintel, Vice President/stockholder, Marie DeKeyser, Secretary/stockholder, J.B. DeKeyser, stockholder, Edouard van Meenen, stockholder, Eudasco N.V. (Antwerp, Belgium), stockholder.

Hayabusa Forwarding, Inc., 680 Calhoun Avenue, Bronx, New York 10465, Principal: William M. Staib, President/Director/stockholder

Allways Transportation Services, Inc., 5505 South Central Street, Chicago, Illinois 60638, Principals: Joseph R. Duffy, President & Director, Patricia Duffy, Director, Norman Whiteside, Vice President, Jonas Montoya, Vice President

Cargo Crating Co., d/b/a Cargo Forwarding International, 108-112 Standifer Drive, Humble, Texas 77338, Principals: Robert E. McCluskey, Jr., President/Director, Sandi K. Lewis, Vice President, Robert E. McCluskey, Sr., Director/Chairman of the Board, Tad W. Hones, stockholder.

Dated: July 23, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-17045 Filed 7-27-87; 8:45 am]

BILLING CODE 6730-01-M

[Commission Order No. 1, Amdt. No. 11]

Organization and Functions; Delegation of Authority to the General Counsel

The following delegation of authority is made to the General Counsel in order to facilitate the expeditious classification of controlled carriers within the meaning of section 3(8) of the Shipping Act of 1984. This amendment also reflects the transfer of the responsibility for identifying controlled carriers from the Bureau of Domestic Regulation to the the General Counsel.

Therefore, Commission Order 1 is amended as follows:

(1) Subsection 5.09(1)f is revised to read: 5.09 (1)f Monitors the tariffs of controlled carriers in the U.S. foreign commerce for compliance with U.S. statutes and Commission rules, and

processes special permission applications submitted by these carriers;

(2) New subsections 5.04 (8) and 12.02 are added as follows; 5.04 (8) Identifies potential state-controlled carriers within the meaning of section 3(8) of the Shipping of 1984, and verifies their status.

12.02 Authority to the *General Counsel* to classify carriers as state-controlled carriers within the meaning of section 3(8) of the Shipping Act of 1984, except where a carrier submits a rebuttal statement pursuant to 46 CFR 580.1(e)(3)(i).

Dated: July 22, 1987.

Edward V. Hickey, Jr.,

Chairman.

[FR Doc. 87-17044 Filed 7-27-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSEM

Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Cumberland Valley Bancshares, Inc.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank of bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 17, 1987.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303.

1. *Cumberland Valley Bancshares, Inc.*, Goodlettsville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Cumberland Bank, Madison, Tennessee, a *de novo* bank.

In connection with this application, Applicant also proposes to acquire Garrett Financial Services, Inc., Goodlettsville, Tennessee, and thereby engage in the leasing of personal or real property or acting as an agent, broker, or advisor in leasing such property pursuant to § 225.25(b)(5); and in management consulting to depository institutions pursuant to § 225.215(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17016 Filed 7-27-87; 8:45 am]

BILLING CODE 6210-01-M

Application to Engage de Novo in Permissible Nonbanking Activities; First Community Bancshares, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1987.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Community Bancshares, Inc.*, Princeton, West Virginia; to engage de novo in data processing of financial data pursuant to a written agreement between the holding company and third parties pursuant to § 225.25(b)(7); and tax planning and tax preparation services for individuals, businesses, and non-profit organizations, including advice and strategies to minimize tax liabilities pursuant to § 225.25(b)(21) of the Board's Regulation Y. These activities will be conducted in the State of West Virginia.

Board of Governors of the Federal Reserve System, July 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17017 Filed 7-27-87; 8:45 am]

BILLIG CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Hong Kong and Shanghai Banking Corporation

The organization listed in this notice has 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.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Hong Kong and Shanghai Banking Corporation*, Hong Kong; HSBC Holdings B.V., Amsterdam, The Netherlands; Marine Midland Banks, Incorporated, Buffalo, New York; and Amsterdam-Rotterdam Bank N.V., Amsterdam, The Netherlands; to acquire Ingersoll-Rand Financial Corporation, Woodcliff, New Jersey, and thereby indirectly engage in commercial financing, real estate lending and equipment leasing pursuant to §§ 225.25 (b)(1) and (b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17018 Filed 7-27-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Wake Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (123 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 20, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Wake Bancorp, Inc.*, Wakefield, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Wakefield Savings Bank, Wakefield, Massachusetts, which sells and underwrites Massachusetts Savings Bank Life Insurance. Comments on this application must be received by August 17, 1987.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Corporation*, Edison, New Jersey, and Midlantic Banks, Inc., Edison, New Jersey; to acquire 100 percent of the voting shares of County Bancorp, Lyndhurst, New Jersey, and thereby indirectly acquire County Trust Company, Lyndhurst, New Jersey. Comments on this application must be received by August 14, 1987.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation*, Birmingham, Alabama; to acquire 100 percent of the voting shares of First Mutual Bank (formerly First Mutual Savings Association of Florida), Pensacola, Florida.

D. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mt. Auburn Bancshares Company*, Hampton, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Mount Auburn Savings Bank, Mount Auburn, Iowa. Comments on this application must be received by August 17, 1987.

E. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Benton Bancorp, Inc.*, Benton, Kentucky; to acquire at least 67 percent of the voting shares of Calvert Bank, Calvert City, Kentucky.

2. *FBT Corporation*, Blytheville, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank and Trust Company, Blytheville, Arkansas, which engages in general insurance activities pursuant to the state law.

3. *Morgan Community Bancorp, Inc.*, Jacksonville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Morgan County Community Bank, Jacksonville, Illinois.

F. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *TransTexas Bancshares, Inc.*, Beaumont, Texas; to acquire 100 percent of the voting shares of Kirbyville Bancshares, Inc., Beaumont, Texas, and thereby indirectly acquire Kirbyville State Bank, Beaumont, Texas; and Newton Bancshares, Inc., Beaumont, Texas, and thereby indirectly acquire First National Bank of Newton, Newton, Texas, and First National Bank of Woodville, Woodville, Texas.

Board of Governors of the Federal Reserve System, July 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17019 Filed 7-27-87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies; John C. Stennis

The notificant listed below has 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 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 12, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Senator John C. Stennis,* DeKalb, Mississippi; to acquire 12.66 percent of the voting shares of Commercial Capital Corporation, DeKalb, Mississippi, and thereby indirectly acquire Commercial Bank of DeKalb, DeKalb, Mississippi.

Board of Governors of the Federal Reserve System, July 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17020 Filed 7-27-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring report 3090-0027, Status Report of Orders and Shipments.

AGENCY: Office of Administration, GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Rodney P. Lantier, GSA Clearance Officer, General Services Administration (CAID), Washington, DC 20405.

FOR FURTHER INFORMATION TELEPHONE: Lawrence E. Fisher, 202-557-1400.

Purpose: Vendors must notify the agency whether they have shipped supplies to customers.

Annual reporting burden: Firms reporting, 2,800; responses, 67,200; burden hours, 6,720.

Copy of proposal: The reader may obtain a copy of the proposal by writing the Directives and Reports Management Branch (CAID), Room 3015, GS Bldg., Washington, DC 20405, or by telephoning 202-566-0668.

Dated July 15, 1987.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 87-17008 Filed 7-27-87; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Budget Office

Part A, Office of the Secretary, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services is amended. Chapter AML, Office of Budget, as last amended at 50 FR 45942 (November 5, 1985); Chapter AML1, Division of Health Budget Analysis, as last amended at 44 FR 28729 (May 16, 1979); Chapter AML3, Division of Human Services Budget Analysis as last amended at 50 FR 45942 (November 5, 1985); Chapter AML4, Division of Budget Policy and Management as last amended at 48 FR 31737 (July 11, 1983); and Chapter AML6, Division of OS Budget Services, as last amended at 44 FR 28729 (May 16, 1979) are deleted and replaced with a new single Chapter AML. In addition, the oversight responsibilities of the Division of Health Budget Analysis and the Division of Human Services Budget Analysis are realigned and the functions of the two Divisions expanded to include management oversight functions in order to improve the responsiveness and effectiveness of these two Divisions. The changes are as follows.

1. Delete in their entirety Chapters AML (Office of Budget), AML1 (Division of Health Budget Analysis), AML3 (Division of Human Services Budget Analysis), AML4 (Division of Budget Policy and Management), and AML6 (Division of OS Budget Services) and replace with the following:

Chapter AML

Office of Budget

Section AML.00 Mission

The Office of Budget provides advice and support to the Secretary and the Assistant Secretary for Management and Budget on matters pertaining to: (1) Formulation, analysis, and presentation of budgets; (2) staff resource allocations and analysis; (3) budget policy; (4) reprogrammings (transfer of funds from one program area to another) within an appropriation; and (5) management and productivity improvements in program operations.

Section AML.10 Organization

The Office of Budget is headed by the Deputy Assistant Secretary for budget who reports to the Assistant Secretary for Management and Budget and includes the following:

Immediate Office
Division of Public Health and Social Services Budget Analysis
Divison of Health Benefits and Income Security Budget Analysis
Divison of Budget Policy and Management
Division of OS Budget Services

Section AML.20 Functions

1. The Office of Budget: (A) Recommends and issues Department-wide budgetary policies. (B) Develops budget, policy and management options for achieving Secretarial objectives. (C) Provides budget and financial management services for the Office of the Secretary. (D) Evaluates budgetary proposals and formulates alternative budgetary strategies. Coordinates the development of the annual budget and other budgetary and financial documents. (E) Presents the HHS budget and other appropriations matters to the Office of Management and Budget, Committees of Congress, and other interested parties. (F) Participates in the Department's planning and evaluation process, particularly in the establishment of long-range staffing and funding requirements, and the identification and resolution of policy issues. Comments on draft legislation, regulations, and reorganization proposals. (G) Encourages sound budgetary and program management practices throughout the Department by providing technical guidance for OPDIV staffs. (H) Administers a Departmentwide system of employment ceilings. Promotes the development and use of standards for the efficient use of staff resources. Provides technical assistance to agencies to help them maximize the utilization of authorized manpower. (I) Reviews and approves requests for reprogrammings, transfer of funds, and other mechanisms relating to the funding of approved programs. (J) Conducts special studies and analyses and develops options and improving management and productivity of program operations. (K) Coordinates the development of policies and procedures for joint funding for integrated research and services projects.

2. Division of Public Health and Social Services Budget Analysis. The Division: (a) Provides staff assistance to the

Secretary, the Assistant Secretary for Management and Budget and the OPDIV heads in the budgetary management of Departmental public health and social services programs. (b) Reviews budget and related requests for resources and management and productivity improvement plans and proposals or reports; analyzes plans and proposals for new or alternative legislation, regulations, programs or activities to determine their resource, management and policy implications; appraises program activities and operations in terms of their contributions to the policies, goals and objectives of the Department as a basis for evaluating resource requirements and program effectiveness; proposes recommendations for the Office of Budget on draft regulations, proposed legislation and reorganization proposals. (c) Assists the Secretary, the Under Secretary, the Assistant Secretary for Management and Budget and the OPDIV heads in evaluating programs and budgetary proposals by developing reliable cost projections for legislative and planning proposals, and ensuring that proposals are consistent with approved plans and policies. (d) Coordinates the preparation of budget estimates and forecasts of resources required to support the programs and operations of the Department. (e) Reviews reprogramming requests and recommends appropriate action to the Office of Budget. (f) Provides guidance in budget formulation for the appropriate OPDIVs. (g) Conducts special management reviews and analyzes and develops management options to ensure efficient and effective program operations and to encourage management improvements. (h) Proposes budget options and policy initiatives as necessary to achieve program objectives established by the Secretary. (i) Assists in the planning and presentation of the budget to the Office of Management and Budget and the Congress and develops materials for key Department officials who testify at hearings before these bodies.

3. Division of Health Benefits and Income Security Budget Analysis. The Division: (a) Provides staff assistance to the Secretary, the Assistant Secretary for Management and Budget and the OPDIV heads in the budgetary management of Departmental health care financing, social security and related programs. (b) Reviews budget and related requests for resources and management and productivity improvement plans and proposals or reports; analyzes plans and proposals for new or alternative legislation, regulations, programs or activities to determine their resource, management, and policy implications; appraises program activities and operations in terms of their contributions to the policies, goals and objectives of the Department as a basis for evaluating resource requirements and program effectiveness; proposes recommendations for the Office of Budget on draft regulations, proposed legislation and reorganizations proposals. (c) Assists the Secretary, the Under Secretary, the Assistant Secretary for Management and Budget and the OPDIV heads in evaluating programs and budgetary proposals by developing reliable cost projections for legislative and planning proposals, and ensuring that proposals are consistent with approved plans and policies. (d) Coordinates the preparation of budget estimates and forecasts of resources required to support the programs and operations of the Department. (e) Reviews reprogramming requests and recommends appropriate action to the Office of Budget. (f) Provides guidance in budget formulation for the appropriate OPDIVs. (g) Conducts special management reviews and analyses, and develops management options to ensure efficient and effective program operations and to encourage management improvements. (h) Proposes budget options and policy initiatives as necessary to achieve program objectives established by the Secretary. (i) Assists in the planning and presentation of the budget to the Office of Management and Budget and the Congress and develops materials for key Department officials who testify at hearings before these bodies.

4. Division of Budget Policy and Management. The Division. (a) Directs the formulation and presentation of the HHS budget. (b) The Division is the HHS liaison with OMB and Congressional committee staffs in defining specifications and schedules for budget submissions and related budgetary data and ensuring their timely delivery. (c) Develops and promulgates to the OPDIVs and others the policies, procedures, guidance and schedules for preparing budget submissions. (d) Monitors and provides technical assistance to the OPDIVs throughout the budget formulation and presentation process; and reviews and integrates OPDIV budget submissions prior to presentation to OMB or Congress. (e) Manages a computerized budget information system reflecting data on an HHS-wide basis and coordinates OPDIV input into this system. (f) Responsible for preparing summaries of budget submissions and for reconciliation of estimates to Departmentwide control amounts. (g) Provides direct staff support to the Secretary in preparation for appropriation hearings and other budget related presentations and briefings. (h) Monitors the Budget and Appropriations Committees in the Congress and provides intelligence and analyses of budget decisions. (i) Participates in the development of guidelines for funding under continuing resolutions; establishes guidelines for, and reviews and processes reprogrammings, and provides recommendations and other staff support as required in processing other cross-cutting funding proposals. (j) Promotes the development of standards for the efficient use of staff resources and administers Departmental employment ceilings.

5. Division of OS Budget Services. The Director, Division of OS Budget Services serves as budget officer and financial management adviser for the Office of the Secretary. The Division: (a) Participates in planning, directing, and coordinating financial and budgetary programs of the Office of the Secretary. (b) Directs and provides technical guidance to administrative officers in preparing budgets. Coordinates preparation of the Office of the Secretary budget for presentation to top HHS management officials, the Office of Management and Budget, and the Congress. (c) Assists in the planning and the presentation of the budget to the Office of Management and Budget and the Congress and develops materials for key members of the Office of the Secretary who testify at hearings before these bodies. (d) Reviews the budget approved by Congress and recommends a financial plan for its execution. Makes allocations to constituent offices within the guidelines of the approved financial plan. (e) Maintains budgetary controls to ensure observance of established ceilings on both funds and personnel. (f) Prepares requests for an apportionment of appropriated funds. Maintains control of allotted funds against current obligations. Maintains and monitors subsidiary expenditure controls for appropriations in the Office of the Secretary, including separate plans for each Regional Office. (g) Provides analysis and coordination of accounting reports within the Office of the Secretary. (h) Develops financial operating procedures and manuals. Assures implementation within the Office of the Secretary of Departmental and Federal fiscal policies and procedures.

Date: July 21, 1987.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 87-17085 Filed 7-27-87; 8:45 am]

BILLING CODE 4150-04-M

Delegations of Authority; Family Support Administration

Notice is hereby given that the Secretary has granted to the Administrator, Family Support Administration (FSA), all authorities vested in him under section 204, entitled State Legalization Impact Assistance Grants, of the Immigration Reform and Control Act of 1986, Pub. L. 99-603. This delegation excludes the authority to issue regulations or submit reports to Congress. It is effective upon the date of signature.

In addition, the Secretary affirms and ratifies any actions taken by the Administrator, FSA or other FSA officials which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

Date: July 17, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-17084 Filed 7-27-87; 8:45 am]

BILLING CODE 4150-04-M

Health Care Financing Administration

Medicaid Program; Notice of Hearing on Reconsideration of Disapproval of an Arkansas State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on September 9, 1987 in Dallas, Texas to reconsider our decision to disapprove Arkansas State Plan Amendment 86-16.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk August 12, 1987.

FOR FURTHER INFORMATION, CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Arkansas State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that information in a notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Arkansas' proposed plan amendment which would amend the Arkansas reimbursement plan for payment of long-term care services violates section 1902(a)(13)(A) of the Social Security Act and Federal regulations at 42 CFR 447.253(b)(1)(i).

Section 1902(a)(13)(A) of the Social Security Act requires that States make payment for long-term care services through the use of rates which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the cost which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

The proposed amendment would preclude any change in SNF and ICF payment rates during the rate period July 1, 1986 through June 30, 1987, and would continue the rates in effect for the immediately preceding rate period; e.g., July 1, 1985 through June 30, 1986. Although Arkansas furnished the assurance statement as required by 42 CFR 447.253(b)(1)(i) that the proposed payment rates are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers, HCFA determined that the assurance is unacceptable and the proposed State plan transmittal number 86-16 violates the Federal statutory requirements of section 1902(a)(13)(A).

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. Ray Scott,

Director, Division of Economic and Medical Services, Arkansas Department of Human Services, Seventh and Main Streets, P.O. Box 1437, Little Rock, Arkansas 72203.

Dear Mr. Scott: This is to advise you that your request for reconsideration of the decision to disapprove Arkansas State Plan Amendment 86-16 was received on June 22, 1987.

Arkansas State Plan Amendment 86-16 would amend the Arkansas reimbursement plan for payment of long-term care services. You have requested a reconsideration of whether this plan amendment violates section 1902(a)(13)(A) of the Social Security Act and Federal regulations at 42 CFR 447.253(b)(1)(i).

The issue in this matter is whether Arkansas' proposed amendment would establish rates that are considered reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities as required by section 1902(a)(13)(A) of the Social Security Act and Federal regulations at 42 CFR 447.253(b)(1)(i).

I am scheduling a hearing on your request to be held on September 9, 1987 at 10:00 a.m. in Room 1950, 1200 Main Tower Building, Dallas, Texas. If this date if not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mlr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,

William L. Roper, M.D.,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: July 22, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-17047 Filed 7-27-87; 8:45 am]

BILLING CODE 4120-03-M

Statement of Organization, Functions, and Delegations of Authority; Establishment of a Standard Systems Task Force

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing

Administration (HCFA), (Federal Register, Vol. 50, No. 74, pg. 15230, dated Wednesday, April 17, 1985) is amended to include the approval of the establishment of a Standard Systems Task Force in the Office of Program Operations Procedures, Bureau of Program Operations, Office of the Associate Administrator for Operations. This task force will: (1) Develop and implement standard Medicare claims processing systems to minimize the variations between the data processing systems used by intermediaries and carriers and (2) develop and implement a combined Part A and Part B working file to perform prepayment functions and to consolidate beneficiary Part A and Part B claims history.

The specific amendment to Part F. is described below:

• Section FP.20.A.3., Office of Program Operations Procedures, is amended by adding a new paragraph a. Standard Systems Task Force and redesignating the remaining paragraphs. The breakdown for section FP.20.A.3 now reads:

a. Standard Systems Task Force (FPA8–1)

b. Division of Provider Procedures (FPA81)

c. Division of Carrier Procedures (FPA82)

d. Division of Medicaid Procedures (FPA83)

e. Division of Entitlement Requirements (FPA84)

The new section FP.20.A.3.a. reads as follows:

a. Standard Systems Task Force (FPA8–1)

Designs, develops, and promulgates specifications, requirements, methods, systems, standards, and procedures required to implement and evaluate: (1) A standardized Medicare claims processing system for use by Medicare intermediaries and carriers and (2) a beneficiary data set containing all Medicare entitlement and utilization information in one location. This task force is temporary organization not to exceed 1 year.

Date: July 8, 1987.

Bartlett S. Fleming,

Associate Administrator for Management and Support Services.

[FR Doc. 87–17046 Filed 7–27–87; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Subcommittee on Physician Manpower of the Council on Graduate Medical Education; August Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1987:

Name: Subcommittee on Physician Manpower of the Council on Graduate Medical Education.

Time: August 28, 1987, 8:00 a.m.–5:30 p.m.

Place: Parklawn Building, Conference Room L, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The subcommittee reviews and analyzes existing and ongoing studies, information and data, and identifies issues and prioritizes areas of inquiry to be able to develop conclusions and recommendations concerning (though not necessarily limited to) the current and future status of supply of physicians, the impact of such a supply of physicians on underrepresented groups and, appropriate Federal Policies as well as private sector efforts in dealing with physician supply. The subcommittee will draft a chapter for the first report of the Council. The chapter is expected to include results of its review and analyses of studies and recommendations made regarding physician manpower.

Agenda

Agenda items include: (1) Subcommittee review of selected tabulations and analyses developed for assessing the adequacy of physician manpower supply in the aggregate for primary care; (2) Preliminary conclusions drawn by the Subcommittee on the adequacy of such a supply and; (3) Discussion/planning for the Public Hearing to be held in the fall.

Anyone requiring information regarding the subject Subcommittee should contact Jerald Katzoff, Subcommittee Principal Staff Liaison, Division of Medicine, Bureau of Health Professions, Room 4C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 30857. Telephone (301) 443–6364.

Agenda Items are subject to change as priorities dictate.

Date: July 21, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–17013 Filed 7–27–87; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Redelegations of Authorities to Positions in the Federal Disability Determination Service

The Social Security Administration (SSA) is establishing a Federal Disability Determination Service (FDDS) in SSA's Office of Disability to provide an ongoing capability to make disability determinations. The FDDS will employ this capability: (1) To carry out the responsibilities of the Secretary of Health and Human Services (the Secretary), under section 221(b) of the Social Security Act, as amended (the Act), if the Secretary should take over the disability determination functions from a State or States; (2) to provide temporary, emergency assistance to a State or States; and (3) to process certain regular, ongoing workloads.

In order to carry out the functions to be performed by the FDDS, it is necessary to provide FDDS positions with various formal authorities required to adjudicate individual cases under the jurisdiction of the FDDS. Accordingly, notice is hereby given that the Commissioner of Social Security has approved the following redelegations of authorities to the FDDS positions specified below:

A. Authorities Under Title II of the Act

1. Authority to make determinations of disability and authority to make findings of fact and decisions relating to periods of disability, under section 221(g) of the Act.

2. Authority to review determinations of disability and authority to take action in such cases reviewed, as provided under section 221(c) of the Act.

3. Authority to make findings of fact and decisions which constitute initial determinations under title II of the Act, as defined in 20 CFR § 404.902, under section 205(b) of the Act.

4. Authority to make findings of fact and decisions which do not constitute initial determinations under title II of the Act, as defined in 20 CFR 404.903, under section 205(b) of the Act.

B. Authorities Under Title XVI of the Act

1. Authority to make findings of fact

and decisions regarding the existence, absence, duration or continuation of disability of blindness, under section 1614 of the Act.

2. Authority to make findings of fact and decisions affecting Supplemental Security Income (SSI) claimants, under sections 1602, 1611–1616, 1631 and 1633 of the Act.

3. Authority to make findings of fact and decisions as to the presumption that individuals applying for SSI benefits are disabled or blind, within the meaning of section 1614 of the Act, prior to completion of a formal determination of disability or blindness, and authority to authorize payment of benefits to such individuals presumptively eligible for not more than 3 months, under sections 1614(a), 1631(a)(4)(B) and 1633 of the Act.

4. Authority to determine whether individuals eligible for SSI payments, and medically determined to be drug addicts or alcoholics, are complying with the terms and conditions of appropriate available treatment, under section 1611(e)(3) of the Act.

5. Authority to review initial determinations and make reconsideration determinations in cases involving SSI claimants who are in disagreement with determinations under section 1631(c) of the Act, including authority to make findings as to whether good cause exists for failure to request reconsideration of an initial determination within 60 days after receiving notice of such determination.

C. Authority Under Titles II and XVI of the Act

Authority to approve travel and advance of funds for claimants who attend medical examinations requested by the FDDS in connection with disability determinations, not to exceed a total amount of $250, under sections 201(j) and 1631(h) of the Act.

D. Authorities Under Title III of the Federal Property and Administrative Services Act of 1949, as Amended, and Implementing Regulations

1. Authority to purchase services of physicians and psychologists to perform medical or psychological examinations of disability claimants, not to exceed a total amount of $500 in any transaction, under pertinent provisions of the above law and regulations.

2. Authority to purchase medical evidence of record, laboratory tests, and any other medical tests necessary for disability determinations, not to exceed a total amount of $500 in any transaction, under pertinent provisions of the above law and regulations.

Delegates	Scope of authority
a. Social Insurance Claims Examiners (Disability), Office of Disability, Office of the Deputy Commissioner for Programs. b. All positions in the direct line of supervision above the positions described in item a. above.	a. and b. The incumbents of these positions may exercise all of the above authorities (A-D) with respect to any cases within the jurisdiction of the FDDS.

Conditions

(1) Further redelegations are not authorized.

(2) The above authorities must be exercised in accordance with all pertinent provisions of law, regulations, operating instructions and other relevant requirements.

These redelegations are effective on the date that they are published in the Federal Register. I affirm and ratify any actions by the above delegates which may constitute the exercise of any of the subject authorities before that date.

Dated: July 15, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

[FR Doc. 87–17022 Filed 7–27–87; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–943–07–4111–13; NM NM 54249]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

Notice of proposed reinstatement of terminated oil and gas lease, United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2–3, Chesterfield July 1982, petitioned for reinstatement of oil and gas lease NM NM 54249 covering the following described lands located in Eddy County, New Mexico:

T. 23 S., R. 22 E., NMPM, New Mexico,
Sec. 20, S½.
Containing 320.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, April 1, 1987.

Date: July 14, 1987.

Delores L. Vigil,

Chief, Adjudication Section.

[FR Doc. 87–16980 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–FB–M

[WY–920–07–4111–15; W–0316919]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–0316919 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $7 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–0316919 effective June 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87–17034 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–07–4111–15; W–0316920]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–0316920 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $7 per acre, or

fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–0316920 effective June 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87–17035 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–07–4111–15; W–0316921]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–0316921 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessees have agreed to the amended lease terms for rentals and royalties at rates of $7 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–0316921 effective June 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87–17036 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–22–M

[AZ–940–07–4212–12; A–22448]

Realty Action; Arizona

July 17, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance.

SUMMARY: On May 12, 1987, the United States issued two conveyance documents to the State of Arizona pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), for the following described land:

Gila and Salt River Meridian, Arizona

T. 5 N., R. 4 E.,
Sec. 6, lots 6 and 7, E½SW¼;
Sec. 7, lot 1.
T. 6 N., R. 3 E.,
Sec. 36, lots 14 and 21.
T. 6 N., R. 4 E.,
Sec. 4, lot 11;
Sec. 7, S½NE¼, N½SE¼;
Sec. 8, NE¼SE¼;
Sec. 9, lot 1, SE¼NE¼, NE¼SE¼, S½SE¼.
T. 7 N., R. 2 E.,
Sec. 26, NE¼NE¼, N½NW¼NE¼.
T. 11 N., R. 3 E.,
Sec. 19, lot 1.
T. 20 N., R. 11 E.,
Sec. 22, NW¼NE¼.
T. 23 N., R. 11 E.,
Sec. 32, lots 1, 3 and 4, W½ (surface only).
T. 24 N., R. 11 E.,
Sec. 6, lots 1–4, incl., S½S½.
T. 25 N., R. 11 E.,
Sec. 30, W½W½.
T. 26 N., R. 10 E.,
Sec. 34, W½W½, E½SW¼.
T. 27 N., R. 10 E.,
Sec. 6, lots 1–4, incl., S½N½, S½;
Sec. 18, all;
Sec. 20, all;
Sec. 30, all.
T. 17 N., R. 12 W.,
Sec. 1, SW¼SW¼.
T. 18 N., R. 11 W.,
Sec. 17, NW¼NW¼.
T. 18 N., R. 12 W.,
Sec. 16, all (surface only);
Sec. 29, SW¼SW¼;
Sec. 32, all (surface only).
T. 18 N., R. 13 W.,
Sec. 2, lots 1–4, incl., S½N½, S½ (surface only);
Sec. 36, all (surface only).
T. 19 N., R. 12 W.,
Sec. 21, all (SE¼NE¼, W½NW¼, S½, surface only).
T. 19 N., R. 13 W.,
Sec. 2, lots 1–4, incl., S½N½, S½ (surface only);
Sec. 7, lots 1–4, E½, E½W½ (surface only);
Sec. 32, N½NE¼, SE¼NE¼, W½, SE¼ (surface only);
Sec. 36, all (surface only).
T. 20 N., R. 13 W.,
Sec. 36, all (surface only).
T. 21 N., R. 12 W.,
Sec. 4, SE¼.
T. 22 N., R. 14 W.,
Sec. 9, SW¼SW¼.
T. 22 N., R. 15 W.,
Sec. 13, S½SW¼, SW¼SE¼;
Sec. 23, NE¼NE¼;
Sec. 34, N½NW¼, SW¼NW¼.
T. 23 N., R. 14 W.,
Sec. 36, lots 1–4, incl., NW¼NW¼ (surface only).
T. 25 N., R. 1 W.,
Sec. 30, N½NE¼.

The areas described comprise 11,649.59 acres in Coconino, Maricopa, Mohave and Yavapai Counties.

The purpose of this notice is to inform the public and interested local government officials of the transfer of public land and the acquisition of State land by the Federal Government.

The State land reconveyed to the United States is described as follows:

Gila and Salt River Meridian, Arizona

T. 5 N., R. 2 W.,
Sec. 5, East 330' of lot 1, E½E½SE¼NE¼, E½E½E½SE¼.
T. 11 N., R. 11 W.,
Sec. 13, N½;
Sec. 14, N½.
T. 11 N., R. 15 W.,
Sec. 8, E½;
Sec. 16, N½, SW¼.
T. 12 N., R. 14 W.,
Sec. 16, all;
Sec. 32, NW¼, W½SW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
T. 12 N., R. 15 W.,
Sec. 2, lots 1–4, incl., NW¼SW¼.
T. 12 N., R. 16 W.,
Sec. 16, SE¼SE¼.
T. 13 N., R. 13 W.,
Sec. 16, all;
Sec. 32, all;
Sec. 36, all.
T. 13 N., R. 14 W.,
Sec. 16, all;
Sec. 32, all;
Sec. 36, all.
T. 13 N., R. 15 W.,
Sec. 16, all;
Sec. 32, all.
T. 13 N., R. 16 W.,
Sec. 36, all.
T. 14 N., R. 12 W.,
Sec. 2, lots 1–4, incl., S½N½, S½;
Sec. 16, all.
T. 15 N., R. 10 W.,
Sec. 2, lots 1–4, incl., S½N½, S½;
Sec. 16, S½.
T. 15 N., R. 13 W.,
Sec. 12, NW¼NW¼;
Sec. 16, all;
Sec. 32, all.
T. 16 N., R. 10 W.,
Sec. 36, all.
T. 16 N., R. 13 W.,
Sec. 2, lots 1–4, incl., S½N½, S½;
Sec. 32, all.
T. 16½ N., R. 12 W.,
Sec. 32, all.
T. 17 N., R. 12 W.,
Sec. 4, lots 1–4, incl., S½N½, S½;
Sec. 6, lots 1–7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, all;

Sec. 16, all;
Sec. 18, lots 1–4, incl., E½W½, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 28, all;
Sec. 30, lots 1–4, incl., E½, E½W½;
Sec. 32, all;
Sec. 34, all.
T. 17 N., R. 13 W.,
Sec. 2, lots 1 and 2, S½NE¼.
T. 17 N., R. 14 W.,
Sec. 36, NE¼NW¼, E½SW¼.
T. 18 N., R. 13 W.,
Sec. 26, W½SW¼;
Sec. 34, all.
T. 19 N., R. 19 W.,
Sec. 16, N½, N½SW¼, SW¼SW¼, SE¼.
T. 19 N., R. 20 W.,
Sec. 2, SE¼NE¼, SW¼NW¼, S½S½.
T. 21 N., R. 17 W.,
Sec. 32, E½NW¼, NE¼SW¼, NW¼SE¼.
T. 21 N., R. 20 W.,
Sec. 2, lot 4;
Sec. 36, lots 1–4, W½E½, W½.
T. 22 N., R. 19 W.,
Sec. 2, lots 1–4, incl., S½N½, S½.
T. 22 N., R. 20 W.,
Sec. 2, lots 1 and 2, S½NE¼, SE¼;
Sec. 32, NW¼SW¼, S½SW¼;
Sec. 36, E½SE¼, SW¼SE¼.
T. 22 N., R. 21 W.,
Sec. 2, lots 1–4, incl., S½N½, S½.
T. 23 N., R. 17 W.,
Sec. 3, SE¼;
Sec. 4, lots 1–4, incl., S½N½, W½SW¼, SE¼SW¼, SE¼;
Sec. 10, all;
Sec. 15, S½N½;
Sec. 22, all;
Sec. 23, SW¼NW¼,. N½SW¼, SW¼SW¼;
Sec. 26, W½NW¼.
T. 23 N., R. 20 W.,
Sec. 36, all.
T. 24 N., R. 16 W.,
Sec. 2, lots 2–4, incl., S½NW¼, NW¼SW¼.
T. 24 N., R. 17 W.,
Sec. 2, lot 3.
T. 24 N., R. 18 W.,
Sec. 2, lot 4.
T. 24 N., R. 21 W.,
Sec. 2, lots 1–3, incl., S½NE¼.
T. 25 N., R. 15 W.,
Sec. 2, lot 4.
T. 25 N., R. 16 W.,
Sec. 32, W½NW¼, SE¼NW¼.
T. 25 N., R. 18 W.,
Sec. 2, lots 1–4, incl., S½N½, S½.
T. 25 N., R. 19 W.,
Sec. 36, all.
T. 25 N., R. 21 W.,
Sec. 12, all (surface only).
T. 26 N., R. 18 W.,
Sec. 24, all;
Sec. 26, all;
Sec. 34, NE¼, E½NW¼, S½.
T. 26 N., R. 21 W.,
Sec. 2, NE¼SE¼, S½SE¼.
T. 27 N., R. 17 W.,
Sec. 2, E½SE¼.
T. 27 N., R. 19 W.,
Sec. 14, all;
Sec. 30, lots 1–4, Incl., E½, E½W½.
T. 27 N., R. 21 W.,
Sec. 32, S½SE¼.
T. 28 N., R. 15 W.,
Sec. 32, lots 1 and 2, W½, W½SE¼, SE¼SE¼.
T. 28 N., R. 16 W.,
Sec. 36, NE¼SE¼, S½SE¼.
T. 28 N., R. 17 W.,
Sec. 32, S½S½;
Sec. 36, S½S½.
T. 28 N., R. 18 W.,
Sec. 2, lots 1–4, incl., S½N½, S½;
Sec. 36, all.
T. 28 N., R. 20 W.,
Sec. 16, SE¼;
Sec. 32, S½SE¼;
Sec. 36, all.
T. 29 N., R. 15 W.,
Sec. 16, lots 1–4, incl.;
Sec. 32, all.
T. 29 N., R. 17 W.,
Sec. 36, all.
T. 30 N., R. 15 W.,
Sec. 32, W½.
T. 30 N., R. 16 W.,
Sec. 36, NE¼, N½NW¼.
T. 20 S., R. 21 E.,
Sec. 8, all;
Sec. 9, lots 1–4, W½W½ (surface only);
Sec. 17, all.
T. 21 S., R. 18 E.,
Sec. 16, N½, W½SW¼, SE¼SW¼.
T. 21 S., R. 21 E.,
Sec. 12, S½SE¼;
Sec. 13, N½NE¼.
T. 21 S., R. 22 E.,
Sec. 7, lots 3 and 4;
Sec. 19, N½NE¼;
Sec. 20, lots 1–3, incl., N½NW¼, N½SE¼;
Sec. 29, lots 1–3, incl.
T. 22 S., R. 21 E.,
Sec. 12, lots 2–4, incl., SW¼SE¼.

The land reconveyed from the State comprises a total of 42,694.47 acres in Cochise, La Paz, Maricopa, Mohave, Santa Cruz and Yavapai Counties.

FOR FURTHER INFORMATION CONTACT: Angela Mogel, Arizona State Office, (602) 241–5534.

SUPPLEMENTARY INFORMATION: This exchange enabled the State of Arizona to acquire land with development potential and enabled the United States to acquire land containing high multiple resource values. The exchange was made based on approximately equal values. The public interest was well served by the completion of this exchange.

Marsha L. Luke,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–17037 Filed 7–27–87; 8:45 am]

BILLING CODE 4310–32–M

[WY–940–07–4520–12]

Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., July 17, 1987.

Sixth Principal Meridian

T. 51 N., R. 75 W.

The plat representing the dependent resurvey of the exterior boundaries and the subdivisional lines, T. 51 N., R. 75 W., Sixth Principal Meridian, Wyoming, Group No. 481, was accepted July 10, 1987.

T. 51 N., R. 76 W.

The plat representing the dependent resurvey of the Ninth Auxiliary Meridian West, through T. 51 N., between Rs. 76 and 77 W., the south and north boundaries and the subdivisional lines, T. 51 N., R. 76 W., Sixth Principal Meridian, Wyoming, Group No. 481, was accepted July 10, 1987.

T. 15 N., R. 83 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 9, T. 15 N., R. 83 W., Sixth Principal Meridian, Wyoming, Group No. 480, was accepted July 10, 1987.

T. 47 N., R. 86 W.

The plat representing the dependent resurvey of portions of the north and east boundaries, a portion of the subdivisional lines, and the subdivision of certain sections, T. 47 N., R. 86 W., Sixth Principal Meridian, Wyoming, Group No. 429, was accepted July 20, 1987.

T. 15 N., R. 92 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the metes and bounds survey of Lot 2, Section 17, T. 15 N., R. 92 W., Sixth Principal Meridian, Wyoming, Group No. 484, was accepted July 10, 1987.

T. 41 N., R. 106 W.

The plat representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the subdivision of section 19, T. 41 N., R. 106 W., Sixth Principal Meridian, Wyoming, Group No. 487, was accepted July 10, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 34 N., R. 113 W.

The plat representing the dependent resurvey of portions of the north and west boundaries, a portion of the subdivisional lines, and the subdivision of certain sections, T. 34 N., R. 113 W.,

Sixth Principal Meridian, Wyoming, Group No. 452, was accepted July 10, 1987.

T. 35 N., R. 113 W.

The plat representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the subdivision of section 31, T. 35 N., R. 113 W., Sixth Principal Meridian, Wyoming, Group No. 452, was accepted July 10, 1987.

T. 42 N., R. 114 W.

The plat representing the dependent resurvey of a portion of Homestead Entry Survey No. 199, the subdivision of section 2, and the metes and bounds surveys of Tract 37, and Lot 1, Section 2, T. 42 N., R. 114 W., Sixth Principal Meridian, Wyoming, Group No. 488, was accepted July 10, 1987.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: July 17, 1987.

Dennis D. Bland,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 87-17026 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-720136

Applicant: U.S. Fish & Wildlife Service, National Ecology Center, Fort Collins, CO

The applicant requests a renewal of their permit to take (harass, anesthetize, capture, weigh, measure, photograph, examine, radio-tag, and monitor) black-footed ferrets (*Mustela, nigripes*) and salvage dead black-footed ferrets and parts thereof, for purposes of scientific research and enhancement of propagation and survival. Activities are conducted in Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

PRT-720263

Applicant: William B. Karesh, Woodland Park Zoo, Seattle, WA

The applicant requests a permit to import up to 45 skin biopsy samples taken from orangutans (*Pongo pygmaeus*) both in the wild and held in captivity in Indonesia. Biopsies would be obtained using a projectile dart and would be used to study genetic variation among sub-species for the purpose of enhancement of propagation and survival of the species.

PRT-720209

Applicant: Mesker Park Zoo, Evansville, IN

The applicant requests a permit to reexport one captive-born male lion-tailed macaque (*Macaca silenus*) to the Fota Wildlife Park, Cork, Ireland for purposes of propagation.

PRT-720167

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one male black rhinoceros (*Diceros bicornis*) from the Natal Parks Board, Natal, Republic of South Africa, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the republic during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: July 23, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-17093 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 18, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 12, 1987.

Carol D. Shull,

Chief of Registration, National Register.

KENTUCKY

Fayette County

Lexington, *Southern Railway Passenger Depot*, 701 S. Broadway

LOUISIANA

Claiborne Parish

Marsalis vicinity, *Tulip Methodist Church*, Off LA 518 on unmarked rd.

MISSOURI

St. Louis (Independent City)

Goodfellow—Julian Concrete Block District, Roughly bounded by Julian Ave., Blackstone, & Goodfellow Blvd.

NEW YORK

Bronx County

New York, *Grand Concourse Historic District*, 730—1000, 1100—1520, 1560, & 851—1675 Grand Concourse

Dutchess County

Chelsea, *Carman, Cornelius, House (Chelsea MRA)*, River Rd., S.
Chelsea, *Chelsea Grammar School (Chelsea MRA)*, Liberty St.
Chelsea, *Collyer, Capt. Moses W., House (Chelsea MRA)*, River Rd., S.
Chelsea, *St. Mark's Episcopal Church (Chelsea MRA)*, Liberty St.

Onondaga County

Fayetteville, *Snell, Levi, House*, 416 Brooklea Dr.

Otsego County

Cooperstown vicinity, *Middlefield District No. 1 School*, CR 35

OREGON

Clatsop County

Seaside, *Herschell, Allan, Two-Abreast Carousel (Oregon Historic Wooden Carousel TR)*, 300 Broadway

Marion County

Salem, *Court Street—Chemeketa Street Historic District*, Roughly bounded by Chemekeeta St., Mill Creek, Court, & Fourteenth St.

Multnomah County

Portland, *Herschell—Spillman Noah's Ark Carousel (Oregon Historic Wooden Carousel TR)*, E end of Sellwood Bridge
Portland, *Looff, Charles, Twenty-Sweep Menagerie Carousel (Oregon Historic Wooden Carousel TR)*, 25 SW Salmon St.
Portland, *Mangels, William F., Four-Row Carousel (Oregon Historic Wooden Carousel TR)*, 4033 SW Canyon Rd.
Portland, *Parker, C.W., Four-Row Park Carousel (Oregon Historic Wooden Carousel TR)*, *1492 Jantzen Beach Center*

Yamhill County

McMinnville, *McMinnville downtown Historic District*, Bounded by Fifth St., Southern Pacific RR tracks, Second, & N. Adams Sts.

WISCONSIN

Dane County

Madison, *Mills, Simeon, House*, 2709 Sommers Ave.

[FR Doc. 87-17021 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Intent To Transfer Administrative Jurisdiction; Central Valley Project, CA

AGENCY: Department of the Interior.

Subagency: Bureau of Reclamation, Interior.

ACTION: Notice of intent to transfer administrative jurisdiction over approximately 488 acres of land acquired by the Bureau of Reclamation, Department of the Interior, for the Red Bluff Reservoir, Central Valley Project, California, to the Forest Service, Department of Agriculture. The Forest Service proposes to manage these lands for recreation and other National Forest System purposes, along with other lands on the Mendocino National Forest. The lands to be transferred are located in six tracts located in Tehama County, California, in sections 20, 28, 29, and 33 of Township 27 North, Range 3 West, Mount Diablo Base and Meridian, and a portion of the Rio de Los Berrendos Rancho, a.k.a. Rancho El Primer Canon.

DATES: This action will become effective August 27, 1987.

ADDRESSES: Maps and complete legal descriptions of the lands over which the Bureau of Reclamation proposes to transfer jurisdiction to the Forest Service, can be seen and reviewed by contacting:

Mr. Gary Sackett, Assistant Regional Supervisor, Water and Power Resource Management, Mid-Pacific Regional Office, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825-1898, Telephone (916) 978-4933.

SUPPLEMENTARY INFORMATION: The lands proposed for transfer will be transferred under the authority vested in the Secretary of the Interior by section 7(c) of the Act of July 9, 1965, Pub. L. 89-72 (79 Stat. 217), and his delegation to the Commissioner of Reclamation dated February 25, 1966, published March 4, 1966 (31 FR 3462).

As prescribed by section 7(c) of Pub. L. 89-72, the lands, once transferred, will become National Forest lands, provided that all lands and waters within the Red Bluff Reservoir needed or used for the operation of the Central Valley Project, or for any other Reclamation purpose(s) shall continue to be administered by the Commissioner of Reclamation to the extent he deems necessary.

Date: July 21, 1987.

Terry P. Lynott,

Acting Commissioner.

[FR Doc. 87-16996 Filed 7-27-87; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application; Arenol Chemical Corp.

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 16, 1987, Arenol Chemical Corporation of New Jersey, a new applicant, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501), a basic class controlled substance in Schedule II.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (August 27, 1987).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: July 22, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-17002 Filed 7-27-87; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Arenol Chemical Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 16, 1987, Arenol Chemical Corporation of New Jersey, a new applicant, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100)	II
Methamphetamine, its salts, isomers, and salts of its isomers (1105)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 27, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-17003 Filed 7-27-87; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Eli Lilly and Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 2, 1987, Eli Lilly and Company, 1249 South White River Parkway East Drive, Building 80, Indianapolis, Indiana 46285, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Nabilone (7379).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 27, 1987.

Dated: July 22, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-17004 Filed 7-27-87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-1]

Denial of Registration in Schedule II, Grant of Registration in Schedules III, IV, and V; With Restrictions; Donald P. Rocco

On November 26, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Donald P. Rocco, D.D.S. (Respondent) of 2029 North Main Street, P.O. Box 3677, Salinas, California 93912, seeking to deny an application executed by Respondent on September 5, 1985. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest as evidenced by (1) has conviction in the Superior Court of Los Angeles on December 21, 1976, of illegal sale of cocaine, a felony relating to controlled substances, and (2) his indication on applications for registration on September 12, 1983, and March 25, 1985, that he had not been convicted of a felony relating to controlled substances, or had never had a previous CSA registration revoked or denied.

Respondent requested a hearing by letter dated December 20, 1985. The hearing in this matter was held on June 3, 1986, in Los Angeles, California, and on September 18, 1986, in San Francisco, California before Administrative Law Judge Francis L. Young. On March 13, 1987, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. No exceptions were filed, and on June 10, 1987, Judge Young transmitted the record of the proceedings to the Administrator of DEA. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon the findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that on January 12, 1976, Respondent attempted to sell two ounces of pharmaceutical cocaine from his office supply to undercover officers in Los Angeles, California. He was subsequently charged with this offense and pled guilty in a Los Angeles Court. This was a felony conviction relating to controlled substances. On January 14, 1976, two days after Respondent's attempted sale of cocaine in Los Angeles, a Diversion Investigator from DEA's San Francisco office attempted to contact the Respondent at his office in Livermore, California. When told by his receptionist that a DEA Investigator was waiting to see him, Respondent fled through the rear door of his office. On the following day, Respondent reported to the Livermore police that pharmaceutical cocaine had been stolen from his office the night before.

The Administrative Law Judge further found that in May of 1976, a DEA Diversion Investigator reviewed Respondent's records of controlled substances and ascertained that Respondent had received 19¼ ounces of pharmaceutical cocaine in a period of 20 months. Respondent later told the Investigator that he recorded the names of the patients to whom he administered the cocaine, but not the amounts.

On December 21, 1976, after a psychiatric evaluation, Respondent was placed on five years probation and ordered to spend the first 365 days in county jail. Respondent actually spent six months in custody. In May, 1977, while Respondent was still in jail, DEA issued him an Order to Show Cause, proposing to revoke his DEA Certificate of Registration AR1401102. At this time Respondent had been having serious domestic and emotional problems and was under psychiatric care. Respondent did not reply to the Order to Show Cause, and his registration was subsequently revoked on June 28, 1977. Notice of the revocation was sent to both Respondent and the attorney representing him at that time. In March, 1977, DEA returned the application for renewal of registration that Respondent had submitted in 1976, and directed him to resubmit the form along with another renewal form. The letter concluded that, "The renewal of the enclosed DEA forms will update your records to April 30, 1978." Respondent completed the forms, but never submitted them to DEA.

In August, 1978, Respondent entered into a stipulation with the California Board of Dental Examiners. Included in this stipulation was the provision that Respondent's license to practice dentistry in California would be placed on probation for five years. The stipulation also provided that Respondent would surrender his DEA registration AR1401102 for the period of probation.

On May 15, 1979, over two years after his conviction, Respondent obtained an order pursuant to Section 1203.4 of the California Penal Code which stated: "Plea of guilty or conviction is set aside: a plea of not guilty is entered; case is dismissed pursuant to Sec. 1203.4 Penal Code." At that time Respondent was advised by his then-attorney and by the judge entering the order that from that time forward he could answer a question asking whether he had been convicted of a felony in the negative. In 1979, Section 1203.4 of the California Penal Code was amended to require that those who had a conviction dismissed pursuant to its provisions must disclose the conviction to state and local licensing agencies. The amendment was effective January 1, 1980, after Respondent's conviction was dismissed.

On September 12, 1983, Respondent submitted an application for registration to DEA upon which he answered that he had not been convicted of a felony relating to controlled substances and that he had not had a previous CSA registration revoked or denied. He was issued a DEA registration. On March 25, 1985, Respondent submitted a renewal application upon which he also answered that he had not been convicted of a felony relating to controlled substances. Upon discovering that Respondent was registered, DEA issued an Order to Show Cause on May 30, 1985, proposing to revoke his registration. Respondent did not request a hearing and his registration was subsequently revoked by the

Administrator by an order dated August 19, 1985. The Administrator found that even though dismissed by Section 1203.4 of the California Penal Code, Respondent had still been convicted of a felony relating to controlled substances for purposes of the Controlled Substances Act.

Respondent testified at the hearing that he has an established dental practice in Salinas, California where he worked four days a week. He also teaches part time at the University of Southern California Dental School. There has been no adverse information regarding Respondent since his release from incarceration.

The Administrative Law Judge found that Respondent appears to be a well-adjusted, practicing dentist who has occasional need for controlled substances in his practice, but did not show a specific need for Schedule II controlled substances. The Administrative Law Judge recommended that Respondent be granted a DEA registration as a practitioner in Schedules III, IV and V only. The Administrator adopts the proposed findings of fact, conclusions of law and decision of the Administrative Law Judge in its entirety. The Administrator finds that Respondent's conduct with regard to handling controlled substances in 1975 and 1976 was totally unacceptable. He purchased inordinate amounts of cocaine allegedly for his dental practice. He sold some of this pharmaceutical cocaine to undercover agents, tried to hide from a DEA Investigator, and reported an apparently false theft to local police. While the Administrator notes with approval that Respondent seems to have been successfully rehabilitated he is cautioned by Respondent's past behavior. The Administrator therefore finds that Respondent's DEA registration in Schedules III, IV, and V shall be subject to the following restrictions:

1. Respondent to report quarterly to the DEA San Francisco office all prescribing and dispensing of controlled substances. This report shall include the date of prescribing or dispensing; and the name, strength, dosage form, and quantity of controlled substance prescribed or dispensed.

2. Respondent will be subject to at least one unannounced inspection of his practice by DEA Diversion Investigators during the first year of his registration.

3. Respondent to comply with all laws and regulations relating to the handling of controlled substances.

Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator hereby orders that Respondent's application for registration in Schedules II and IIN, be, and it hereby is, denied. The Administrator further orders that Respondent be granted a registration in Schedules III, IIIN, IV and V subject to the restrictions listed above. This order is effective upon publication.

Dated: July 23, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-17057 Filed 7-27-87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87-9]

Denial of Application; White and Associates

On December 4, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to White and Associates (Respondent) of P.O. Box 1738, Colma, California 94014, an Order to Show Cause proposing to deny Respondent's application, executed on September 9, 1986, for registration as a researcher under 21 U.S.C. 823(f). The statutory basis for the proposed denial was that the registration of White and Associates would be inconsistent with the public interst as defined in 21 U.S.C. 823(f) and, more specifically, that Respondent was not authorized by the State of California to dispense, conduct research with respect to, or in any manner handle controlled substances.

In a letter dated January 21, 1987, Respondent, proceeding pro se, requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Francis L. Young. The Administrative Law Judge provided the Government with an opportunity to file a motion for summary disposition, which was filed and to which Respondent filed a response. Judge Young considered the motion for summary disposition and the response thereto and, on March 23, 1987, issued his opinion and recommended ruling, findings of fact and conclusions of law in this matter.

The Administrative Law Judge found that Respondent applied to the Drug Enforcement Administration (DEA) for registration under 21 U.S.C. 823(f) for registration as a "researcher." White and Associates represents itself to be a private investigation and security firm licensed as such by the State of California. White and Associates is not authorized by the State of California to dispense, conduct research with, or in any manner handle controlled substances. Respondent desired to be able, lawfully, to handle controlled substances uncovered in the course of its investigative and security work for private clients.

Respondent's application presents a case of first impression in this Agency. A close reading of the applicable statutory provisions, however, provides a clear answer as to whether or not Respondent can be registered under 21 U.S.C. 823(f). This section provides for the registration of "practitioners." The term "practitioners" is defined at 21 U.S.C. 802(21) as follows:

> (2) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

Respondent has not shown that it is "licensed, registered, or otherwise permitted, by the United States or the jurisdiction [California] in which [it] practices or does research, to distribute, dispense * * * or use in * * * chemcial analysis, a controlled substance * * *." Since it has not made such a showing, DEA has no statutory authority to register Respondent pursuant to 21 U.S.C. 823(f).

Respondent is licensed under California law as a private investigator. A private investigator is defined in Section 7521(a) of the California Business and Professions Code. A review of the applicable code indicates that the Respondent is not authorized as a private investigator by the State of California to handle controlled substances. Section 11367 of the California Health and Safety Code, which is part of the California Uniform Controlled substances Act (CSA), provides immunity from prosecution for law enforcement officers and those acting under their direction, similar to exemptions found in the Code of Federal Regulations. This section states:

> All duly authorized peace officers, while investigating violations of this division in performance of their official duties, and any person working under their immediate direction, supervision or instruction, are immune from prosecution under this division.

This provision of California law provides a mechanism for Respondent to handle controlled substances, on the rare occasions in which he might encounter them, by contacting a local law enforcement agency and acting under their supervision or pursuant to their instructions. Mr. White, however,

in his request for a hearing on behalf of White and associates, indicated that he "does not desire to operate as the agent of a governmental law enforcement agency, for obvious legal reasons." Because he does not choose to operate within the confines of the system open to him is no reason for DEA to issue him a DEA registration. If DEA registered private investigators to handle controlled substances, a class of individuals not contemplated by Congress would have the authority to procure, distribute and dispense controlled substances.

The administrative Law Judge found that while Respondent may be conducting a perfectly respectable and legitimate business, White and Associates is a firm licensed solely to conduct private investigations. They are not researchers; they are not practitioners as that term is defined by the Controlled Substances Act; they are not authorized under United States or California law as private investigators to handle controlled substances. Respondent's failure to demonstrate that it is permitted under United States or California law to engage in one of the activities identified in the definition of the term "practitioner" precludes registration as a practitioner by DEA under U.S.C. 823(f). The Adminstrative Law Judge recommended that Respondent's application be denied.

The Administrator adopts the findings of fact, conclusions of law and recommendation of the Adminstrative Law Judge in its entirety. The Administrator concludes that approval of Respondent's application would be inconsistent with the public interest and thus, should be denied. There is a lawful basis for this denial.

Accordingly, the Administrator of the Drug Enforcement Adminstration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration executed by White and Associates on September 9, 1986, be denied. The Administrator further orders that any pending applications for registration be, and they hereby are, denied. This order is effective August 27, 1987.

Dated: July 23, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-17058 Filed 7-27-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; A&L Secuman, et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 7, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 7, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
A&L Seaman (LGPHNWU)	Bayshore, NY	7/20/87	7/1/87	19,909	Leather Goods.
Adell Sportswear Co., Inc. (ILGWU)	Brooklyn, NY	7/20/87	7/13/87	19,910	Skirts & Pants.
American Acceptance, Corp. (Workers)	Norristown, PA	7/20/87	7/10/87	19,911	Banking.
Cachuma Drilling Corp. (Workers)	Burnel, UT	7/17/87	7/11/87	19,912	Oil.
Cincy Sportswear, Inc. (ILGWU)	Cincinnati, OH	7/17/87	7/2/87	19,913	Shirts & Pants.
Donnelley Rocappi, Div. (Workers)	Cherry Hill, NJ	7/17/87	7/6/87	19,914	Typeset Proofs.
Eureka Pipe Line, Co. (OC&AW)	Parkersburg, WV	7/20/87	7/9/87	19,915	Oil.
Franklin Mint Company (Workers)	Franklin Center, PA	7/20/87	7/7/87	19,916	Pewter Figurines.
General Electric Co. (Workers)	Morristown, TN	7/20/87	7/10/87	19,917	Safety Switchboxes.
Precise Metals & Plastics, Inc. (Workers)	Cumberland, MD	7/20/87	7/7/87	19,918	Plastic Parts.
Roadmaster Corporation (Laborers)	Olney, IL	7/20/87	7/10/87	19,919	Exercise Equipment.
Simpson Timber Co., Columbia Door Div. (Millmen's)	Vancouver, WA	7/20/87	6/27/87	19,920	Doors.
Texas International, Co. (Workers)	Oklahoma City, OK	7/17/87	7/10/87	19,921	Oil & Gas.

[FR Doc. 87-17087 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,565 et al.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Damson Oil Corp., Drilling Department; Houston, TX

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 30. 1987 applicable to all workers of Damson Oil Corporation, Drilling Department, Houston Texas (TA-W-18,565). The Certification was published in the **Federal Register** on February 19, 1987 (52 FR 5210).

The intent of the Department was to include all workers in the Drilling Department of Damson Oil Corporation. However, subsequent to the issuance of the certification, State employment security agencies expressed uncertainty on the applicability of the certification to workers of the Drilling Department at locations outside the Houston area.

Therefore, the certification notice is amended to identify the locations in the State of Texas, Louisiana, and Mississippi where the Drilling Department of Damson Oil Corporation, maintains operations. The amended notice for certification TA-W-18,565, identifying operating locations of the Drilling Department of Damson Oil Corporation in Texas, Louisiana and Mississippi, is hereby issued as follows:

"All workers of the Drilling Department, Damson Oil Corporation, headquartered in Houston, Texas (TA-W-18,565) and operating in the States of Texas (TA-W-18,565A), Louisiana TA-W-18,565B), and Mississippi (TA-W-18,565C) who became totally or partially separated from employment on or after October 21, 1985 are eligible to apply for adjustment assistance under Section 233 of the Trade Act of 1974."

Signed at Washington, DC the 17th day of July 1987.

Barbara Ann Farmer,

Acting Director, Office of Program Management, UIS.

[FR Doc. 87-17092 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Fick Foundry Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 13, 1987-July 17, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-19,697; Fick Foundry Co., Tacoma, WA

TA-W-19,723; Cobble Muse Hoisery, Chattanooga, TN

TA-W-19,756; Fairchild Semiconductor Corp., Memory & High Speed Logic Div., Palo Alto, CA

TA-W-19,710; Meridian Oil, Inc., Gulf Coast Region, Houston, TX

TA-W-19,748; Vestal Manufacturing, Sweetwater, TN

TA-W-19,713; Patmore Coats, Paterson, NJ

TA-W-19,747; Tamarack Petroleum, Midland, TX

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-19,766; Mattel Toys, City of Industry, CA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,689; Aluminum Company of America, Point Comfort, TX

U.S. imports of alumina declined absolutely and relative to domestic production in 1986 compared to 1985.

TA-W-19,722; Arco Oil and Gas Co., Div. of ARCO (formerly Atlantic Richfield Co.), Data Management Dept., Lafayette, LA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,726; Flowline Corp., Perry Forge Div., Zelienople, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,801; Armor Cote Corp., Odessa, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,866; Tew Formation Texting, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,735; Mobil Producing Texas & New Mexico, Offshore Texas Div., The Woodlands, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-19,781; Hyster Co., Construction Equipment Div., Kewanee, IL

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-19,835; United States Lines, Cranford, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,861; Peak Products Co. Product Inc., Chicago, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,833; Prompt Knitgoods Processors Corp., Jersey City, NJ

U.S. imports of knit fabrics were negligible in 1985 and 1986, the ratio of imports to U.S. shipments was less than one person.

TA-W-19,760; Gates Energy Products, Inc., Paris, MO

The investigation revealed that criterion (1) and (2) have not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification

TA-W-19,734; Mobil Exploration Producing, Inc., Lafayett, LA

The worker's firm does not produce and article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,776; Comet Drilling Co., Eunice, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,808; Wilsey Foods, Bayonne, NJ

U.S. imports of shortening and cooking oils including margarine were negilgible.

TA-W-19,752; DCC, Inc., Miami, FL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,883; William J. Scully, Inc. Long Island City, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-19,741; Retour, Inc., Mansfield, PA

A certification was issued covering all workers of the firm on or after May 5, 1986 and before November 26, 1987.

TA-W-19,669; Dresscraft Co., Inc., Union City, NJ

A certification was issued covering all workers of the firm separated on or after May 11, 1986 and before March 22, 1987.

TA-W-19,570; Tru Stitch, Malone & Bombay, NY

A certification was issued covering all workers of the firm separated on or after April 3, 1986.

TA-W-19,732, Metal Carbides Corp., Youngstown, OH

A certification was issued covering all workers of the firm separated on or after May 13, 1986 and before March 31, 1987.

TA-W-19,718; WTG Exploration, Inc., Midland, TX

A certification was issued covering all workers of the firm separated on or after May 6, 1986.

TA-W-19,664; Celebrity, Inc., Bronx NY

A certification was issued covering all workers of the firm separated on or after May 4, 1986 and before January 31, 1987.

TA-W-19,827; G.H. Bass & Co., Berlin, NH

A certification was issued covering all workers of the firm separated on or after August 22, 1986.

TA-W-19,771; Tallassee Manufacturing Co., Tallassee, AL

A certification was issued covering all workers of the firm separated on or after May 21, 1986.

TA-W-19,707; ITT Courier Terminal Systems, Division of ITT Corp., Business Information System Group, Tempe, AZ

A certification was issued covering all workers of the firm separated on or after June 10, 1987.

I hereby certify that the aforementioned determinations were issued during the period July 13, 1987–July 17, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: July 21, 1987.

[FR Doc. 87-17088 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,238 et.al.]

Dismissals of Applications for Reconsideration; Heckett Engineering Co., Division of Harsco Corp., et al.

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of trade Adjustment Assistance for workers at the Heckett Engineering Company, Division of Harsco Corporation, Geneva, Utah, Schaper Manufacting Company, Lakesville, and Plymouth, Minnesota; General Electric Company, Consumer Electronics, Business Operations, Portsmouth, Virginia. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determinations. Therefore dismissals of the applications were issued.

TA-W-19,238; Heckett Engineering Company, Division of Harsco Corp., Geneva, Utah (July 10, 1987)

TA-W-19,407-TA-W-409; Schaper Manufacturing Company Lakeville and Plymouth, Minnesota (July 14, 1987)

TA-W-19,522; General Electric Company, Consumer Electronics Business Operations, Portsmouth, Virginia (July 20, 1987)

Signed at Washington, DC this 21st day of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-17089 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-156-C]

Petition for Modification of Application of Mandatory Safety Standard; Belva Contracting Co.

Belva Contracting Company, HC 81, Box 2114, Barbourville, Kentucky 40906, has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 1 Mine (I.D. No. 15-15914) 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 statement 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 27, 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 20, 1987.

[FR Doc. 87-17090 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-149-C]

Petition for Modification of Application of Mandatory Safety Standard; Northwestern Resources Co.

Northwestern Resources Company, P.O. Box 915, Jewett, Texas 75846 has filed a petition to modify the application to 30 CFR 77.216-3(a) (water sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards) to its Jewett Mine (I.D. No. 41-03164) located in Leon County, Texas. 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 all water sediment or slurry impoundments be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions which meet the requirements of § 77.216(a).

2. Petitioner states that the impoundment is used to accumulate sediment deposited by runoff received and to retain runoff received from events as large as a 10 year-24 Hour Event.

3. As an alternate method, petitioner proposes to examine the impounding structure at intervals not exceeding 31 days, or when the structure exceeds 50% of its design runoff volume, in which case the impounding structure would be examined at intervals not exceeding seven days.

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 27, 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 20, 1987.

[FR Doc. 87-17091 Filed 7-27-87; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974; Amendment of System of Records

Notice is hereby given of an amendment to NSF System of Records No. 43, entitled "Roster and Surveys of Doctorate Holders in the United States," which was inadvertently omitted from the *Privacy Act Compilation of 1985*, Vol. V. Changes are being made to list the system as jointly owned by the National Science Foundation, the National Institutes of Health, and the Department of Energy, with the National Science Foundation being the controlling agency; to amend the system location and uses the reflect this joint ownership; and to change the system name to "Doctorate Work History File." Interested persons are invited to submit written data, views, or arguments to the Director, National Science Foundation, Attn: NSF Privacy Act Officer, 1800 G. Street, NW., Washington, DC 20550, within 30 days from the publication of this notice.

NSF-43

SYSTEM NAME:

Doctorate Work History File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Academy of Sciences, 2101 Constitution Avenue, NW, Washington, D.C. 20418; National Institutes of Health, Buildings 1 and 12, 9000 Rockville Pike, Bethesda, MD 20892; and Department of Energy, 1000 Independence Avenue SW., Washington, DC. 20585

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes individuals holding the Ph. D. and other equivalent earned doctoral degrees and located in the United States. The surveys are directed to samples of this population. Currently, the areas of science, engineering, and the humanities are includes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic, educational, and professional characteristics of doctorate holders. Included are such parameters as age, race, geogrpahic location, earned degrees, major subject of degree, employment status, fields of employment, type of employer, primary work activity, and salary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for collection of information from scientists and engineers is provided by section I (3)(a)(6), (4)(j)(1) (42 U.S.C. 1862); Section II (37) (42 U.S.C. 1885d); National Science Foundation Act of 1950, as amended.

PURPOSES:

This system is used:

1. To provide a source of information on demographic, educational, and employment characteristics of doctorate-holders in the United States, in compliance with Foundation responsibilities to monitor scientific and technical resources.

2. To provide indicators of the state of science and engineering in the United States, as required by congressional mandate.

3. To report biennially on the participation and employment of men and women by race and by ethnic group, in scientific and technical fields, as required by congressional mandate.

4. To provide the data base of doctorate-holders in science and engineering for the Scientific and Technical Personnel Data System maintained by the Foundation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the federal sponsors listed under "System location" above, their contractors and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. All users of the system are required to comply with the requirements of the Privacy Act with respect to such records.

2. Records are disclosed to the National Institutes of Health for review and evaluation of its programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes and questionnaires are kept by the National Academy of Sciences. Computer tapes are kept by the National Science Foundation, the National Institutes of Health, and the Department of Energy.

RETRIEVABILITY:

Alphabetically by last name of individuals.

SAFEGUARDS:

Data are kept in secured areas with access limited to authorized personnel. Questionnaires, in paper copy or in microfiche, are kept in locked cabinets. Published findings are in formats which preclude individual identification.

RETENTION AND DISPOSAL:

Computer tapes are kept indefinitely by the National Academy of Sciences for use by the project in fulfilling its responsibilities described above under "Purposes".

SYSTEM MANAGER(S) AND ADDRESS:

Division Directors, Science Resources Studies, National Science Foundation, 1800 G. St. NW. Washington, DC 20550.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager and provide the following information:

1. System Name: Doctorate Work History File
2. Complete name at time degree was awarded
3. Complete birth data and institution awarding degree (to distinguish among duplicate names, if necessary).

RECORD ACCESS PROCEDURES:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Information obtained voluntarily from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: July 21, 1987.

Herman G. Fleming,

NSF Privacy Act Officer.

[FR Doc. 87-16833 Filed 7-27-87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Exemption; Northeast Nuclear Energy Co., (Millstone Nuclear Power Station, Unit No. 1)

I

The Northeast Nuclear Energy Company (the licensee), is the holder of Facility Operating License No. DPR-21, which authorizes the operation of the Millstone Nuclear Power Station, Unit No. 1, (the facility) at steady-state reactor core power levels not in excess of 2011 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (Commission) now or hereafter in effect.

The plant is a boiling water reactor (BWR) located at the licensee's site in the town of Waterford, Connecticut.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Two of these fifteen subsections, III.G and III.J, are the subjects of this exemption request. Subsection III.G requires that fire protection features shall be provided for structures, systems, and components important to safe shutdown. Subsection III.J requires that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas as needed for operation of safe shutdown equipment and in access and egress routes thereto.

III

By letters dated November 21, 1985, August 22, 1986, and January 14, 1987, as supplemented by letters dated May 19 and 22, and July 18, 1986, and January 7, 1987, the licensee requested approval of ten exemptions from the technical requirements of sections III.G and III.J of 10 CFR Part 50, Appendix R. An earlier draft safety evaluation dated January 6, 1983, addressed the Appendix R cable vault requirements and concluded that an exemption was needed for this item. The staff has determined that six of the exemption requests are not necessary because the existing plant conditions meet the guidelines of Generic Letter No. 86-10. Details of the five remaining exemption requests and the evaluation of the six exemption requests that the staff concudes do not require exemptions are contained in the staff's related Safety Evaluation (the staff's Safety Evaluation identifies only five such requests, since two separate sprinkler requests were combined and considered as one).

The five remaining exemption requests are: (1) Shutdown Cooling Pump Room—Exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.G requirements for features capable of limiting fire damage such that systems necessary to achieve and maintain cold shutdown can be repaired within 72 hours.

(2) Unit 1 and Unit 2 Power Interconnect Cable Area—Exemption from 10 CFR Part 50, Appendix R, Section III.G.2 requirements for automatic fire detection and fire suppression systems in an area where redundant shutdown systems are separated by a 1-hour fire barrier.

(3) Emergency Lighting—Exemption from 10 CFR Part 50, Appendix R, Section III.J requirements for 8-hour battery powered emergency lighting units in access routes to locations required for safe shutdown after a fire.

(4) Drywell Liner—Exemption from 10 CFR Part 50, Appendix R, Section III.G requirements for redundant shutdown-related systems separation of at least 20 feet, free of intervening combustibles, and protected by automatic fire detection and suppression systems.

(5) Cable Vault (Fire Area T-16)—Exemption from 10 CFR Part 50, Appendix R, Section III.G.2 requirements for a complete one-hour-fire rated barrier between redundant related power train control cables.

Exemption 1—Shutdown Cooling Pump Room

The technical requirement of section III.G are not met in this area because the fire protection options delineated in section III.G.2 have not been provided to assure that cold shutdown systems in the reactor building can be repaired within 72 hours of a fire in this area. Fire Zone R-1B is the shutdown cooling pump room which also contains the cable penetration for the shutdown cooling and isolation condenser system valves in the drywell. The remainder of the reactor building forms Fire Zone R-1A and contains equipment and cable associated with the low pressure coolant injection (LPCI) and automatic depressurization systems (ADS).

The staff's principal concern was that a fire in the shutdown cooling pump room would spread into the other zone,

resulting in significant damage to systems from both cold shutdown pathways. However, the fire load within the shutdown cooling pump room is low. If a fire should occur, the existing smoke detection system within the room would actuate and transmit an alarm automatically to the control room. The fire brigade would be dispatched to the area to put out the fire using the available manual fire fighting equipment. Pending arrival of the brigade, the masonry walls surroundintg the room would tend to confine the smoke and hot gases within the area. Because of the open doorways, some quantity of smoke and hot gases could spread into adjoining areas, but would be so dissipated and cooled as to represent no threat to the shutdown systems in the adjoining locations.

Pending arrival of the fire brigade, for a fire in the reactor building outside of the shutdown cooling pump room, the hot smoke and gas layer would initially rise to the ceiling, away from the unprotected door openings into the shutdown cooling pump room. By the time this hot gas layer could reach the doorway, the fire brigade would have arrived and begun active fire suppression efforts. Therefore, the absence of fire-rated doors at these openings has no safety significance.

The staff concludes that the licensee's alternate fire protection provides an equivalent level of safety to that achieved by compliance with Appendix R and an exemption for the shutdown cooling pump room from the requirements of 10 CFR Part 50, Appendix R, Section III.G is acceptable.

Exemption 2—Unit 1 and Unit 2 Power Interconnect Cable Area

The technical requirements of Section III.G are not met in this area because automatic fire detection and suppression systems are not provided inside the duct bank at the manhole.

Two cables which supply power to a control rod drive pump are routed through a duck bank, featuring a manhole, located on the ground floor of the turbine building. These same cables are routed in two conduits from the point they leave the duct bank to the yard area, a distance of approximately 80 feet.

Existing fire protection includes: an automatic deluge system for the hydrogen seal oil unit; automatic sprinkler systems in an area of cable concentration and in the vicinity of each reactor feed pump lubricating oil system; a smoke detection system as described in the licensee's November 21, 1985, letter; and manual fire fighting equipment. The licensee also committed, in the referenced letter, to enclose the two cables in the manhole and the conduits in a 1-hour fire-rated barrier.

The staff's principal concern was that a fire of significant magnitude could damage the subject power cables. However, major fire hazards within the turbine building have been mitigated by the automatic fire protection system described above. The remaining combustible material is limited in quantity and generally dispersed throughout the building. A fire involving such material would be characterized, initially, by slow burning and limited room temperature rise. It is expected that such a fire would be detected by the existing fire detection systems or by plant operators. The fire brigade would be subsequently dispatched to put out the fire using the installed portable fire fighting equipment. Pending arrival of the brigade, the proposed 1-hour fire-rated barrier would assure that the subject power cables would remain free of fire damage. The barrier will have sufficient fire resistance, with conservative margin, to withstand the effects of a fire. Therefore, additional fire detection and suppression systems are not necessary to assure safe plant shutdown following a fire.

The staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with Appendix R and an exemption for the Unit 1 and Unit 2 power interconnect cable area from the requirements of 10 CFR Part 50, Appendix R, Section III.G is acceptable.

Exemption 3—Emergency Lighting

The technical requirements of section III.J are not met in the yard area because 8-hour battery powered lighting units have not been provided in access routes to locations required for safe shutdown.

The licensee has stated that it is not feasible to install battery powered lighting units in these outdoor locations so as to provide an adequate level of illumination throughout the path of travel. Instead, the licensee proposes to use flashlights for the path of travel outdoors. The license also will use flashlights in the locations in which a fire occurs in conjunction with fire fighting and post-fire recovery activities.

The staff had three concerns with the licensee's proposal: 1. The flashlights might not be maintained in an operable condition for use in an emergency. However, the licensee committed to control access to and to maintain the flashlights so as to be assured of their availability and operability when needed.

2. There might be obstructions or tripping hazards in the route of travel that might not be revealed with the beam of a flashlight. Based on past observations of the proposed route, no such conditions exist.

3. In proceeding across the yard area, the operator could be required to use both hands, which would effectively prevent him from using the flashlight. However, the licensee has indicated that no such actions are necessary.

The staff concludes that the use of flashlights is an acceptable alternative fire protection configuration equivalent to that achieved by conformance with the requirements of 10 CFR Part 50, Appendix R, Section III.J and an exemption from these requirements for the outside yard area is acceptable.

Exemption 4—Drywell Liner

The technical requirements of Appendix R are not met in the drywell liner because redundant shutdown systems are not separated/protected per the fire protection options delineated in section III.G.

The containment drywell consists of a steel liner, which contains the reactor pressure vessel, surrounded by a concrete shield wall. Due to the thermal expansion requirements of the steel liner a gap must be maintained between the liner and the concrete wall. The licensee has identified redundant instrument tubing and electrical penetrations for shutdown related systems within this void space which are not separated/protected over the fire protection options identified in section III.G of Appendix R.

The licensee has stated that there are no ignition sources, except for welding operations, in the vicinity of the drywell. However, cutting and welding is prohibited in the drywell area while the unit is at power. Cutting and welding operations during outages are covered by procedures which assure that the risk of fire is low.

The staff's concern was that an exposure fire of significant magnitude would damage redundant shutdown divisions within liner area. However, because of the construction and configuration of the liner, there is no credible ignition source other than those in conjunction with cutting and welding. Because no cutting and welding is permitted at the liner during plant operations and because outage-related hot work is covered by procedures designed to prevent fires, the staff has reasonable assurance that fires within the liner are not a significant hazard to safe plant operation. In the unlikely event of a fire, the amount of plastic

within the liner gap is not sufficient, in the staff's judgement, to represent a threat to the safe shutdown related system located there.

The staff concludes that the licensee's alternate fire protection configuration represents an equivalent level of safety to that achieved by compliance with Appendix R and an exemption for the drywell space from 10 CFR Part 50, Appendix R, Section III.G requirements is acceptable.

Exemption 5—Cable Vault (Fire Area T–16)

The technical requirements of section III.G are not met because one train of the shutdown related cables is not completely enclosed in a one-hour fire-related barrier.

The room is bounded by walls, floor and ceiling of reinforced concrete and solid concrete block. The redundant cables are located in separate, totally enclosed, metal cable trays that are vertically separated by a distance of approximately 2 feet. One-inch thick maronite boards are located on top of the S–2 cable tray to act as a radiant energy shield.

Existing fire protection includes: 1. A smoke detection system,

2. An independent smoke and heat removal system,

3. Manual hose stations, and

4. Portable fire extinguishers.

The licensee has installed a complete, area-wide, automatic fire suppression system, i.e., Halon 1301 fire suppression system.

The staff's concern was that one train of the shutdown-related cables does not have sufficient passive fire protection, such as a barrier or spatial separation, to keep it free of damage until the postulated fire self extinguishes or is suppressed by the fire brigade, or by the automatic fire suppression system.

The fire detection and suppression systems provide active protection but there is a time delay associated with their operation. During that time, safe shutdown components may be vulnerable to damage. The principal threat to cable is from convective and radiant heat. Once the fire suppression system activates, this threat will be effectively eliminated. Cable insulation in the trays represent the only identified combustible material. The cables are coated with a fire retardant, which will prolong the time to cable ignition and will decrease flame propagation rate. The enclosed metal cable trays and the maronite board radiant heat shield will tend to limit damage to one shutdown division. In addition, the smoke and heat removal system will limit the temperature rise in the room.

It is the staff's judgment, that the reduced combustibility of the cable, combined with the spatial separation and physical fire barrier, between redundant safety systems will provide a sufficient time buffer to assure that one shutdown division is free of fire damage for the brief time span necessary for the automatic fire suppression system to effectively extinguish the fire.

The staff concludes that the licensee's alternate fire protection configuration will provide reasonable assurance that one safe shutdown division will be free of fire damage and will achieve an acceptable level of fire protection equivalent to that provided by section III.G.2 and an exemption for the cable vault from that requirement is acceptable.

The Commission has determined that, pursuant to 10 CFR 50.12, the exemptions as described in section III are authorized by law and will not endanger life or property or common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemption requests identified in section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of these exemptions will have no significant environmental impact (52 FR 12100, April 14, 1987).

A copy of the Commission's concurrent Safety Evaluation related to this action and the above referenced submittals by the licensee are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 17th day of July 1987.

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87–17075 Filed 7–27–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Environmental Assessment and Finding of No Significant Impact; Carolina Power & Light Co.

The U.S. Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Carolina Power & Light Company (the licensee), for the H.R. Robinson Steam Electric Plant, Unit No. 2, located in Darlington County, South Carolina.

Environmental Assessment

Identification of proposed action: The exemption would grant relief in 5 areas where fire protection features are not in conformance with the technical requirements of Appendix R to 10 CFR Part 50, Section III.J which requires 8 hour battery powered emergency lighting units in certain areas for safe shutdown and in access routes to these areas.

The exemption is responsive to the licensee's request dated June 29, 1984, as supplemented by letter dated January 16, 1985.

The Need for the proposed action: The proposed exemption is needed because the features described in the licensee's request regarding the existing fire protection lighting at its plant for emergency lighting are the most practical method for meeting the intent of Appendix R. Literal compliance would not significantly enhance the fire protection capability.

Environmental impacts of the proposed action: The proposed exemption will provide a degree of fire protection such that there is no increase in the risk of fires at the facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have 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 for the H.B. Robinson Steam Electric Plant, Unit No. 2, dated April 1975.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environment assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for the exemption dated June 29, 1984, as supplemented January 16, 1985, which are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, DC and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550.

Dated at Bethesda, Maryland, this 22 day of July 1987.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II.

[FR Doc. 87–17074 Filed 7–27–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Environmental Assessment and Finding of No Significant Impact; Sacramento Municipal Utility District

The United States Nuclear Regulatory Commission (the Commission) is considering the issuance of exemptions from specific requirements in Appendix R of 10 CFR Part 50 to Sacramento Municipal Utility District (SMUD, the licensee) for their Rancho Seco Nuclear Generating Station located in Sacramento County, California.

Environmental Assessment

Identification of the proposed action: The exemptions are related to sections III.G.2, III.G.3, and III.O in Appendix R of 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." Section III.G of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternate safe shutdown equipment independent of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1). Section III.O of Appendix R requires installation of a Reactor Coolant Pump (RCP) oil collection system capable of collecting and holding the entire lube oil inventory from all four RCP's.

The need for the proposed action: Because it is not possible to predict the specific conditions under which fire may occur and propagate, the design basis protective features are specific in the rule rather than the design basis fire. Plant-specific features may require protection different from the measures specified in sections III.G and III.O. In such cases, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection in conjunction with proposed modifications will provide a level of safety equipment to the technical requirements in sections III.G and III.O of Appendix R.

Environmental impacts of the proposed action: The proposed exemptions provide a level of safety equivalent to the technical requirements in sections III.G and III.O of Appendix R. These exemptions will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Furthermore, these exemptions will not result in an increase in individual or commulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Appendix R exemptions.

With regard to potential nonradiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Appendix R exemptions.

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 Rancho Seco Nuclear Generating Station.

Agencies and persons consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed Appendix R exemptions.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting exemptions from Appendix R of 10 CFR Part 50, dated February 28, April 4, May 24 and November 7, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Sacramento City—County Library, 828 I Street, Sacramento, California 95814.

Dated at Bethesda, Maryland, this 17th day of June 1987.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects—III/IV/V & Special Projects.

[FR Doc. 87–17076 Filed 7–27–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458]

Withdrawal of Applications for Amendments to Facility Operating License; Gulf States Utilities

The U.S. Nuclear Regulatory Commission [the Commission] has granted the request of Gulf States Utilities (the licensee), to withdraw portions of its March 10, and May 15, 1987 applications and to withdraw in its in its entirety the March 18, 1987 application for proposed amendments to Facility Operating License No. NPF–47, which authorizes operation of the River Bend Station, Unit 1 located in West Feliciana Parish, Louisiana.

The proposed amendments would have extended surveillance intervals for certain Technical Specification Surveillance Requirements until the first refueling outage scheduled to begin September 15, 1987. The Commission issued Notices of Consideration of Issuance of Amendment in the Federal Register on June 18, 1987 (52 FR 23218) and July 1, 1987 (52 FR 24550-24552). The Commission has considered the June 30, 1987 letter and has determined that permission to withdraw portions of the March 10 and May 15, 1987 applications for amendments and to withdraw in its entirely the March 18, 1987 application for amendments should be granted.

For further details with respect to this action, see (1) the applications for amendments dated March 10, March 18 and May 15, 1987; and (2) the Gulf States Utilities letter dated June 30, 1987, withdrawing portions of the March 10 and May 15, 1987 applications and withdrawing in its entirety the March 18, 1987 application for license amendments. The above documents are available for public inspection at the

Commission Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Bethesda, Maryland, this July 15, 1987.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Project Manager, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87-17078 Filed 7-27-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15891; 812-6641]

Boston Financial Qualified Housing Limited Partnership et al.; Application

July 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption from the Investment Company Act of 1940 ("1940 Act").

Applicants: Boston Financial Qualified Housing Limited Partnership (formerly, Boston Financial Tax Credit Registered Placement, L.P.) ("Partnership"), and 29 Franklin Street, Inc. ("Franklin, Inc.").

Relevant 1940 Act Sections: Exemption from all provisions of the 1940 Act pursuant to section 6(c).

Summary of Application: Applicants seek an order exempting the Partnership from all provisions of the 1940 Act, and rules thereunder, to permit the Partnership to invest in other limited partnerships that in turn will engage in the development, rehabilitation, ownership and operation of low income housing projects, which ownership is expected to generate certain credits allowable under the Internal Revenue Code of 1986 ("Code") for investments in low-income housing projects.

Filing Date: The application was filed on March 5, 1987, and amended on July 6, and July 17, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 13, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o The Boston Financial Group Incorporated, 225 Franklin Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Staff Attorney, Carson G. Frailey (202) 272-3015, or Special Counsel Karen L. Skidmore (202) 272-3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 252-4300).

Applicants' Representatives:

1. The Partnership was formed under the Delaware Uniform Limited Partnership Act on January 22, 1987, as a vehicle for equity investment in apartment complexes, the ownership of which is expected to generate certain credits allowable under the Code for investments in low-income housing projects. The Partnership will operate as a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships"), that in turn, will engage in the development, rehabilitation, ownership and operation of apartment complexes assisted by governmental loan or subsidy assistance programs for low and moderate income persons. The Partnership will normally acquire at least a 90% interest in the profits, losses and tax credits of the Local Limited Partnership, with the balance remaining with the local general partners, and the entity affiliated with Franklin, Inc. ("BFG Affiliate"), where the BFG Affiliate is to participate as a limited partner of the Local Limited Partnership. The Partnership's investment objectives are to provide current tax benefits in the form of tax credits which Qualified Investors, as defined in the Partnership's prospectus (the "Prospectus"), may use to offset their federal income tax liability, to preserve and protect the Partnership's capital, to provide limited cash distributions which are not expected to constitute taxable income during Partnership operations and to provide case distributions from "sale or refinancing transactions," as defined in the Partnership's partnership agreement (the "Partnership Agreement").

2. On February 11, 1987, the Partnership filed a registration statement under the Securities Act of 1933 (the "Securities Act") (filing amendments thereto on April 27, 1987, July 2, 1987 and July 13, 1987), and that registration statement was declared effective on July 13, 1987. The Partnership intends to offer 35,000 units of limited partnership interest ("Units") to the public at $1,000 per Unit, with a minimum investment of $5,000 per investor. Offers to sell and sales to the public of the Units will be effected through Boston Financial Securities, Inc. (the "Selling Agent"), an affiliate of Franklin, Inc. and Franklin 29 Limited Partnership, the general partners of the Partnership ("General Partners"), and through other selected members (the "Soliciting Dealers") of the National Association of Securities Dealers, Inc. ("NASD"), on a "best efforts" basis. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership. In the event that subscriptions for more than 35,000 Units are received, the Partnership has registered a total of 50,000 Units and has granted to Franklin, Inc., the Partnership's managing general partner ("Managing General Partner"), the right, exercisable in its sole discretion, to sell up to 15,000 additional Units.

3. Subscriptions for units must be approved by the Managing General Partner, and such approval will be made conditional upon representations as to suitability of the investment for each subscriber. The form of subscription agreement provides that each subscriber will represent, among other things, that he meets the general investor suitability standards established by the Partnership. Those standards are, in the case of a non-corporate investor, that such investor reasonably expects to have substantial unsheltered passive income, or reasonably expects to have adjusted gross income, of less than $200,000 in the next twelve years and reasonably expects to have income tax liability during those years in respect of which the tax credits can be utilized and either (1) he has a net worth (exclusive of home, furnishings and automobiles) of at least $50,000 and he estimates that he will have an annual gross income of not less than $30,000 in the current and the twelve succeeding years and that (without regard to investment in the Partnership) some part of his income for the current year and the twelve succeeding years will be subject to federal income tax at the rate of 82% or more, or (2) irrespective of annual taxable income, he has a net worth (exclusive of home, furnishings and

automobiles) of at least $75,000, or is purchasing in a fiduciary capacity for a person or entity having such net worth and annual gross income as set forth in clause (1) or such net worth as set forth in clause (2). Units will be sold in certain states only to persons who meet additional or alternative standards which will be set forth in the Prospectus, any supplement to the Prospectus, or the Subscription Agreement, provided, however, that in no event shall the Partnership employ any such suitability standard which is less restrictive than that set forth above. The Partnership Agreement also imposes certain restrictions on transfer of the Units. Further, it is required that, prior to admission to the Partnership as a Limited Partner, each proposed assignee must deliver to the Managing General Partner evidence of the suitability of his investment. Applicants believe that the suitability standards set forth above are consistent with the requirements in Investment Company Act Release No. 8456 (August 9, 1974) ("Release 8456"), and are consistent with the guidelines of those states which prescribe suitability standards. Also consistent with Release 8456 are the further protections for the interests of Limited Partners provided by the numerous provisions of the Partnership Agreement and Registration Statement designed to prevent over-reaching by the General Partners and to assure fair dealing by the General Partners vis-a-vis Limited Partners.

4. All proceeds of the public offering of Units will initially be placed in an escrow account with Shawmut Bank, N.A. ("Escrow Agent"). Pending release of offering proceeds to the Partnership, the Escrow Agent will deposit escrowed funds in the "Shawmut Interest Bearing Account," a federally insured money market deposit account. The offering will terminate in one year. If subscriptions for at least 5,000 Units have not been received by the termination date, no Units will be sold, and funds will be returned promptly with a pro rata share of any interest earned thereon. Upon receipt of a prescribed minimum number of subscriptions, funds in escrow will be released to the Partnership and held in trust pending investment in Local Limited Partnerships. Any net proceeds not immediately utilized to acquire Local Limited Partnership interests, or for other Partnership purposes (such as the establishment of a reserve equal to 5% of the gross proceeds), will be invested in highly liquid, non-speculative securities which provide adequately for the preservation of capital. After an initial capital contribution to a Local Limited Partnership, other funds allocated for subsequent investment therein will also be temporarily invested in such securities, and interest earned thereon employed in a manner determined by the General Partners.

5. The Partnership will be controlled by the General Partners, while the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. Limited Partners owning a majority of Partnership interests, however, will have the right to amend the Partnership Agreement (subject to certain limitations), remove any General Partner and elect a replacement therefor, and to dissolve the Partnership. In addition, under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

6. The Selling Agent will receive customary commission on the sale of Units, together with an expense allowance to defray accountable due diligence activities. The Selling Agent may authorize Soliciting Dealers of the NASD to sell Units, pay a concession to each Soliciting Dealer on all sales of Units by such Soliciting Dealer, and may reallow all or any portion of its expense allowance to such Soliciting Dealer. Such selling commissions are customarily charged in securities offerings of this type and are consistent with the guidelines of the NASD.

7. The General Partners and their affiliates will receive substantial fees and compensation from the Partnership. Further, the local general partners will receive substantial fees and compensation from each Local Limited Partnership. In addition to fees and interests, the General Partners and their affiliates will be allocated generally 1% of profits and losses of the Partnership for tax purposes.

8. All compensation to be paid to the General Partners and their affiliates is specified in the Partnership Agreement and Prospectus, and no compensation will be payable to the General Partners, or any of their affiliates, not so specified. The substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been arrived at through arm's length negotiations. All such compensation, however, is believed to be fair and on terms no less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Further, the Partnership believes that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including without limitation, the statement of policy adopted by the North American Securities Adminstrators Association, Inc. applicable to real estate programs in the form of limited partnerships.

9. The Partnership will not accept any subscriptions for Units until the exemptive order applied for herein is granted, or the Partnership receives an opinion of counsel that it is not required to register as an investment company under the 1940 Act.

Applicants' Legal Conclusion

1. Without conceding that the Partnership is an investment company as defined in the 1940 Act, Applicants assert that the exemption of the Partnership from all provisons of the 1940 Act pursuant to section 6(c) of the 1940 Act is both necessary and appropriate in the public interest, because: (a) investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership structure provides the only means of bringing private equity capital into such housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater risk than real estate investment generally; (c) the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the credits, income and losses from the investment; (d) the limited partnership form of organization is incompatible with fundamental provisions of the 1940 Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (e) real estate limited partnerships such as the Partnership generally cannot comply with the asset coverage limitations imposed by section 18 of the 1940 Act. Thus, an exemption from these basic provisions is necessary and appropriate so as not to discourage use of the two-tier limited partnership entity,

and thus frustrate the public policy established by the housing laws.

2. The Partnership does not intend to trade in temproary investments, or investments of reserves or committed funds, and there will be no investment speculation by the Partnership; the Partnership will own and hold these short-term securities on a temporary basis pending their complete investment in Local Limited Partnerships in accordance with the stated purposes of the Partnership. Further, it is the Partnership's intention to apply capital raised in its public offering to the acquisition of Local Limited Partneship interests as soon as possible.

3. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort of the 1940 Act was designed to remedy. The suitability standards described above, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Limited Partnership by various federal, state and local agencies, provide proteciton to investors in Units comparable to, and in some respects greater than, that provided by the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17048 Filed 7-27-87; 8:45 am]

BILING CODE 8010-01-M

[Release No. IC-15886; 811-3540 and 811-3029]

Centennial High Yield Bond Fund, Inc. and Centennial Cash Accumulation Fund, Inc.

July 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application pursuant to section 8(f) of the Investment Company Act of 1940 ("1940 Act").

Applicants: Centennial High Yield Bond Fund, Inc. ("Bond Fund") and Centennial Cash Accumulation Fund, Inc. ("Cash Fund").

Relevant 1940 Act Sections: De-registration order requested pursuant to section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicants, having transferred all assets effective August 15, 1986 to the corresponding series of Oppenheimer Variable Account Funds (formerly, Oppenheimer Variable Life Funds) in exchange for shares of those series, seek an order declaring that they have ceased to be investment companies.

Filing Date: The applications were filed April 27 and 28, 1987, respectively.

Hearing or Notification of Hearing: If no hearing is ordered, the requested order will be granted. Any interested person may request a hearing on the applications, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 12, 1987. Request a hearing in writing, giving the nature of your interest, the reason for your request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notifications of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 3410 South Galena Street, Denver, Colorado 80231.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Margaret Warnken (202) 272-2058, or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; the complete applications are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations:

1. Applicants are registered under the 1940 Act as diversified, open-end investment management companies. Shares of the Applicants served as the investment medium for Bankers Security Separate Accounts P and Q, and were available only to investors purchasing variable annuity contracts issued by those Accounts. The contractholders were only indirect shareholders of the Applicants, although they are sometimes referred to as "shareholders."

2. Applicants have been reorganized pursuant to section 368(a)(1)(D) of the Internal Revenue Code of 1954, as amended, under an Agreement and Plan or Reorganization and Liquidation whereby Oppenheimer High Income Fund and Oppenheimer Money Fund, both series of Oppenheimer Variable Account Funds (File No. 811-4108) acquired all of the assets of the Bond Fund and the Cash Fund, respectively, in exchange for Oppenheimer shares, which were then distributed to Bankers Security as the sole shareholder of the Applicants to complete liquidation and complete cancellation of the Applicants' shares. Oppenheimer Variable Life Funds changed its name to Oppenheimer Variable Account Funds on August 15, 1986.

3. The Plan was unanimously adopted by each Applicant's Board of Directors on March 11, 1986 and was subsequently approved by shareholders at Special Meetings of Shareholders held August 14, 1986. The closing date was fixed for August 15, 1986 by each Applicant's Board of Directors and the Boards of Trustees of Oppenheimer Variable Account Funds for the High Income Fund and the Money Fund. Applicants shall effect their dissolution within one year following the closing date, as provided in Section 11 of the Plan.

4. The result of carrying out the Plan was that the High Income Fund and the Money Fund added to gross assets all of the assets (net of any liability for portfolio securities purchased, but not settled) of the respective Applicant; and the shareholder of the Applicants on the closing date (as defined in the Plan) owned shares of the High Income Fund and the Money Fund. In essence, a shareholder of either Applicant who voted his shares in favor of the Plan elected to redeem his shares (at net asset value per share) and reinvest the proceeds in shares of either the High Income Fund and/or the Money Fund at no sales charge, and without recognition of taxable gain or loss for federal income tax purposes. No gain or loss or taxable income was recognized by either Applicant or by the High Income Fund or the Money Fund. The costs basis and holding period of the shares of each shareholder of the Applicants carried over to the shares of the High Income Fund and/or the Money Fund which each shareholder acquired; and the holding period and cost basis of the Applicants for their respective assets transferred to the High Income Fund or the Money Fund and carried over to the High Income Fund or the Money Fund.

5. In view of the foregoing, Applicants assert that they have ceased to exist as investment companies, and request that an order be issued pursuant to section 8(f) of the 1940 Act, declaring the Applicants have ceased to be investment companies.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17049 Filed 7-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15889; 812-6773]

The Helvetia Fund, Inc.; Notice of Application

July 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Helvetia Fund, Inc.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 12(d)(3) of the 1940 Act.

Summary of Application: Applicant seeks an order to permit it to invest in securities of the following banks in Switzerland which are publicly traded on one or more of the Swiss stock exchanges: Banca della Svizzera Italiana, Bank Leu, Credit Suisse, Swiss Bank, Corp., Union Bank of Switzerland, Swiss Volksbank, and Gotthard Bank (collectively, the "Banks"). Such investments will be subject to the same quantitative limits and comparable conditions to those imposed on investments in United States broker-dealers by Rule 12d3-1 under the 1940 Act.

Filing Date: The application was filed June 25, 1987, and amended on July 17, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 11, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Helvetia Fund, Inc., c/o Paul Brenner Esq., Kelley Drye & Warren, 101 Park Avenue, New York, NY 10178.

FOR FURTHER INFORMATION CONTACT: Brion R. Thompson, Special Counsel, (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant is registered under the 1940 Act as a non-diversified, closed-end management investment company and has filed a registration statement under the Securities Act of 1933 and the 1940 Act on June 9, 1987. Such registration statement has not yet been declared effective by the Commission.

2. Applicant's investment objective is to seek long-term capital appreciation through investment in equity and equity-linked securities of Swiss companies which are either listed on one or more Swiss stock exchanges or traded at the pre-exchange ("pre-bourse") of one or more Swiss stock exchanges or traded through a market maker or over the counter. The Applicant may also invest in securities which are neither traded on a stock exchange or through a market maker but which are readily marketable. The Applicant may also invest in securities purchased in the private placements of public or non-public Swiss companies and other similar securities that are not readily marketable but the applicant, as a fundamental policy, will not invest more than 10% of its total assets in such securities. For temporary defensive purposes and before the proceeds of the Applicant's initial public offering are invested in equity securities, the Applicant may invest in Swiss Franc-denominated bank deposits, short-term debt or money market instruments of Swiss issuers.

3. The investment adviser of the Applicant is Helvetia Capital Corp. (the "Adviser"), a Delaware corporation, and the administrator of the Applicant is Alex. Brown and Sons Incorporated ("Alex. Brown"), a corporation organized under the laws of the State of Maryland. The Adviser filed an initial Form ADV under the Investment Advisers Act of 1940 with the Commission on June 4, 1987. Pursuant to the Investment Advisory Agreement, the Adviser, in accordance with the Applicant's stated investment objective, policies and restrictions, and subject to the supervision of the Applicant's board of directors, has sole investment discretion with respect to the Applicant's investments and will make all decisions affecting the Applicant's portfolio. The Adviser transmits purchase and sale orders and selects brokers and dealers to execute portfolio transactions on behalf of the Applicant. Pursuant to the Administration Agreement, Alex. Brown acts as the administrator of the Applicant.

4. Swiss Federal or cantonal (i.e., state) laws do not restrict banks from acting, either directly or indirectly, as securities broker/dealers, investment bankers/underwriters, mutual and other investment fund managers and investment advisers. Most of the Banks are members of one or more of the Swiss stock exchanges and are engaged in such securities-related businesses. Therefore, Applicant's proposed investment in the Banks would be subject to the prohibitions of section 12(d)(3) of the 1940 Act against registered investment companies purchasing securities of issuers engaged in a securities related business. With respect to the exemptive relief from section 12(d)(3) of the 1940 Act provided by Rule 12d3-1, because Swiss companies, including banks, are not required to disclose publicly their income by line of business, it is not possible for the Applicant to ascertain definitively whether the Banks derive more or less than 15% of their gross revenues from securities-related activities for any given period. Because of the extent of the Banks' participation in securities-related businesses at the present time, Applicant has assumed for purposes of this application that investment in the Banks would be subject to the conditions of Rule 12d3-1(b).

5. As of March 31, 1987, the Swiss equities market ranked eighth in the world in terms of market capitalization. As of May 29, 1987, the Banks represented 27.8% of the Swiss Bank Corporation Index, which includes a broadly representative list of major industrial, transport, insurance, financial and utility stocks, with Union Bank of Switzerland representing 10.36% of such index. In addition, as of May 29, 1987, Union Bank of Switzerland was the second largest company in Switzerland based on market capitalization, and Swiss Bank Corp., Credit-Suisse, and Volksbank were the third, fourth and fourteenth largest Swiss companies, respectively.

Applicant's Legal Conclusions

1. Applicant has reviewed all the conditions set forth in Rule 12d3-1(b) and represents that it will be able to satisfy all but one of the conditions. Applicant cannot satisfy the condition that any equity security acquired must be a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System. Because the equity securities of the Banks are not listed on a United States securities exchange or traded in the United States in the over-the-counter

market, they cannot be "margin securities." Because Applicant is unable to satisfy all of the conditions of Rule 12d3–1. It is unable to take advantage of good investment opportunities and to increase the diversification of its portfolio, particularly its diversification within the financial sector of the Swiss economy.

2. Applicant submits that the securities of the Banks clearly have at least the degree of investor interest and depth and breadth of market as certain securities traded in the U.S. over-the-counter market which have been designated as "OTC margin stock." Applicant also submits that the Bank's securities would meet such criteria concerning total market value, earning power and share distribution and would, based on these grounds, be eligible for listing on one or more of the following: The New York Stock Exchange, The American Stock Exchange or the NASDAQ National Market System. Applicant further submits that its investment in securities issued by the Banks would clearly have no adverse effect on, but rather would enhance the liquidity of its portfolio.

3. Applicant further represents that the public information available about the Banks in Switzerland is more extensive than the information available in Switzerland about Swiss issuers in the other industries in which the Applicant intends regularly to invest. The Applicant submits that the disclosure required by the Swiss laws and regulations discussed above, while not in all respects as comprehensive as U.S. securities laws, provides significant disclosure in connection with the issuance of securities which is the substantial equivalent of the disclosure required by the Securities Act of 1933.

4. Applicant submits that, given the significant market share of the Banks and their prominence in the financial services sector of the Swiss economy, it would be able to take advantage of good investment opportunities and to increase the diversification of its portfolio were it permitted to invest in the equity and debt securities of the Banks. Applicant asserts that the granting of the requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Based on the foregoing, the Applicant respectfully requests an exemption from the provisions of section 12(d)(3) of the Act to the extent necessary to permit it to invest in equity and debt securities of the Banks the equity securities of which are listed on one or more Swiss stock exchanges, provided (i) subject to Applicant's undertaking that such investments will comply with all the requirements of Rule 12d3–1 except the requirement that such equity securities be margin securities; (ii) equity securities acquired are listed on one or more of the Swiss stock exchanges; and (iii) debt securities acquired are determined to be investment grade by the Applicant's Board of Directors.

Applicant's Conditions

Applicant agrees that if the requested order is granted, such order will be expressly conditioned on Applicant's compliance with the undertakings set forth above.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–17051 Filed 7–27–87; 8:45 am]

BILLING CODE 8010–01–M

ML-Lee Acquisition Fund, L.P., et al.; Notice of Application

[Rel. No. IC–15890; 812–6797]

July 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: ML-Lee Acquisition Fund, L.P. ("Partnership"), Mezzanine Investments, L.P. ("Managing General Partner") and Thomas H. Lee Advisors, Inc. ("Investment Adviser") (collectively, "Applicants").

Relevant 1940 Act Sections: Order requested pursuant to section 6(c) for exemption from the provisions of section 2(a)(19).

Summary of Application: Applicants seek an order under section 6(c) of the 1940 Act determining that the Independent General Partners are not, within the meaning of section 2(a)(19) of the 1940 Act "Interested persons" of the Partnership, the Managing General Partner, the Investment Adviser and/or Merrill Lynch Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), solely by reason of being general partners thereof.

Filing Date: The application was filed on July 22, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested order will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 11, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC. 20549. Applicants, ML-Lee Acquisition Fund, L.P. and Mezzanine Investments, L.P., Merrill Lynch World Headquarters, North Tower, World Financial Center, New York, New York 10281–1201. Thomas H. Lee Advisors, Inc., One Boston Place, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Richard Pfordte, Staff Attorney, at (202) 272–2811, or Houghton R. Hallock, Jr., Special Counsel, at (202) 272–3030, Division of Investment Management, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the above referenced application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Partnership is a newly-formed, Delaware limited partnership organized under an Agreement of Limited Partnership (the "Partnership Agreement"). The Partnership will elect status as a business development company pursuant to section 54 of the 1940 Act and thus will be subject to sections 55 through 65 of the 1940 Act and to those sections of the 1940 Act made applicable to business development companies by section 59 thereof. The Partnership has been designed to provide the ability for individuals to participate in "mezzanine" level debt and preferred stock investments issued in connection will leveraged buy-outs and other corporate reorganizations. Applicants believe these investments would not be ordinarily available to the Partnership's investors except through a pooled investment vehicle such as the Partnership.

2. The Partnership's investment objectives will be to provide a current return, an opportunity for significant

capital appreciation, and a return of investment in a limited period of time through investments in mezzanine loans and other securities ("Qualified Investments"). Qualified Investments include (i) subordinated debt investments (including the mezzanine portion of traditional leveraged buyouts), private placements of debt with equity components, partial buyouts and other forms of mezzanine financing with equity participations in the form of straight equity, options, warrants and other equity securities ("Mezzanine Investments"), and (ii) investments with a term of nine months or less, a portion of which is expected to become Mezzanine Investments. The Partnership will not provide financing for a hostile tender offer or proxy contest, regardless of whether such investment by the Partnership would otherwise constitute a Qualified Investment.

3. The Partnership has filed a registration statement ("Registration Statement") on Form N–2 under the Securities Act of 1933 ("1933 Act"), with respect to an offering of up to 1,000,000 units of limited partnership interest ("Units"). The public offering price will be $1,000 per Unit, with a maximum aggregate offering price of $1 billion.

4. The General Partners of the Partnership will consist of at least four individual general partners ("Individual General Partners") and the Managing General Partner. The Individual General Partners will include the Independent General Partners (defined to be individuals who are not "interested persons" of the Partnership within the meaning of the 1940 Act) and one General Partner who is an individual and who is an "affiliated person" of the Managing General Partner and/or the Investment Adviser.

5. The Managing General Partner is a limited partnership controlled by its general partner, ML Mezzanine Inc., a special purpose, indirect, wholly-owned subsidary of Merrill Lynch & Co., Inc. ("ML & Co."). The sole limited partner of the Managing General Partner is the Investment Adviser. Under the partnership agreement establishing the Managing General Partner, its limited partner will have no authority to participate in the management of the Managing General Partner nor will it have any voting rights relating to the Managing General Partner. The Managing General Partner will be a registered investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). Under the Partnership Agreement, the Managing General Partner will be responsible for the ultimate determination of investments made by the Partnership, for providing administrative services to the Partnership and for the admission of additional or assignee Limited Partners to the Partnership. The Managing General Partner will receive the allocation of profits and losses provided in the Partnership Agreement. In addition, it will receive an annual administrative fee equal to the larger of $400,000 or .45% of the net offering proceeds, subject to certain adjustments after the fourth year of operations. The limited partner of the Managing General Partner will be allocated substantially all of the profits and losses allocated to the Managing General Partner, other than that which is directly proportionate to the Managing General Partner's equity investment in the Partnership. The Partnership considers its relationship with the Managing General Partner to be an investment advisory relationship, and accordingly, the Partnership relationship and the distributions made thereunder, including specifically the distributions made to the Investment Adviser as the limited partner of the Managing General Partner, will be subject to the provisions of the 1940 Act, including section 15 thereof.

6. The Partnership Agreement provides that a majority of the General Partners will be Independent General Partners. Thomas H. Lee, an affiliated person of the Investment Adviser, will serve as an "interested" Individual General Partner. The Partnership will be managed solely by the Individual General Partners, except with regard to those specific activities of the Partnership for which the Managing General Partner or the Investment Adviser will be responsible. The Individual General Partners provide overall guidance and supervision of Partnership operations and will perform the same functions as directors of a corporation. The Individual General Partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on non-interested directors of a registered investment company.

7. The Partnership Agreement provides that the Individual General Partners may be removed either (i) for cause by the action of two-thirds of the remaining Individual General Partners or (ii) by vote of the Limited Partners. The Managing General Partner may be removed either (i) by a majority of the Individual General Partners or (ii) by vote of the Limited Partners. The Partnership's Limited Partners have no right to control the Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, such as approving amendments to the Partnership Agreement. Limited Partners will have all voting rights afforded to investors by the 1940 Act.

8. The Investment Adviser is a corporation substantially-owned and controlled by the Thomas H. Lee Company ("Lee Company"), a private investment firm engaged primarily in acquiring or making majority equity investments in established middle-market companies, often through leveraged acquisition, as well as venture capital investments. The Investment Adviser will act under an investment advisory agreement ("Advisory Agreement") and will be a registered adviser under the Adviser Act. Under the Advisory Agreement, the Investment Adviser will be responsible for the identification of all mezzanine and related equity investments made by the Partnership and will perform other functions done by an investment adviser to a business development company. For its services under the Advisory Agreement, the Investment Adviser will receive an annual fee equal to the larger of $1.2. million or 1.0% of assets under management. The advisory fee will be reduced by a proportionate amount of certain fees received by the Investment Adviser or its affiliates with respect to proposed transactions considered for investment by the Partnership.

9. Merrill Lynch will act as the placement agent for the Units on a "best efforts" basis. Limited Partners will be required to subscribe for at least five Units, except that the minimum purchase for individual retirement accounts will be two Units. Units will be sold only to investors who have (i) gross income of $60,000 during the current year and a net worth (exclusive of homes, home furnishings and automobiles) of $60,000 in excess of the Units for which the investor has subscribed or (ii) a net worth (with the same exclusions) of $150,000 in excess of the proposed purchase price. In establishing suitability standards for the Limited Partners, the Applicants have considered the objectives of the Partnership, the risks involved in an investment in the Partnership and the need to establish income and net worth standards that are consistent with the protection of investors.

10. An insurance policy to provide coverage for the Limited Partners has not been obtained at the filing date of the application because (i) the Partnership has been advised by its counsel that Units in the Partnership will constitute valid limited partnership

interests in the Partnership and that Limited Partners will be entitled to all of the benefits of limited partners under the Partnership Agreement and The Revised Uniform Limited Partnership Act of the State of Delaware; (ii) based upon the nature of the business to be conducted by the Partnership, the Partnership believes that the risk of liability for actions against the Limited Partners, including actions based upon contract or tort claims, is remote; and (iii) the Partnership Agreement will obligate the General Partners of the Partnership to take all action which may be necessary or appropriate to protect the limited liability of the Limited Partners. The Partnership will review periodically the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

11. The allocation of profits and losses of the Partnership will be made in accordance with the Partnership Agreement. In summary, those allocations will be made on a cumulative basis and provide for the allocation to the Managing General Partner of 1% of income and capital gains, in proportion to its equity investment in the Partnership, and up to 20% of cumulative ordinary income and net realized capital gains from investments which is subordinated to a Priority Return (as described in the application) to the Limited Partners of the Partnership. The foregoing allocation has been included in the Partnership Agreement on the basis exclusively of an opinion of counsel to the Partnership that such allocation will not violate the provisions of Section 205 of the Advisers Act. Applicants have not requested Commission review or approval of such opinion letter and the Commission expresses no opinion as to counsel's interpretation that section 205(c) of the Advisers Act permits the Partnership's allocations. The specific allocation of profits and losses, as set forth in the Partnership Agreement, is described in detail in the application.

12. Applicants request that the Partnership and its Independent General Partners be exempted from the provisions of section 2(a)(19) of the 1940 Act to the extent that the Independent General Partners would be deemed "interested persons" of the Partnership, the Managing General Partner, the Investment Adviser and/or Merrill Lynch solely by virtue of being general partners of the Partnership. Section 2(a)(19) excludes from the definition of "interested person" of an investment company those individuals who would be "interested persons" solely because they are directors of the investment company; there exists no equivalent exception for partners or co-partners of an investment company.

Applicants' Legal Conclusions

1. Applicants submit that granting the requested exemption from the provisions of section 2(a)(19) of the 1940 Act is consistent with the purposes fairly intended by the policy and provisions of the 1940 Act. Under the Partnership Agreement, the Independent General Partners are the functional equivalent of disinterested directors for an incorporated registered investment company.

Applicant's Condition: If the requested order is granted, Applicants agree to the following condition:

1. Under the Partnership Agreement, in-kind distributions are not specifically authorized; however, Applicants believe that unrealized gains and losses attributable to securities distributed in-kind should be deemed realized at the time of distribution for purposes of allocations. Applicants agree not to make any in-kind distributions of securities to partners until it has either obtained a no-action letter from the staff of the Commission confirming the Partnership's interpretation or, alternatively, has obtained an order pursuant to section 206(A) of the Advisers Act permitting the Partnership to deem such gains or losses to be realized upon making of in-kind distributions of such securities.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17052 Filed 7-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC—15885; File Nos. 811-3151 and 811-2259]

NML Variable Annuity Account 1 et. al.

July 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application under the Investment Company Act of 1940 ("1940 Act").

Applicants: NML Variable Annuity Account 1 and NML Variable Annuity Account 2.

Relevant 1940 Act Sections: Section 8(f).

Summary of Applications: Applicants seek an order declaring they have ceased to be investment companies.

Filing Date: The applications were filed on June 17, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the applications will be granted. Any interested person may request a hearing on these applications, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington DC 20549. Applicants, The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Margaret Warnken (202) 272-2058 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; the complete applications are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations:

1. Accounts 1 and 2, separate accounts of The Northwestern Mutual Life Insurance Company, registered under the 1940 Act on March 1981 and December 1971, respectively, as unit investment trusts.

2. On May 23, 1987, the shares of NML One Fund, Inc., which comprised all the assets of Account 1, were redeemed, and the money representing the proceeds of the redemption was reallocated to NML Variable Annuity Account B. Account B, registered under the 1940 Act as a unit investment trust, purchased the same number of shares of NML One Fund, Inc. as had been held by Account 1 immediately before the combination.

3. On May 23, 1987, the shares of NML Stock Fund, Inc. and NML Bond Fund, Inc., which comprised all the assets of Account 2, were redeemed, and the money representing the proceeds of the redemptions was reallocated to Account B. Account B purchased the same number of shares of NML Stock Fund, Inc. and NML Bond Fund, Inc. as has been held in Account 2 immediately before the combination.

4.These transactions were effected as of a single point in time, based on the respective net asset value of the shares of NML One Fund, Inc., NML Stock Fund, Inc., and NML Bond Fund, Inc. The interests of variable annuity contractowners in Account B immediately after the combination were the same as their interest in either Accounts 1 or 2 immediately before the combination.

5. No distributions were made to securityholders, nor have the Applicants retained any assets. No debts or other liabilities remain outstanding, and neither Applicant is party to any litigation or administrative proceeding. Applicants have no securityholders and are not now engaged, nor do they propose to engage, in any business activities other than those necessary for the winding-up of their affairs.

6. As of the close of business on May 22, 1987, immediately preceding the combination, Account 1 had 3,542 variable annuity contracts outstanding, with 37,380,332 accumulation units with an aggregate net asset value of $81,445,276 and an accumulation unit value of $2.178827 and annuity reserves of $1,676,616. Account 2 had 129 variable annuity contracts outstanding, with 262,025 accumulation units in the Stock Division (invsted in NML Stock Fund, Inc.) with an aggregate net asset value of $859,208 and an accumulation unit value of $3.279107 and annuity reserves of $653,981, and 266,735 accumulation units in the Bond Division (invested in NML Bond Fund, Inc.) with an aggregate net asset value of $774,867 and an accumulation unit value of $2.905007 and annuity reserves of $60,471.

7. All expenses of the combinations were borne entirely by The Northwestern Mutual Life Insurance Company. All securityholders' interests have been transferred to Account B. No brokerage commissions were paid in connection with the combination.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-17053 Filed 7-27-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1019]

International Bridge Permit; City of El Paso, TX

Notice is hereby given that on June 30, 1987, the Under Secretary of State for Economic Affairs determined that issuance of a permit authorizing the City of El Paso, Texas, to construct, operate and maintain an international bridge at Zaragosa in the Ysleta area of El Paso, connecting with Ciudad Juarez, Mexico would be in the national interest. The Under Secretary accordingly signed a permit authorizing the City of El Paso to do so, subject to stated conditions, in accordance with the International Bridge Act of 1972 and Executive Order 11423.

Thereafter, as required by section 1(f) of E.O. 11423, the Department of State gave written notice to concerned agencies of the Under Secretary's determination and of the proposed issuance of the permit. No agency has requested that the matter be referred to the President for decision in accordance with section 1(f) of E.O. 11423.

The fifteen day notification period under section 1(f) of E.O. 11423 having expired, the Department of State has issued and transmitted to the City of El Paso, Texas, a permit authorizing the City to construct, operate and maintain an international bridge in the vicinity of El Paso and Ciudad Juarez, Mexico.

For the Secretary of State.

Date: July 17, 1987.

John R. Byerly,

Acting Assistant Legal Adviser, Economic, Business and Communications Affairs.

[FR Doc. 87-17009 Filed 7-27-87; 8:45 am]

BILLING CODE 4710-08-M

[1020]

Discretionary Grant Programs: Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1988 Applications

AGENCY: The Department of State invites applications from national organizations with interest and expertise in conducting research and training concerning the USSR and Eastern Europe to serve as intermediaries administering national, competitive programs under the Soviet and Eastern European Research and Training Act. All grants will be annual and based on an open, national competition among applying organizations.

Authority for this program is contained in the Soviet-Eastern European Research and Training Act of 1983.

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal and programmatic information and closing dates for transmittal of applications for awards in Fiscal Year 1988 under a program administered by the Department of State.

Organization of Notice: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program. Part III provides the fiscal data for the program.

Part I

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by September 30, 1987.

Applications Delivered by Mail

An application sent by mail must be addressed to E. Raymond Platig, Executive Director, Soviet-Eastern European Studies Advisory Committee, 1730 K St., NW., Washington, DC 20009.

An applicant must show proof of mailing consisting of *one* of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial center.

(4) Any other proof of mailing acceptable to the U.S. Department of State.

If an application is sent through the U.S. Postal Service, the Department of State does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of State, INR/LAR, Soviet-Eastern European Studies Advisory Committee, Room 233, 1730 K Street, NW., Washington, DC.

The Soviet-Eastern European Studies Advisory Committee will accept hand-delivered applications between 9:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:00 p.m. on the closing date.

Part II

Program Information

In the Soviet-Eastern European Research and Training Act of 1983 the Congress declared that independently verified factual knowledge about the countries of that area is "of utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs." Congress also declared that the development and maintenance of such knowledge and expertise "depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government." The Act authorizes the Secretary of State to provide financial support for advanced research, training and other related functions.

The full purposes of the Act and the eligibility requirements are set forth in Pub. L. 98–164, Title VIII, 97 Stat. 1047–50. Under Title VIII, the countries include Albania, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, USSR, and Yugoslavia.

The Act establishes an Advisory Committee to recommend grant policies and recipients. The Secretary of State, after consultation with the Advisory Committee, approves policies and makes final determination on awards.

Applications for funding under the Act are invited from organizations prepared to conduct competitive programs in the field of Soviet and Eastern European and related studies. Applying organizations or institutions should have the capability to conduct *competitive award programs that are national in scope.* Programs of this nature are those that make awards which are based upon an open, nationwide competition incorporating peer group review mechanisms. Applications sought are those that would contribute to the development of a stable, long-term, national program of unclassified, advanced research and training on the Soviet Union and Eastern Europe by proposing:

(1) *National programs* which award contracts to American institutions of higher education or not-for-profit corporations in support of postdoctoral or equivalent level research projects, such contracts to contain shared-cost provisions;

(2) *National programs* which offer graduate, postdoctoral and teaching fellowships for advanced training in Soviet and Eastern European and related studies, including training in the languages of the Soviet Union and Eastern Europe, such training to be conducted, on a shared-cost basis, at American institutions of higher education;

(3) *National programs* which provide fellowships and other support for American specialists enabling them to conduct advanced research in the field of Soviet, Eastern European and related studies; and those which facilitate research collaboration between Government and private specialists in these fields;

(4) *National programs* which provide advanced training and research on a reciprocal basis in the Soviet Union and in the countries of Eastern Europe by facilitating access for American specialists to research facilities and resources in those countries;

(5) *National programs* which facilitate public dissemination of research methods, data and findings; and those which propose to strengthen the national capability for advanced research or training on the Soviet Union and Eastern Europe in ways not specified above.

Note: The Advisory Committee will not consider applications from individuals to further their own training or research, or from institutions or organizations whose proposals are not for competitive award programs that are national in scope as defined above. Moreover, support for publications library activities and conferences will be constrained by the following policies:

—*Publications.* Title VIII funds should not be used to subsidize journals, newsletters and other periodical publications except in unique or special circumstances, in which cases the funds should be supplied by peer-review organizations with national competitive programs.

—*Library Activities.* Title VIII funds should not be used for library preservation, cataloging or modernization. However, a national peer-review organization with Title VIII funds could offer modest support to efforts directed toward developing an effective, long-term and well-coordinated strategy to address the serious library needs of the field.

—*Conferences.* Proposals for conferences, like those for research and training programs, should be assessed according to their relative contribution to the advancement of knowledge and to the qualitative improvement of the professional cadres in the field. Therefore, Title VIII grants generally should not be made solely to support a particular conference or series of conferences. Rather conference funding should come from one or more of the national peer-review organizations receiving Title VIII funds, with proposed conferences being evaluated competitively against research, fellowship or other proposals for achieving the purposes of the grant.

In making its recommendations, the Committee will seek to encourage a coherent, long-term and stable effort directed toward developing and maintaining a national capability in Soviet and Eastern European studies. Program proposals can be for conduct or any of the functions enumerated, but in making its recommendations, the Committee will be concerned to develop a balanced national effort which, over the life of the Act, will ensure attention to all the countries of the area, though with emphasis on the USSR.

Part III

Available Funds

Congress has authorized $5.0 million and the House of Representatives has appropriated $4.48 million for Title VIII funding for Fiscal Year 1988. Awards cannot be made until the Senate has acted and the full Congress has approved the appropriations bill for the Department of State.

The Department legally cannot commit funds that may be appropriated in subsequent fiscal years. Thus multi-year projects cannot receive assured funding unless such funding is supplied out of a single year's appropriation. Generally, grant agreements will permit the expenditure from a particular year's grant to be made over two or more years.

Applications

Applications must be prepared and submitted in 20 copies in the form of a statement, the narrative part of which should not exceed 20 double-spaced pages. This must be accompanied by a one or two page executive summary, a budget, and vitae of professional staff. Proposers may append other information they consider essential, though bulky submissions are discouraged.

Budget

Applicants should familiarize themselves with OMB Circular No. A–110, "Grants and Agreements with Institutions of Higher Education . . . Uniform Administrative Requirements," and indicate or provide the following information:

(1) Whether the organization falls under OMB Circular No. A–21, "Cost Principles for Educational Institutions," or OMB Circular No. A–122, "Cost Principles for Nonprofit Organizations;"

(2) A budget request containing total amount, a detailed program budget indicating direct administrative expenses by program element, and indirect costs. *NB* Indirect costs are limited to 10 percent of total grant agreements. Applicants who are requesting Title VIII funds to supplement a program having other sources of support should submit a currrent budget for the total program and an estimated future budget for it showing how specific lines in the budget would be affected by the allocation of requested Title VIII grant funds;

(3) The applicant's cost-sharing proposal, if applicable, containing appropriate details and cross references to the requested budget;

(4) Whether payment is requested on a reimbursable basis or by advance methods; re the latter, for grants above $120,000, advance funds will be made through a letter of credit, but if less than $120,000, advance of funds will be made by Treasury checks through wire transfers;

(5) The organization's most recent audit report (the most recent U.S. Government audit report if available) and the name, address and point of contact of the audit agency.

Technical Review

The Soviet-Eastern European Advisory Committee will evaluate applications on the basis of the following criteria:

(1) Responsiveness to the substantive provisions set forth above in *Part II, Program Information* (40 points);

(2) The professional qualifications of the applicant's key personnel and their experience conducting national competitive award programs of the type of applicant proposes in the Soviet-Eastern European field (40 points); and

(3) Budget and cost effectiveness (20 points).

Further Information

For further information, contact Dr. E. Raymond Platig, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR/LAR, U.S. Department of State, Washington, DC 20520. Telephone: (202) 632–2025 or 632–5879.

Dated: July 17, 1987.

E. Raymond Platig,

Executive Director, Soviet-Eastern European Studies Advisory Committee.

[FR Doc. 87–17010 Filed 7–27–87; 8:45 am]

BILLING CODE 4710–32–M

[CM–8/1095]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 25, 1987 at 9:30 a.m. in Room 4B118 of the AT&T building in Bedminister, NJ.

The purpose of the meeting will be to review specific contributions on Study Group XV work on fiber optics.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Prior to the meeting, persons who plan to attend should so advise by telephoning Ms. Cindy Perfumo; telephone (201) 234–4047.

Dated: July 10, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87–17028 Filed 7–27–87; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/1096]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 18, 1987 at 9:30 a.m. in Room 1207, Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting will be to develop the U.S.A. position for CCITT Study Group Special "S" with respect to a possible restructure of the Study Group within the CCITT.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 653–6102. All attendees must use the C Street entrance to the building.

Date: July 10, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87–17029 Filed 7–27–87; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP86–11; Notice 2]

Grant of Petition for Determination of Inconsequential Noncompliance; Firestone Tire and Rubber Co.

This notice grants the petition by Firestone Tire and Rubber Company, Akron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, Federal Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles other than Passenger Cars.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on March 12, 1987, and an opportunity afforded for comment (52 FR 7737).

Paragraph S6.5(c). *Tire Markings,* of Standard No. 119 gives the requirements for tire size designation. The petitioner reported 56 tires manufactured from September 7, 1986, through September 17, 1986, that do not comply with paragraph S6.5(c). Firestone marked the tires correctly on the serial side with the following marking: 11–22.5 Tubeless Nylon Load Range F. However, the non-serial side contained two size designations:

11–22.5 Tubeless Nylon Load Range F (correct) and 1000–20 Nylon Load Range F (incorrect).

Firestone supports its petition for inconsequential noncompliance as follows:

1. All tires affected are marked on both sides with the correct size designation.

2. If a consumer, after reading the incorrect size (1000–20), mounted the tire on a 20 inch diameter rim, the bead of the tire would not seat and would, in fact, slip over the outer lip of the rim at very low pressure.

3. The inability of the tire to be mounted on a 20 inch diameter rim

would prohibit the tire from use on a vehicle as a 1000–20 size tire.

No comments were received on the petition.

NHTSA notes that the correct designation appears on both sides of the tires. The question for safety, therefore, is what might occur were the improper designaton viewed as the correct one. Firestone has stated that in that event, the bead of the tire would not seat and would slip over the lip of the rim at a very low pressure. The tire in fact could not be placed in use since it could not be mounted on the rim. Thus, the effect upon safety is minimal.

In consideration of the foregoing it is hereby found that petitioner has met its burden of pursuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Publ. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at (49 CFR 1.50 and 49 CFR 501.8))

Issued on July 13, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–17082 Filed 7–27–87; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP86–10; Notice 2]

Grant of Petition for Determination of Inconsequential Noncompliance; General Motors Corp.

This notice grants the petition by General Motors Corporation, of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of a petition was published on November 3, 1986, and an opportunity offered for comment (51 FR 39933).

Paragrah S5.3.2 of Federal Motor Vehicle Safety Standard No. 105, Hydraulic Brake Systems, states the activation requirements for brake systems indicator lamps:

"All indicator lamps shall be activated as a check of lamp function, either when the ignition (start) switch is turned to the 'on' (run) position when the engine is not running, or when the ignition (start) switch is in a position between 'on' (run) and 'start' that is designated by the manufacturer as a check position."

General Motors produced 11,316 1986-model Buick Rivieras prior to mid-May 1986, that do not comply with the ignition switch requirements of paragraph S5.3.2.

A check of lamp function will activate (a) automatically upon entering the vehicle after pressing the outside door handle button, and (b) manually when a "TEST" button on the instrument panel cluster is pressed. General Motors argued that these provisions enable the operator to verify that the brake system indicator lamp is working properly and, therefore, the noncompliance is inconsequential. The noncompliance was attributed to an oversight during development of Body Control Module software and has been corrected.

No comments were received on the petition.

NHTSA has reviewed both the petition and a non-complying Riviera, and verified that the system operates in the manner described by the petitioner. Because a check-of-lamp function will occur whenever the operator opens the door and enters the car, NHTSA has concluded that the operator will have adequate warning of any malfunction with the brake warning lamps.

In consideration of the foregoing it is hereby found that the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: July 22, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–17083 Filed 7–27–87; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 23, 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: 1545–0144
Form Number: 2438
Type of Review: Revision
Title: Regulated Investment Company Undistributed Capital Gains Tax Return
Description: Form 2438 is used by regulated investment companies to figure capital gains tax on undistributed capital gains designated under Internal Revenue Code section 852(b)(3)(D). IRS used this information to determine the correct tax.
Respondents: Businesses or other for-profit
Estimated Burden: 193 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.

Comptroller of the Currency

OMB Number: 1557–0081
Form Number: FFIEC 031–034
Type of Review: Revision
Title: Reports of Condition and Income (Interagency Call Report)
Description: Reports are filed pursuant to 12 U.S.C. 161 and 164. Data are used to monitor the financial condition and earnings performance of individual banks as well as the entire banking industry. Data are also used for research, program planning and OCC publications.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 558,575 hours
Clearance Officer: Eric Thompson, (202) 447–1632, Office of the Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
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. 87–17309 Filed 7–27–87; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES TRADE REPRESENTATIVE

EC Third Country Meat Directive

AGENCY: Office of the U.S. Trade Representative.

ACTION: Initiation of investigation under section 302 of the Trade Act of 1974.

SUMMARY: Under section 302 of the Trade Act of 1974, the U.S. Trade Representative has determined to initiate an investigation of the European Economic Community's Third Country Meat Directive.

EFFECTIVE DATE: July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Leonard W. Condon, Deputy Assistant U.S. Trade Representative for Agricultural Affairs, Office of the U.S. Trade Representative (USTR), 600 17th St. NW., Washington, DC 20506, (202) 395–5006.

SUPPLEMENTARY INFORMATION: On July 14, 1987, a petition was filed under section 302 of the Trade Act of 1974, as amended ("Trade Act") (19 U.S.C. 2412), by the American Meat Institute, U.S. Meat Export Federation, American Farm Bureau Federation, National Pork Producers Council and National Cattlemen's Association. The petitioners, who are associations representing producers of livestock and grains, and packers and processors of meat, complain of trade barriers of the European Economic Community (EEC) to imports of beef, pork and lamb from the United States. Specifically, they maintain that the Third County Meat Directive ("Directive") subjects meat imported from the United States into EEC member countries to regulatory requirements that are not observed within the EEC member countries, are not fully enforced or observed in meat packing plants shipping across national boundaries in the EEC, are not based on or justified by any scientific analysis, and are generally unjustifiable, unreasonable, discriminatory and a burden on United States commerce. The petitioners also allege that the Directive violates Article III (the "national treatment" provision) of the General Agreement on Tariffs and Trade.

The Directive was the subject of an inquiry under section 305 of the Trade Act. The report that resulted from that inquiry was released by USTR on March 26, 1987.

On July 22, 1987, the U.S. Trade Representative initiated an investigation in response to the petition filed July 14. Moreover, USTR requested consultations with the EEC, as required by section 303(a) of the Trade Act. USTR will seek information and advice from petitioners and appropriate representatives provided for under section 135 of the Trade Act in preparing United States presentations for such consultations.

Any interested person is invited to submit written comments on the issues raised by the petition. Comments should be filed in accordance with the regulations at 15 CFR 2006.8 and are due no later than August 27, 1987. Comments must be in English and provided in 20 copies to the Chairman, Section 301 Committee, Room 222, at the above USTR address.

Judith Hippler Bello,

Chairman, Section 301 Committee.

[FR Doc. 87–17115 Filed 7–27–87; 8:45 am]

BILLING CODE 3190–01–M

[Docket No. 301–61]

Unfair Trade Practices; Brazil Patent Protection for Pharmaceuticals; Initiation of an Investigation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of decision to initiate an investigation under section 301.

SUMMARY: Pursuant to 19 U.S.C. 2412, the U.S. Trade Representative has determined to initiate an investigation of Brazil's alleged failure to provide adequate and effective protection of intellectual property through denial of any form of patent protection for pharmaceuticals. USTR invites written comments and will conduct public hearings on Brazil's policy and practice concerning this issue.

EFFECTIVE DATE: July 23, 1987.

FOR FURTHER INFORMATION CONTACT: Christina Lund, Director for Brazil and Southern Cone Affairs, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC, telephone (202) 395–5190; or Catherine R. Field, Assistant General Counsel, Office of the U.S. Trade Representative, (same address), telephone (202) 395–3432.

SUPPLEMENTARY INFORMATION: On June 11, 1987, the Pharmaceutical Manufacturers Association (PMA) filed a petition under section 302(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2421(a), alleging that the Government of Brazil has denied process and patent protection to pharmaceuticals products, and that this policy and practice is unreasonable and burdens and restricts U.S. commerce. The petition alleges that the lack of patent protection for pharmaceutical products has caused the U.S. pharmaceutical industry to lose a substantial volume of sales and market share in Brazil. Furthermore, this loss will continue and accelerate in the future.

On July 23, 1987, the U.S. Trade Representative initiated an investigation into the Brazilian Government's denial of patent protection to pharmaceutical products and processes. USTR will request consultations with the Government of Brazil, as required by section 303(a) of the Trade Act of 1974. Prior to receiving PMA's petition, USTR consulted three times with the Brazilian Government since November, 1986, on the issue of providing patent protection for pharmaceutical products and related problems.

As part of the effort to fully express our concern over this issue, USTR invites written comments on the issue of providing patent protection for pharmaceutical products in Brazil. In addition, at PMA's request, USTR will hold a public hearing on this matter.

Specifically, USTR requests comments regarding: (1) The effect of lack of patent protection in Brazil on investment; (2) other benefits that could accrue to Brazil when they provide patent protection to pharmaceuticals; and (3) the effect of Brazil's policy and practice of denying patent protection on U.S. firms operating in Brazil.

Hearings will be held on September 14, 1987, at 10:00 a.m. at a site to be announced. Interested persons desiring to present oral testimony must submit a request in writing, accompanied by a statement or brief in 20 copies in English by noon, Sept. 7, 1987, to Christina Lund or Catherine Field at the address listed above. Remarks at the hearing should be limited to a 15-minute summary of the written statement to allow for possible questions from the hearing officers.

Persons desiring to make written comments only should provide a written statement in 20 copies in English by September 10, 1987, to the persons specified above.

Judith Hippler Bello,

Chairman, Section 301 Committee.

[FR Doc. 87–17116 Filed 7–27–87; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 144
Tuesday, July 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, August 3, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C. Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–17215 Filed 7–24–87; 3:39 pm]

BILLING CODE 6210–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

ACTION: Notice of closed meeting.

DATE: July 22, 1987.

PLACE: Council's Central Office, Portland, Oregon.

SUMMARY: On July 22, 1987 at 9:30 a.m. the Northwest Power Planning Council held a closed meeting pursuant to section c(9)(B) of the Sunshine Act. The meeting was closed by unanimous vote of the Council Members in order to discuss information the premature disclosure of which would be likely to significantly frustrate proposed Council action. The meeting concluded at 1:30 p.m. The Council also determined by recorded vote that Council business required the meeting be held immediately and that, in this instance, it was not possible to give earlier notice of the meeting date.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins, (503) 222–5161.

Bobbe Fendall,

Liaison Officer.

[FR Doc. 87–17135 Filed 7–24–87; 12:06 pm]

BILLING CODE 0000–00–M

Corrections

Federal Register
Vol. 52, No. 144
Tuesday, July 28, 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

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[Federal Acquisition Circular 84-28]

Federal Acquisition Regulation

Correction

In rule document 87-13010 beginning on page 21884 in the issue of Tuesday, June 9, 1987, make the following corrections:

§ 15.605 [Corrected]

On page 21886, in the third column, in § 15.605(b), in the 11th line, insert "excellence," after "technical", and in the 15th line, insert a comma after "factors".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51560B/51562C; FRL-3213-4]

Certain Chemical; Premanufacture; Termination of Review Period

Correction

In notice document 87-12729 appearing on page 21116 in the issue of Thursday, June 4, 1987, make the following correction:

In the second column, in the **SUPPLEMENTARY INFORMATION**, after the tenth line, insert "of the PMN substances pending the submission and evaluation".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Oversight of Radio and TV Rules

Correction

In rule document 87-14447, beginning on page 25865, in the issue of Thursday, July 9, 1987, make the following correction:

On page 25866, in the third column, in § 73.182(v), in the "Note", in the third line, "with" should read "within".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-ASO-3]

Alteration of Restricted Areas

Correction

In rule document 87-12782 beginning on page 21249 in the issue of Friday, June 5, 1987, make the following correction:

On page 21249, in the third column, in § 73.29, in the 4th and 11th line from the bottom, "R-2910 Pinecastle, FL [Amended]" and "R-2908 Pensacola, FL [Amended]" were transposed.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-ASO-16]

Alteration of Restricted Areas

Correction

In rule document 87-12783, appearing on page 21250, in the issue of Friday, June 5, 1987, make the following correction:

§ 73.44 [Corrected]

On page 21250, in the third column, in § 73.44, in the first line under amendatory instruction 3, "D" should read "C".

BILLING CODE 1505-01-D

Federal Register

Tuesday
July 28, 1987

Part II

Department of Education

Office of Special Education and Rehabilitative Services

Educational Media Research, Production, Distribution, and Training Program; Notice of Final Annual Funding Priority

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Educational Media Research, Production, Distribution, and Training Program

AGENCY: Department of Education.

ACTION: Notice of final annual funding priority.

SUMMARY: The Secretary announces this annual funding priority under the Educational Media Research, Production, Distribution, and Training Program. This priority supports a single project to design and manufacture a Line 21 decoder which will be less expensive than the present decoder. The Line 21 decoder permits captions of television programs to be displayed on television sets equipped with these decoders. The project should result in reduced equipment costs for persons purchasing decoders. In addition, the present stock of decoders will eventually be depleted and new decoders will be needed to ensure a continuing supply.

EFFECTIVE DATE: This final annual funding priority takes 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 this final annual funding priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Malcolm J. Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 4088–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1177.

SUPPLEMENTARY INFORMATION: The Educational Media Research, Production, Distribution, and Training Program, authorized by sections 651 and 652 of Part F of the Education of the Handicapped Act (EHA), supports the educational advancement of persons with handicaps by providing assistance for: (a) Conducting research in the use of educational media and technology for persons with handicaps; (b) production and distribution of educational media for the use of persons with handicaps, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of persons with handicaps; and (c) training persons in the use of educational media for the instruction of persons with handicaps.

In 1972 the Federal Government, through the former Office of Education, initiated the development of the closed-captioned television Line 21 system which allows the broadcast signal to transmit captions (subtitles) visible only on television sets equipped with decoders. This system makes television accessible to the Nation's population with hearing-impairments.

The system was implemented in March, 1980, and has resulted in cooperative efforts between the public and private sectors to provide closed-captioned television to Americans with hearing impairments. All major networks are making closed-captioned programs available. Federal funding supports approximately 40% of the current level of captioning programming, the networks support approximately 30%, and corporate advertisers, foundations, and individual contributions account for the remaining 30%.

The Congress has appropriated funds annually which have been used to provide support for closed-captioning. Federal funds have been used also to assist in the design and manufacture of Line 21 decoders in order to reduce the cost of decoders to persons with hearing impairments. The Secretary now gives a priority to design a Line 21 decoder which is lower in cost than the existing unit and which will be effective in overcoming problems that have resulted from recent changes in broadcast and video technology. The Federal government will subsidize the manufacture of at least 50,000 of the new decoders.

Summary of Comments and Responses

A notice of proposed annual funding priority was published in the **Federal Register** on May 19, 1987 at 52 FR 18788. The public was given thirty days to comment on the proposed priority. No comments were received.

Priority

In accordance with Education Department General Administrative Regulations (EDGAR) as 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications submitted under this priority of the Educational Media Research, Production, Distribution, and Training Program in 1987 that respond to the priority described below.

The Design and Manufacture of a Less Expensive Line 21 Decoder. This priority supports a cooperative agreement with an organization that has the technical expertise and knowledge to design, produce, and distribute a decoder that is less expensive than existing decoders. The applicant must submit a plan for the design of a new decoder and subsequent production and distribution of at least 50,000 Line 21 decoders as part of the application. The plan must provide evidence of commitment from one or more manufacturers and retailers to assure production and sale of the units. The plan must contain a timeline for testing the new decoder for function and effectiveness in overcoming problems that have resulted from recent changes in broadcast and video technology, a timeline for production, and an estimated retail price for the assembled units to be marketed to consumers with hearing impairments. The estimated retail price must be lower than the retail price for existing units. The plan shall also provide assurance that at least 50,000 Line 21 decoders will be marketed to consumers. Existing decoders have been sold at prices ranging from $179.99 to $199.99.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened Federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's specific plans and actions for this program.

(20 U.S.C. 1451, 1452)

(Catalog of Federal Domestic Assistance No. 84.026; Media Services and Captioned Films)

Dated: July 15, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–17069 Filed 7–27–87; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
July 28, 1987

Part III

Department of Education

Office of Special Education and Rehabilitative Services

Rehabilitation Long-Term Training Program; Notice of Final Funding Priority for Fiscal Year 1987

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of final funding priority for Fiscal Year 1987.

SUMMARY: The Secretary announces a funding priority for long-term training grants in the field of Rehabilitation Counseling to ensure effective use of program funds and to direct funds to an area of identified training need during fiscal year 1987. The Secretary will reserve funds for applications meeting this priority.

EFFECTIVE DATE: This final annual funding priority takes 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 this final annual funding priority, call or write the Department of Education contact person:

FOR FURTHER INFORMATION CONTACT: Delores Watkins, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3322—M/S 2312), Washington, DC 20202. Telephone: (202) 732–1349.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed to increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational and independent living rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

A notice of proposed annual funding priority was published in the **Federal Register** (52 FR 18332–33) on May 14, 1987. There are no significant differences between this final priority and the proposed priority.

Summary of Comments and Responses

One comment was received in response to the notice of proposed annual funding priority. The comment and the Secretary's response are summarized below:

Comment: One commenter suggested that the training designated under the priority not be limited to pre-employment training and that State vocational rehabilitation agencies be allowed to submit applications for long-term training of current rehabilitation counselor staff.

Response: Rehabilitation Training Program funds are available under the State Vocational Rehabilitation Unit In-Service Training Program and the Rehabilitation Continuing Education Program for the provision of post-employment training to employed State vocational rehabilitation agency personnel, including rehabilitation counseling personnel. Training provided under the State Vocational Rehabilitation Unit In-Service Training Program and the Rehabilitation Continuing Education Program are expected to be responsive to training needs identified by the State vocational rehabilitation agencies.

The priority is intended to encourage the development and/or expansion of Master's degree training projects in the field of Rehabilitation Counseling in a direction that will be responsive to projected training needs identified by the Department and prepare personnel for employment in accordance with the designated priority. A State vocational rehabilitation agency does not have the capacity to provide Master's degree long-term training. No changes were made.

Priority

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to long-term training applications submitted in the field of Rehabilitation Counseling in fiscal year 1987 that respond to the priority described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priority.

Applications must be submitted in the long-term training field of Rehabilitation Counseling and must be designed to improve and strengthen the capacity of rehabilitation counselors to serve and place severely disabled individuals in employment, especially competitive employment. The training must directly involve students with business and industry in providing rehabilitation services, especially placement services, to severely physically and mentally disabled individuals. The coursework must be designed to provide students with skills and knowledge in: (1) Interpreting diagnostic, psychological, and educational background information to assess the functional capacities of, and do vocational planning for, disabled individuals, including traumatically brain-injured individuals and learning-disabled individuals; (2) planning effective rehabilitation programs for, and delivering rehabilitation services to, disabled individuals, including traumatically brain-injured and learning-disabled individuals; (3) job development, job modification, and job restructuring; (4) workers' compensation programs; (5) providing services to disabled individuals to facilitate their transition from school to employment; (6) providing supported employment services to disabled individuals; (7) the applicability of sections 501, 502, 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; and (8) consulting with employers and potential employers to identify employment opportunities for disabled individuals, to educate and train employers in identifying and removing barriers to the employment of disabled individuals, and to educate or train employers and potential employers about various disabilities and the vocational implications of those disabilities. Practicum training must involve students directly with business and industry in developing jobs for and placing disabled individuals in competitive employment. The practicum training may include actual student experiences in business and industry settings.

The proposed training must be pre-employment training and must be at the master's degree level.

(29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: July 15, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–17070 Filed 7–27–87; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
July 28, 1987

Part IV

Department of Education

34 CFR Parts 250 and 251

Formula Grants—Local Educational Agencies and Tribal Schools; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 250 and 251

Formula Grants—Local Educational Agencies and Tribal Schools

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Indian education formula grant program to include additional criteria governing a local educational agency's (LEA's) authority to count certain children to generate funds under section 303(a) of the Indian Education Act, Title IV of Pub. L. 92–318. Under that section, payments are made, in part, on the basis of the number of Indian children enrolled in the schools of an LEA, and for whom the LEA provides free public education. Under section 303(a) of that Act, payments are made for supplementary services designed to meet the special educational and culturally related academic needs of these Indian children.

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 Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Hakim Khan, Acting Director, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177 (Mail Stop 6267) Washington, DC 20202. Telephone (202) 732–1887.

SUPPLEMENTARY INFORMATION:

A. General

Part A of the Indian Education Act (the Act), Title IV of Pub. L. 92–318 (20 U.S.C. 241aa–241ff) authorizes a formula grant program to help certain LEAs and tribal schools—which, for purposes of the program, are regarded as LEAs—develop and carry out supplementary elementary and secondary education projects that meet the special educational and culturally related academic needs of Indian children.

Under section 303(a) of the Act, formula grant funds are awarded, in part, upon the basis of the number of Indian children enrolled in the schools of an LEA and for whom the LEA provides a free public education.

These regulations establish criteria for determining the authority of an LEA to count certain Indian children to generate payments under this program. The explanatory statements in the preamble to the notice of proposed rulemaking are fully applicable. For the sake of brevity, those statements are not being reprinted here. Readers are referred to the **Federal Register** of May 8, 1987 (52 FR 17532–17533).

The regulations include an Appendix that provides examples of the effect these regulations would have in several factual situations. The Appendix will not be codified in the Code of Federal Regulations.

The Secretary anticipates that when these regulations become effective, they will govern all payments to LEAs under this program beginning with fiscal year 1987 funds, which will be used to support projects during the 1987–1988 school year.

There are no significant changes or differences between the NPRM and these final regulations. One comment was received regarding the NPRM. A summary of the comment and the Secretary's response follows.

Comment: The Commenter stated that it is unfair to rule that children enrolled in schools operated by the Bureau of Indian Affairs (BIA) under P.L. 95–561 may not be counted by an LEA for purposes of generating funds under this program, since these children do not receive supplementary services from any other program.

Response: No change has been made. Under the Indian Education Act, the only children who may be counted are Indian children enrolled in a local educational agency, for whom that agency provides a free public education, and Indian children enrolled in a tribal school deemed to be a local educational agency under Section 1146 of Pub. L. 95–561. Schools operated by the BIA are not considered LEAs under the Indian Education Act or section 1146 of Pub. L. 95–561.

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

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 251

Education, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education.

(Catalog of Federal Domestic Assistance Number 84.060, Formula Grants—Local Education Agencies and Tribal Schools)

Dated: July 13, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 250 and 251 of Title 34 of the Code of Federal Regulations as follows:

PART 250—INDIAN EDUCATION ACT—GENERAL PROVISIONS

1. The authority citation for Part 250 is revised to read as follows:

Authority: 20 U.S.C. 241aa–241ff, 1211a, 1211h, 3385a, unless otherwise noted.

2. Section 250.4(b) is amended by revising the introductory text of the definition of "Free public education" to read as follows:

§ 250.4 What definitions apply to these programs?

* * * * *

(b) * * *

"Free public education," except as defined in 34 CFR 251.32, means education that is— * * *

* * * * * *

PART 251—FORMULA GRANTS—LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

3. The authority citation for Part 251 is revised to read as follows:

Authority: 20 U.S.C. 241aa–241ff, unless otherwise noted.

4. Sections 251.31 and 251.32 are added to Subpart D to read as follows:

§ 251.31 Payments to local educational agencies.

The Secretary makes payments to an applicant local educational agency (LEA) for children claimed under section 303(a), Part A, of the Indian Education Act, only if—

(a) The LEA is responsible under applicable State or Federal law for

providing a free public education (as provided in § 251.32) to those children;

(b) The LEA is providing a free public education to those children; and

(c) The State provides funds for the education of those children on the same basis as all other public school children in the State.

(Authority: 20 U.S.C. 241aa–241ff)

§ 251.32 Free public education.

(a) As used in §§ 251.30 and 251.31, a free public education means education that is provided—

(1) At public expense;

(2) As the complete elementary and secondary educational program;

(3) In a school of the LEA or under a tuition arrangement with another LEA or other educational entity; and

(4) Under public supervision and direction.

(b) For the purpose of paragraph (a)(1) of this section, education is provided at public expense if—

(1) There is no tuition charge to the child or the child's parents; and

(2) Federal funds, other than Pub. L. 81–874 funds (Impact Aid) and Pub. L. 93–638 contract funds (Indian Self-Determination and Education Assistance Act), do not provide a substantial portion of the basic educational program.

(c) For the purpose of paragraph (a)(2) of this section, the complete elementary or secondary educational program is the program recognized by the State as meeting all requirements for elementary or secondary education for the children claimed. It is not a program that provides only—

(1) Supplementary services or instruction; or

(2) A portion of the required educational program.

(d) For the purpose of paragraph (a)(3) of this section, a tuition arrangement must—

(1) Satisfy all applicable legal requirements in the State; and

(2) Genuinely reflect the applicant LEA's responsibility to provide a free public education to the children claimed under section 303(a), Part A, of the Indian Education Act.

(e) For the purpose of paragraph (a)(4) of this section, education provided under public supervision and direction means education that is provided—

(1) In a school of the applicant LEA or another LEA; or

(2) By another educational entity, over which the applicant LEA, or other public agency, exercises authority with respect to the significant aspects of the educational program for the children claimed. The Secretary considers significant aspects of the educational program to include administrative decisions relating to teachers, instruction, and curriculum.

(Authority: 20 U.S.C. 241aa–241ff)

Appendix—Examples Illustrating Application of Regulations in Certain Situations

Note.—This appendix will not be codified in the Code of Federal Regulations.

Example No. 1. Each LEA in a State is held responsible under State law for providing a free public education to all students who reside within its boundaries. This LEA meets its legal responsibility of providing free public education to its resident students by operating schools for grades kindergarten through 12. While all the students residing within this LEA are entitled to attend its schools to receive free public education, they are not required to do so.

Also located in or near this LEA are several schools which are operated by the Bureau of Indian Affairs (BIA) of the Department of the Interior (BIA-operated schools). A large number of Indian students residing on Indian lands in the LEA are eligible and choose to attend the BIA-operated schools where they receive the full program of instruction at the elementary or secondary level required by the State.

The LEA claims to have cooperative school agreements with the BIA-operated schools. These agreements include various arrangements through which the LEA obtains federal funds on behalf of and provides supplementary services or funds from those sources for students enrolled in the BIA-operated schools. The LEA does not provide basic educational services for these children, although the cooperative agreements may include locally financed arrangements for transportation or other supplementary services.

Under one arrangement, the LEA agrees to send to each of the BIA-operated schools the full amount of the Indian education formula grant payments that it anticipates receiving on behalf of students attending each school, less ten percent. Under another arrangement, the LEA provides the services of a tutor whose salary is paid by the LEA with formula grant funds. The tutor works two days a week in the BIA-operated schools and the remaining time in two schools of the LEA.

Under these regulations, the LEA may not claim for formulas grant payments the children attending the BIA-operated schools because the BIA has in effect released the LEA from its practical and financial responsibility to educate the children who choose to attend the BIA-operated schools. The fact that the LEA claims to have a tuition agreement or other cooperative agreement with the BIA-operated schools makes no difference. Once the children enroll in a BIA-operated school, the LEA is, in effect, no longer responsible to provide a free public education to those children. For example, any "tuition" payments it makes to the BIA-operated schools are gratuitous.

Another reason the LEA may not claim the children is that, under § 251.31(b), the LEA is not, in fact, providing those children a free public education. One of the four tests of a free public education in § 251.32 is whether the education is provided at public expense. Because Federal BIA funds provide the full cost of the basic educational program for those children, the education is not provided at public expense as required by § 251.32(b).

Example No. 2. In one community there are two educational entities that serve the school-aged children in the area. One of the entities is an LEA and the other is a BIA-operated school. While the LEA and the BIA operate separate elementary schools, they have decided that it is in their mutual interest to operate, through a joint board, a single high school program for all the children in the community. The members on the joint board who represent the LEA exercise authority with respect to all matters of significance concerning the operation of the high school.

The high school consists of two buildings. One is owned by the LEA and the other is owned by the BIA. The two buildings are used as one facility with all students moving freely from one to the other for their classes. The high school program is provided free of charge to all of the students who attend and is fully accredited and recognized by the State. The LEA and the BIA pool the resources available for the students each is responsible for educating. The LEA contributes funds it raises from local property taxes, and the BIA contributes funds it otherwise would use to operate the school.

Under either § 251.31 (a) or (b) of the regulations, the LEA may not, for purposes of section 303(a), claim those high school students for whom the BIA is responsible. This is because the LEA is not practically responsible for providing and is not in fact providing those students a free public education as required by § 251.31. Also, because the education of those students is not provided at public expense as required by § 251.32(b), the LEA is not in fact providing them a free public education as required by § 251.31.

The LEA may, on the other hand, claim the Indian high school students whose education is not funded by the BIA. Even though the joint operation of the high school is somewhat unusual, the LEA is responsible under State law for providing, and is in fact providing, free public education for some of the students. The program for those students is funded by the LEA's local tax revenues and State aid contributions, and therefore the education is provided at public expense in accordance with § 251.32(b). The education consists of the complete secondary educational program recognized by the State, in accordance with § 251.32(c). Finally, because the LEA's representatives on the joint school board exercise authority in all significant decisions regarding the operation of the high school, the education is provided under public supervision and direction in accordance with § 251.32(e).

Example No. 3. A State requires each of its LEAs to provide free public education to all students residing within its boundaries. In this State, these LEAs are referred to as "school districts of residence." A district of residence provides its students the complete educational program required by the State.

A county in this State, containing four districts of residence, is considered an LEA by the State and also meets the Federal requirements for being an LEA because it provides the full required educational program for some children. This county also offers a supplementary program of advanced vocational training that is open to the secondary students of the four districts of residence located within the county. Typically, the secondary students from the districts of residence who attend the county's advanced vocational education program do so for one or two class periods a day. While the advanced vocational classes may be counted as part of a student's secondary program, a student could not meet the State's requirements for high school graduation by attending these classes alone.

Some of the students in one of the districts of residence are Indian students who also participate in the county's supplementary vocational program. The district of residence may, for purpose of section 303(a), claim those students because it is both responsible for providing, and in fact is providing, the complete educational program required by the State. The county, on the other hand, may not claim those students. This is because the county, which provides only a supplementary portion of the student's education, does not provide the complete secondary educational program for those students in accordance with § 251.32(c). Therefore, the country is not providing their free public education as required by § 251.31.

Example No. 4. An LEA located in a sparsely populated, rural area operates a full program of elementary education, as recognized by its State, for the students residing within its boundaries. For various reasons, the LEA does not have any facilities in which to offer a program for its students at the secondary level.

The LEA provides the recognized secondary education program to its students by entering into a tuition arrangement with a local private school that meets applicable State requirements. The tuition covers the full cost of educating all its students. The program is governed by a joint school board made up of equal numbers of representatives of the LEA and the private school. A representative of the LEA serves as the director of the board. The joint board operates the secondary program by selecting and employing all school personnel, designing the curriculum, and supervising classroom instruction. In the event of a stalemate with regard to any significant decision affecting the education program, the board director is authorized to resolve the issue.

Under these regulations, the LEA may claim, for purposes of section 303(a), the students who are attending the private school for their secondary program. The LEA is both responsible for providing, and in fact providing, their free public education under § 251.31. The education is provided at public expense (§ 251.32(b)) and is the complete secondary program recognized by the State (§ 251.32(c)). The education is being provided under a tuition arrangement that meets applicable State requirements and that genuinely reflects the LEA's responsibility to provide a free public education to the children claimed under section 303(a), in accordance with § 251.32(d). Finally, because the LEA exercises authority with respect to the significant aspects of the educational program, the education is provided under public supervision and direction as required by § 251.32(e).

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Tuesday
July 28, 1987

Part V

The President

Proclamation 5685—Clean Water Day

Part V

The President

Proclamation 5985—Clean Water Day

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Vol. 52, No. 144
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Presidential Documents

Title 3—

The President

Proclamation 5685 of July 24, 1987

Clean Water Day, 1987

By the President of the United States of America

A Proclamation

No resource is more vital to the welfare of the United States than clean water. Virtually every aspect of modern life depends in some way on an abundant and clear supply of this precious gift of nature.

Americans use well over 100 billion gallons of water every day; the water that sustains and nourishes us must be safe, and agriculture and industry alike require clean water. Because clean water is the basis of life for myriad species of animals, clean rivers, streams, lakes, estuaries, and oceans are essential.

Given the universal importance of clean water, it is fitting that we set aside a day to recommit our energies to wisely managing this precious resource for ourselves and for generations yet unborn.

The Congress, by Senate Joint Resolution 160, has designated July 25, 1987, as "Clean Water Day" and authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim July 25, 1987, as Clean Water Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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

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