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Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202–523–5239

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Amendment to the Maturity Dockage System for Certain Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the maturity dockage system for Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins. Currently, handlers may acquire as standard raisins any lot of these raisins containing 40.0 percent to 49.9 percent Grade B or better raisins, by weight, under a maturity dockage system. This action will lower the minimum allowable percentage of Grade B or better raisins that handlers may acquire under a maturity dockage system, and will change the dockage factor applicable to raisin lots containing certain maturity levels.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this final action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended, 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 21 handlers and 5,000 producers of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins during the 1986–87 crop year. 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, which would include handlers, are defined as those whose gross annual receipts are less than $3,500,000. The majority of California raisin producers and handlers may be characterized as small producers and handlers. This regulation will apply to all handlers of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins.

Handlers acquire and producers are paid according to the creditable fruit weight of raisins delivered. Lots of raisins containing 50.0 percent or more Grade B or better raisins are the most desirable. This amendment will lower the minimum allowable percentage of Grade B or better raisins that handlers may acquire from producers from 40.0 percent to 35.0 percent and change the weight dockage factor for lots below the 50.0 percent Grade B or better maturity level. If handlers acquire lots of raisins which contain amounts of Grade B or better raisins less than 50.0 percent, by weight, the delivery weight of such lots will be docked, thereby decreasing the payment to producers for that lot. Raisin lots delivered below the 35.0 percent Grade B or better level would be off-grade and require reconditioning. Producers would incur the reconditioning costs necessary to bring such lots within acceptable requirements. Currently, raisin lots delivered below the 40.0 percent Grade B or better level require such reconditioning.

The reporting and recordkeeping requirements under the raisin marketing order are incurred by handlers. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements are likely passed on to producers. Since reporting and recordkeeping functions are already used in connection with this quality requirement, there will not likely be an increase in these burdens. Department of Agriculture inspectors currently determine the percent of Grade B or better raisins in a lot. Thus, no additional costs of this type are expected.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

A proposed rule on this amendment was published in the **Federal Register** on July 16, 1987 (52 FR 26690) inviting written comments through July 27, 1987. No comments were received.

Raisin lots containing 50.0 percent or higher Grade B or better raisins are accepted by handlers as standard raisins. The maturity dockage system currently permits handlers to acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins even though the lot has been determined to be off-grade because it contains fewer than 50.0 percent, by weight, of well-matured or reasonably well-matured raisins. Raisin lots containing less than 49.9 percent, by weight, of Grade B or better raisins are subject to a dockage factor. This factor reduces the weight of the lot by an amount approximating the weight of raisins needed to be removed in order for the balance of the lot to meet grade standards. Raisin lots containing 40.0 percent to 49.9 percent Grade B or better raisins are docked a 0.2 percent weight reduction for each 0.1 percent below 50.0

percent of Grade B or better raisins down to 40.0 percent.

The industry feels that the current maturity dockage system is too restrictive. Handlers can easily process raisin lots that have fewer Grade B or better raisins by blending them with a better quality lot to bring the combined lots up to acceptable quality standards. Also, the industry feels that the air stream sorter used for determining Grade B or better maturity is not an extremely accurate tool of measurement. The industry feels that the air stream sorter does not give a consistently accurate reading of the amount of Grade B or better raisins in a lot, especially when raisins are exposed to moisture. The Committee is currently conducting research to find a more accurate device for Grade B or better determination. The Committee has recommended these revisions in the maturity dockage system until another method of determination is developed.

The Committee has recommended that the minimum allowable percentage of Grade B or better raisins be lowered and three maturity levels be established for the purpose of applying an increasing dockage factor for lots containing fewer amounts of Grade B or better raisins. Raisins of these varietal types containing between 49.9 percent to 45.0 percent Grade B or better would be docked a 0.1 percent weight reduction for each 0.1 percent of Grade B or better raisins below 50.0 percent down to 45.0 percent. Producers delivering raisins between 44.9 percent to 40.0 percent Grade B or better would be docked an additional 0.2 percent weight reduction for each 0.1 percent of Grade B or better raisins below 45.0 percent down to 40.0 percent. Producers delivering raisins between 39.9 percent to 35.0 percent Grade B or better would be docked an additional 0.3 percent weight reduction for each 0.1 percent of Grade B or better raisins below 40.0 percent down to 35.0 percent. Lots containing 34.9 percent or less Grade B or better raisins would be off-grade and require reconditioning before they could be acquired as standard raisins by handlers.

This final rule is issued under Marketing Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The order is effective under the Act.

After consideration of all relevant matter presented (the information and recommendation submitted by the Committee and other available information), it is found that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers will begin receiving the 1987–88 crop in mid-September. This final rule should apply to such shipments. Both handlers and producers need to plan their activities as soon as possible in view of these shipments of raisins. No useful purpose would be served by delaying the effective date of this action until 30 days after publication.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

For the reasons set forth in the preamble, 7 CFR Part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

2. Paragraphs (a) and (b) of § 989.213 are revised, and paragraphs (c) and (d) are added to read as follows:

Subpart—Supplementary Regulations

* * * * *

§ 989.213 Maturity dockage.

(a) Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins containing from 35.0 percent through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system. The creditable weight of each lot of raisins acquired under the maturity dockage system shall be obtained by multiplying the applicable net weight or creditable weight (weight determined by applying the applicable weight adjustment factor for moisture) of the lot of raisins by the applicable dockage factor from the dockage table prescribed in paragraphs (b), (c) and (d) of this section.

(b) *Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins with 45.0 percent through 49.9 percent Grade B or better.*

Percent well-matured or reasonably well-matured	Dockage factor
50.0 or more	(1)
49.9	.999
49.8	.998
49.7	.997
49.6	.996
49.5	.995

[1] No dockage.

Note.—Percentages less than the last percentage shown in the table, down to 45.0 percent, shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

(c) *Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins with 40.0 percent through 44.9 percent Grade B or better:*

Percent well-matured or reasonably well-matured	Dockage factor
44.9	.948
44.8	.946
44.7	.944
44.6	.942
44.5	.940
44.4	.938

Note.—Percentages less than the last percentage shown in the table, down to 40.0 percent, shall be expressed in the same increments as the foregoing, and the dockage factor for each increment shall be .002 less than the dockage factor for the preceding increment.

(d) *Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins with 35.0 percent through 39.9 percent Grade B or better:*

Percent well-matured or reasonably well-matured	Dockage factor
39.9	.847
39.8	.844
39.7	.841
39.6	.838
39.5	.835
39.4	.832

Note.—Percentages less than the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .003 less than the dockage factor for the preceding increment. No dockage shall apply to lots of raisins containing 34.9 percent or less of well-matured or reasonably well-matured raisins.

Dated: August 25, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87-19888 Filed 8-28-87; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

NRC Reporting Requirements for Safeguards Events; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The NRC staff will conduct a meeting to assist affected licensees in their implementation of recently issued revisions to 10 CFR 73.71, "Changes to Safeguards Reporting Requirements," which become effective on October 8, 1987.

DATE: September 14, 1987.

ADDRESS: Holiday Inn of Bethesda (Versailles Rooms I and II), 8120 Wisconsin Avenue, Bethesda, MD 20014.

FOR FURTHER INFORMATION CONTACT: For reactor licensees: Nancy Ervin, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7855; or, for all other affected licensees: Priscilla A. Dwyer, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4773.

SUPPLEMENTARY INFORMATION: The primary purpose of this workshop is to further affected licensees' understanding of the NRC requirements regarding the reporting of safeguards events as described in the recently revised 10 CFR 73.71 (June 9, 1987; 52 FR 21651) and supporting guidance. Licensees most affected by the revision to 10 CFR 73.71 are those subject to §§ 73.20, 73.37, 73.50, 73.55, 73.60 or those possessing strategic special nuclear material and subject to § 73.67. The workshop will serve as a mechanism to address industry concerns and questions on the subject.

In order to allow more efficient use of question sessions, licensees are requested to submit questions of general interest in advance of the workshop to the appropriate contact noted above. In addition, licensees are requested to notify appropriate contacts of plans to attend as seating is limited to 300. The tentative agenda is shown below:

Morning Session

9:30 am Introductory Remarks
10:00–11:00 Revised Reporting Requirements: History, Purpose, and Comparison with Previous Requirements
11:00–11:15 Break
11:15–11:45 Generic Trend Analysis
11:45–1:00 Lunch

Afternoon Session

1:00–2:15 Determining Reportability—One Hour Events (Panel Discussion)
2:15–2:30 Break
2:30–4:00 Determining Reportability—Log Items (Panel Discussion)
4:00–4:15 Closing Remarks.

Persons other than NRC Staff and Licensee Representatives may observe the proceedings but will be permitted to participate in the discussions only as time will allow. Registration will be conducted prior to the meeting. It is anticipated the proceedings of the workshop will be published some time in the future as a guidance document for licensees. Copies of the supporting regulatory guide for this revised rule, Regulatory Guide 5.62, "Reporting of Safeguards Events," are being placed in NRC's Public Document Room, 1717 H Street NW., Washington, DC, and each Local Public Document Room throughout the United States for review by interested persons.

Dated at Bethesda, Maryland, this 26th day of August, 1987.

For the Nuclear Regulatory Commission.

Robert A. Erickson,

Chief, Reactor Safeguards Branch, Division of Reactor Inspection and Safeguards, Office of Nuclear Reactor Regulation.

[FR Doc. 87-19949 Filed 8-28-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 17929, Special Conditions No. 23-83-EA-11A]

Special Conditions; Aviation Safety Release Corp., Modified Univair Model 108-2 Airplane To Incorporate the Aviation Safety Release (ASR) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; amendment to special conditions.

SUMMARY: This final rule action amends Special Conditions No. 23-83-EA-11, issued on May 19, 1978, for the supplemental type certification of the Aviation Safety Release Corporation modifications to the Univair Model 108-2 Airplane. The FAA has determined that Special Conditions No. 23-83-EA-11, issued on May 19, 1978, do not adequately set forth requirements to assure the necessary level of safety for the installation, operation, and maintenance of the ASR System. The ASR System will have novel and unusual design features when compared to the state of technology envisioned in the original type certification regulations applied to the Univair Model 108-2 Airplane. This amendment assures that Special Conditions No. 23-83-EA-11 contain the airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to that provided by the airworthiness standards applicable to the Univair Model 108-2 Airplanes.

EFFECTIVE DATE: September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald K. Rathgeber, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The type certification basis for the Univair Model 108-2 Airplane is Civil Air Regulations (CAR) Part 03, effective December 15, 1946, as amended by Amendments 03-1 through 03-3; and Special Conditions No. 23-83-AE-11, as amended by this action.

Background

On June 24, 1976, Mr. Dario J. Manfredi filed an application for a supplemental type certificate (STC) for the Univair Model 108-2 Airplane to install the Aviation Safety Release (ASR) System. The ASR System operates to jettison the wings and then parachute the rest of the airplane to the ground. The ASR System is intended for use as a last resort for the survival of the occupants and only in a situation where the airplane is disabled or there is no suitable landing site available.

The Univair Model 108-2 is a small, four-place, single-engine, high-wing airplane with a maximum certificated weight of 2,235 pounds.

To accommodate the ASR System, the necessary type design changes for the Univair Model 108-2 Airplane contain unusual design features for an airplane originally certificated to the requirements of Part 03 of the CAR. In

view of these unusual design features, the applicable airworthiness requirements do not contain adequate or appropriate airworthiness standards, and special conditions are necessary to provide a level of safety equal to that established by the regulations incorporated by reference in the type design.

Special conditions may be issued and amended as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated, in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane or installation. Special conditions are issued in accordance with § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

On May 19, 1978, Special Conditions No. 23–83–EA–11 were issued after the applicant and interested persons were given an opportunity to participate in the rulemaking process. However, the applicant did not pursue supplemental type certification of the Univair Model 108–2 with the ASR System in accordance with § 21.17(b) of the Federal Aviation Regulations.

As a result of a similar project in which special conditions were issued in 1984, and a review of special conditions No. 23–83–EA–11, the FAA identified additional issues that needed to be addressed in the ASR special conditions to assure an acceptable level of safety. Therefore, the FAA issued a Notice of Proposed Amendment to Special Conditions No. 23–83–EA–11 in the **Federal Register** (52 FR 18573, dated May 18, 1987), which proposed substantive and format changes to the original special conditions.

The FAA proposed to add requirements addressing the inadvertent jettisoning of the parachute after it has been deployed to assure that inadvertent jettisoning of the parachute, which could result in a catastrophic situation for the occupants, is extremely improbable. This special condition does not mandate the use of a numerical analysis to determine that inadvertent jettisoning is extremely improbable. The applicant may use a numerical analysis to assist in a showing of compliance; however, adequate data may not be available for preparing a stand-alone numerical analysis. The applicant may use a rational analysis based on the identification of failure modes and the resulting consequences.

The FAA proposed that the applicant provide a seat belt and shoulder harness restraint system at each seat position to protect the occupants from serious head or upper torso injury due to flailing during parachute deployment or ground impact.

Since the ASR System incorporates the use of explosive charges as a part of the system design, the FAA proposed that the applicant properly label these charges and assure that safe handling, installation, and maintenance procedures for these charges are established.

The FAA proposed to add requirements for the establishment of a sequence for the operation of the ASR System to assure that the system will not be inadvertently activated. Inadvertent operation subjects the occupants of the airplane to a situation that is intended to occur only under the most extreme circumstances when no other alternatives for a safe landing exist.

The FAA proposed to require that the ASR System have the capability of being disarmed after being armed at any time prior to final system activation. This requirement is necessary to assure that the pilot has the alternative to safely continue the flight after arming the system, and to remove the final activation step from possible inadvertent operation when the pilot decides to continue the flight.

The FAA proposed that the applicant show that the parachute can be jettisoned after impact under various weather conditions, including high winds. This requirement is considered necessary to assure that the occupants in the fuselage are not endangered after the successful completion of the descent, as a result of the inflated parachute dragging the fuselage through a hostile terrain.

The FAA proposed that the applicant develop instructions for continued airworthiness for the ASR System which meet the requirements of § 23.1529. This special condition will assure that the unique maintenance inspection procedures for this system are detailed by the applicant.

Since the issuance of the original Special Conditions No. 23–83–EA–11, the FAA Small Airplane Certification Directorate standardized a new format for special conditions. In the notice, the FAA presented the proposed amended Special Conditions No. 23–83–EA–11 in this format.

In addition to the proposed amended special conditions, the FAA asked for commenters to reply to the following questions:

1. Are there hazards posed to the general public from the ASR System as a result of possible falling objects?

2. Does an airplane with an ASR System pose a hazard to other aircraft as a result of possible uncontrolled flight?

3. Should special operating rules and/or pilot training be required for operators of an airplane with an ASR System?

4. Should special ground handling procedures be developed for an airplane with an ASR System?

Discussion of Comments

Public participation in this rulemaking action was invited by Notice No. 23–ACE–32, which was published in the **Federal Register** (52 FR 18573, dated May 18, 1987), and one comment was received. The commenter, who is the applicant, responded to all four questions as well as taking issue with two of the proposed special conditions.

In response to the first question, which addressed the possibility of hazards posed to the general public by the ASR System from falling objects, the commenter notes that ASR claims that, in their system, the wings are released and permitted to fall free. The commenter contends that the ASR System is not to be employed except in an emergency when all conventional means of recovery have been exhausted; and, at that time, the choice is between having the entire airplane plummet downward or having the bulk of the airplane float downward by parachute with only the wings free to fall. The commenter also states that the wings do not fall freely, but achieve a certain amount of aerodynamic retardation when falling. The commenter contends that the hazard cannot be judged in absolute terms, but in relative terms; and, when viewed this way, concludes that, with the ASR System, the general public is in much less danger than it would be from an airplane not equipped with the ASR System where the entire weight of the airplane would be falling.

In response to the second question as to whether an airplane equipped with an ASR System poses a hazard to other aircraft as a result of possible uncontrolled flight, the commenter contends that uncontrolled flight arises out of an emergency condition and, in such a case, an airplane equipped with the ASR System is much less hazardous to other aircraft not equipped with the ASR System.

In response to the third question regarding the need for special operating rules and/or pilot training for operators of an airplane with the ASR System, the

commenter contends that an airplane equipped with the ASR System should not be considered significantly different from a pilot (or passenger) with a parachute strapped to the individual's back. The commenter notes that, in each case, under an emergency situation, a parachute is released; however, in the one case, a pilot or passenger floats earthward supported by a parachute, while in the other case, a fuselage with occupants floats earthward supported by a parachute. The commenter contends that the ASR System is designed so that the descent velocity of the fuselage and occupants is no greater than the descent velocity of one person supported by a parachute.

In response to the fourth question concerning the need to develop special ground handling procedures for an airplane with the ASR System, the commenter contends that there does not appear to be a necessity for such procedures. The commenter argues that, unless there is an inadvertent deployment of the ASR System, an airplane equipped with such a system is indistinguishable from an airplane without the system. The commenter notes that the applicant is required to show that the inadvertent deployment is virtually impossible.

The commenter disagrees with Special Condition 2, *Occupant Restraint*, which, as proposed, would require that each seat in the airplane be equipped with a seat belt and shoulder harness to protect the occupants from serious head or upper torso injury due to flailing during the parachute deployment or ground impact. The commenter contends that, in an emergency condition, the occupants in an airplane not having the ASR System would be subjected to more severe loads than they would if the ASR System were available. The FAA agrees that, when properly utilized, the loads on the occupants during an emergency deployment of the ASR System and the subsequent ground impact would be less severe than the results of an uncontrolled crash. However, this does not relieve the applicant from providing the means to protect the occupants from serious injury during parachute deployment and ground impact when the system is activated.

The deployment of a large emergency parachute will result in a rapid change in forward momentum of the airplane. The rapid deceleration of the airframe will result in unrestrained occupants being thrown forward in the airplane cabin. This unrestrained flailing of occupants in the cabin has the potential to result in serious injuries which are unacceptable to the FAA. As a result of an extensive crashworthiness program conducted in recent years, the FAA has developed data on the injury mechanisms associated with flailing during events of rapid deceleration. These data show the importance of seat belts and shoulder harnesses to protect occupants of small airplanes from severe head and upper torso injury during emergency conditions involving rapid changes in the airplane forward momentum.

The FAA disagrees with the commenter's contention that seat belts and shoulder harnesses are not necessary with the ASR System since occupants in an airplane not having the ASR System would be subject to more severe loads than they would in an airplane having the ASR System. In either case, the occupants may be subjected to conditions resulting in severe or fatal injuries unless the occupants are protected from severe impact with the cabin structure. For the ASR System to provide its intended safety functions, protecting occupants from serious or fatal flailing injuries is essential; therefore, Special Condition 2 is adopted, as proposed.

The commenter disagrees with Special Condition 1, *Flight Test Demonstration*, which would require that the ASR System be demonstrated in flight to satisfactorily perform its intended function, for both normal and inadvertent deployment at the critical flight conditions. The commenter contends that the ASR System should be viewed as equivalent, in principal, to an occupant or passenger having a personal parachute. To this extent, the commenter contends that the parachute manufacturer did not have to demonstrate that a passenger with a parachute should be able to bail out of an airplane safely under all flight conditions within the airplane flight envelope. The commenter states that ASR will demonstrate system reliability on the ground so that, in an emergency condition, the deployment of the parachute will enable the fuselage and occupants to contact the ground without serious injury. The commenter states that the design of the parachute will ensure that the descent velocity of the ASR System will be no greater than the descent velocity of a parachute supporting one person. The commenter further states that ground contact with the ASR System should involve less chance for serious injury than the use of a personal parachute since the fuselage will provide a certain amount of energy absorption. The commenter contends that the ASR System should not be judged in and of itself, but only in relation to an airplane not having an ASR System; and, since the occupants are safe with the ASR System installed, in comparison with the occupants in an airplane without the system, the question of the safety of occupants during ground contact should be withdrawn.

The FAA does not agree with the commenter's comparison of the ASR System to a personal parachute. The ASR System, when installed, will be a component of the airplane and must provide a level of safety compatible with the level of safety associated with the airplane. Therefore, the ASR System must be viewed as a new system being added to an airplane which is certificated in the normal category and approved for various flight operations, and the level of safety associated with the ASR System must be compatible with the other systems on the airplane. Because the ASR System utilizes unique components, such as a large emergency parachute and explosive devices to remove the wings, for which very little operating or reliability information is available, the FAA considers actual flight demonstrations an essential part of the data necessary for assuring an adequate level of safety for the ASR System. However, the wording of this special condition has been changed to require flight demonstration of the ASR System only within the flight envelope approved for the ASR System.

The FAA disagrees with the commenter's contention that the system can be adequately demonstrated by deployment on the ground. Ground testing will not include the aerodynamic and inertia forces present in actual flight operations. These forces may significantly affect the deployment of the parachute and the separation of the wings from the fuselage. Therefore, the modified Special Condition 1, *Flight Test Demonstration*, is retained. The flight test demonstration should be limited to that deemed necessary by the FAA to assure that the ASR System will safely perform its intended function.

The FAA disagrees with the commenter's suggestion that the safety of the ASR System deployment should be judged only in comparison with the condition of uncontrolled crash impact. Any system added to an airplane certificated in the normal category should provide a level of safety and reliability equal to the level of safety provided by the original certification basis of the airplane. This requires an evaluation of the function and reliability of that system with the objective of assuring this level of safety and not just better than would be expected in an

uncontrolled crash. In considering comparative safety, the commenter did not consider the hazards of inadvertent or accidental activation of the ASR System, which adds new failure modes to the airframe and must be considered in an overall assessment of safety.

Whenever the airworthiness regulations in the original certification basis for an airplane do not contain adequate or appropriate safety standards because of novel or unusual design features of the proposed modification, special conditions are prescribed for the supplemental type certification of the modified airplane. The FAA has carefully reviewed Special Conditions No. 23–83–EA–11, issued on May 19, 1978, and has concluded that they must be modified in order to maintain the necessary level of safety for installation, operation, and maintenance of the ASR System installed on the Univair Model 108–2 Airplane.

Conclusion

This action affects only the Univair Model 108–2 Airplanes incorporating the Aviation Safety Release (ASR) Emergency Parachute System. Special Conditions No. 23–83–11, as amended by this action are not rules of general applicability and apply only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

Citation

The authority citation for these Special Conditions is as follows:

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

Adoption of the Amended Special Conditions

In consideration of the foregoing, Special Conditions No. 23–83–AE–11, issued May 19, 1978, for the type certification of the Univair Model 108–2 Airplane are amended to read as follows:

1. *Flight Test Demonstration.* The Aviation Safety Release (ASR) System must be demonstrated in flight to satisfactorily perform its intended function at the critical conditions within the flight envelope approved for the ASR System.

2. *Occupant Restraint.* Each seat in the airplane must be equipped with a restraint system, consisting of a seat belt and shoulder harness, which will protect the occupant from head and upper torso injury during the ASR System deployment and subsequent ground impact at the critical conditions.

3. *System Protection.* All components of the ASR System must be designed, suitably protected, or both, against deterioration due to weathering, corrosion, abrasion, or other causes. In addition, adequate provisions must be made for ventilation and drainage of the parachute compartment (and associated structure) to ensure the sound condition of the parachute.

4. *System Inspection Provisions.* (a) Instructions for continued airworthiness must be prepared for the ASR System which meet the requirements of § 23.1529 of this chapter.

(b) Adequate means must be provided to permit the close examination of the parachute and the ASR System components to ensure proper function, alignment, lubrication, and adjustment during all required inspections of the parachute and system components.

5. *Parachute Performance.* (a) The fuselage parachute must meet the applicable requirements of TSO–C23 for the critical airplane weights.

(b) It must be shown that, although the structure may be damaged, the fuselage impact with the ground will result in an occupant environment that will give each occupant every reasonable chance of escaping serious injury.

6. *Fuel Containment.* Each line that carries flammable fluid and that will be separated during operation of the ASR System must incorporate the means to prevent leakage of the fluid unless an acceptable fuel jettisoning system is installed.

7. *Lightning Strike Protection.* It must be shown by analysis and test, including tests under simulated or actual lightning strike, that inadvertent activation of the ASR System which can be catastrophic is extremely improbable.

8. *System Functions and Operations.* (a) The ASR System must be shown to function reliably, to perform adequately the functions for which it is used, and to function properly when installed. It must be adequately labeled as to its identification, function, and operating limitations, as applicable.

(b) It must be shown that the inadvertent jettisoning of the parachute, after it has been deployed, is extremely improbable.

(c) It must be shown that the explosive charges used in the ASR System are properly labeled and the handling, installation, and maintenance procedures for these components are safe.

(d) It must be shown that arming the system, activating the system, and jettisoning the parachute can only be accomplished in a sequence which would make inadvertent pilot operation extremely improbable.

(e) It must be shown that the system, after arming, may be disarmed at any time prior to final system activation.

(f) It must be shown that, after impact, the parachute can be jettisoned under various adverse weather conditions, including high winds.

9. *Operating Limitations.* An operating limitation must be prescribed that requires the fuselage parachute to be repacked at intervals no greater than 120 days. The parachute must be considered an auxiliary parachute in the context of § 105.43(a)(2) of this chapter.

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19869 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 21 and 23

[Docket No. 032CE, Special Condition No. 23–ACE–30]

Special Conditions; Fairchild Models SA227–AT and SA227–TT Airplanes (Type Certificate No. A5SW), Incorporating Emergency Lighting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for the Fairchild Aircraft Corporation Models SA227–AT and SA227–TT Airplanes incorporating an emergency lighting system as an aid for emergency evacuation. The applicable requirements for these airplanes do not contain adequate or appropriate safety standards for these systems. These special conditions contain the additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

EFFECTIVE DATE: September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1986, Fairchild Aircraft Corporation, Post Office Box 32486, San Antonio, Texas 78284, made application to the FAA for approval of type design changes necessary to incorporate an emergency lighting system on the Fairchild Aircraft Corporation Model SA227 Series Airplane.

Fairchild Aircraft Corporation has certified a 19-place airplane which complies with SFAR 41 and incorporates three window exits and a main cabin door for egress from the airplane. Their proposal is to change the interior configuration such that one window emergency exit is eliminated, to

decrease the passenger capacity from 19 to 10–12, and to install an emergency lighting system for use during emergency evacuation. Since the airplane type certification basis includes SFAR–41, an emergency evacuation demonstration is required, but an emergency lighting system is not required.

Past emergency evacuation demonstrations on these airplanes have shown that the most critical aspect of the evacuation is for the passengers to find the location of emergency exits. The passenger cabin length is approximately 25 feet with the entrance door at one end of the cabin and the window exits about in the middle of the cabin.

Since the installation of emergency lighting systems was not envisioned when the applicable requirements for the subject airplanes were promulgated, special conditions are being issued. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

For the affected airplane, an emergency evacuation demonstration is required by the applicable regulations, but it does not contain a requirement or design criteria for emergency lighting systems to aid in emergency evacuation. If Fairchild Aircraft Corporation chooses to install and to use emergency lighting systems in the Model SA227 Series Airplane to aid the required emergency evacuation demonstration, these appropriate standards must be adopted to assure that the lighting used to qualify the airplane design during certification testing is available in survivable crashes and that future changes to the airplane design do not adversely affect the emergency lighting system.

Because the emergency lighting is not required, when an applicant chooses to provide such lighting, the FAA must evaluate such lighting relative to its intended function. If that intended function would affect the showing of compliance with an existing requirement, the FAA must assure that the additional system performs its intended function when the critical event occurs, in this case, an actual emergency evacuation. The FAA concluded that specific criteria is necessary.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Model SA227–AT Airplane is as follows: Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by Amendments 3–1 through 3–8; § 23.511 as amended by Amendment 23–7, effective September 14, 1969; § 23.175(d) as amended by Amendment 23–14, effective December 20, 1973; special conditions outlined in FAA letters dated November 19, 1965, August 19, 1967, February 5, 1968, and April 4, 1968; Amendment C of SFAR No. 41, including paragraph 4(c) and the compartment interior requirements of § 25.853 (a), (b), (b–1), (b–2), and (b–3) effective September 26, 1978; Part 36, Appendix F, effective December 1, 1969, as amended by Amendments 36–1 through 36–6; special conditions number 23–ACE–12, effective September 8, 1986 and these special conditions.

The type certification basis for the Fairchild Aircraft Corporation Model SA227–TT Airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, as amended by Amendments 3–1 through 3–8; § 23.903(b) as amended by Amendment 23–17 effective February 1, 1977; special conditions outlined in FAA letters dated November 19, 1965, August 22, 1967, February 5, 1968, and April 4, 1968; SFAR No. 23.27; Amendment B of SFAR 41, including paragraph 4(c) and the compartment interior requirements of § 25.853 (a), (b), (b–1), (b–2), and (b–3) effective September 26, 1978; Part 36, Appendix F effective December 1, 1969, as amended by Amendments 36–1 through 36–6; special condition number 23–ACE–12, effective September 8, 1986 and these special conditions.

Discussion of Comments

Notice No. 23–ACE–30, was published in the **Federal Register** on March 30, 1987 (52 FR 10109). The comment period closed on April 30, 1987. Comments were received from Fairchild Aircraft Corporation and the Aerospatiale Helicopter Corporation, which were substantively equivalent to comments received in response to Notice No. 23–ACE–31, concerning emergency lighting in Fairchild Aircraft Corporation Model SA–227–AC Airplanes published in the **Federal Register** on March 30, 1987 (52 FR 10111).

The comments were disposed of in the final action on Notice No. 23–ACE–31 and are not being readdressed in this final action on special condition for the Fairchild Aircraft Corporation Model SA227–AT and Model SA227–TT Airplanes incorporating an emergency lighting system as an aid for emergency evacuation. The special conditions proposed in Notices No. 23–ACE–30 and No. 23–ACE–31 were substantively equivalent, as were the comments received. Therefore, changes to the special conditions resulting from the two notices are substantively equivalent.

Conclusion

This action affects only the Fairchild Models SA227–AT and SA227–TT Airplanes incorporating an emergency lighting system as an aid for emergency evacuation. It is not a rule of general applicability and applies only to the series and models of airplane identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

Adoption of Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for the Fairchild Aircraft Corporation Models SA227–AT and SA227–TT Airplanes when equipped with an emergency lighting system intended for use during emergency evacuation of the affected airplanes.

Emergency Lighting

1. If an emergency lighting system is installed and used as an aid in showing compliance with any applicable regulatory requirement, including emergency evacuation demonstrations, the following special conditions apply:

(a) The source of illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(b) There must be a caution light which illuminates in the cockpit when power is on in the airplane and the emergency lighting control device is not armed.

(c) The emergency lights must be operable manually from the flightcrew station and be provided with automatic activation. The cockpit control device must have an "on", "off", and "armed" position so that, when armed in the cockpit, the lights will operate by automatic activation. The emergency light must be armed or turned on during taxiing, takeoff, and landing. For automatic activation of the system, the sensor must—

(1) Activate when airplane's normal electrical power is lost, or

(2) Activate when subjected to a force of 5.0, +2, −0 g. and greater for a duration of 11, +5, −0 milliseconds and greater in the direction of the longitudinal axis of the airplane; must not be activated under conditions less severe; and, after activation, must remain activated when subsequently subjected to shock forces in any direction of up to 50 g and having durations up to 11, +5, −0 milliseconds; or

(3) Activate when subjected to alternate crash forces approved by the FAA; and

(4) Regardless of sensor type, must be capable of being reset by the flightcrew if activated by any occurrence other than a survivable crash.

(d) The energy supply to each emergency lighting unit must provide the required level of illumination for at least 10 minutes at the critical ambient condition after emergency landing.

(e) If rechargeable batteries are used as the energy supply for the emergency lighting system, the charging circuit must be designed to preclude inadvertent battery discharge into charging circuit faults. If the emergency lighting system does not include a charging circuit, then battery condition monitors are required.

(f) Components of the emergency lighting system, including batteries, wiring relays, lamps, and switches must be capable of normal operation after having been subjected to the inertia forces listed in § 23.561(b).

(g) The emergency lighting system must be designed so that a single probable failure, or probable system damage following a survivable crash, will not render the entire emergency lighting system inoperative. Single transverse vertical separation of the fuselage is considered a probable event during a survivable crash. The minimum emergency illumination, after a single probable failure, must be specified by the applicant and, during an emergency evacuation demonstration, the maximum emergency illumination must be equal to or less than the specified level.

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19868 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Foreign Trade Statistics

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations (FTSR) to raise the present exemption for filing Shipper's Export Declarations (SEDs) (except for shipments requiring a validated export license) from $1000 to $1500. The exemption for shipments through the U.S. Postal Service will remain at $500.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Don L. Adams, Chief, Foreign Trade Division, Bureau of the Census, (301) 763–5342.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rulemaking, published in the **Federal Register** on April 24, 1987 (13714–13715), proposed amending the FTSR to raise the value limit for the exemption from SED filing requirements. Because this amendment affected the reporting requirements, interested persons were given 60 days from the date of publication in the **Federal Register** (April 24, 1987 to June 23, 1987) to submit their comments regarding the notice.

Discussion of Major Comments

The Census Bureau received 12 comments regarding the proposed amendment to the FTSR. Nine responded favorably in that the loss of statistical detail is offset significantly by the savings in paperwork. Three of the comments objected to the amendment on the basis of losing data for air cargo shipments that are generally "small value/weight shipments." However, one small package carrier "strongly supports" the amendment in that it significantly reduces the amount of documentation necessary with a minimal loss of statistical detail.

Two of the respondents suggested that levels of $2000 and $2500 be adopted, stating that these higher levels would generate additional savings for the business community and would more than offset the data loss. Additionally, the $1500 exemption level will affect a small percentage of commodities due to rising costs.

One respondent suggested that the amendment be made effective on the first of the given month to accommodate those using automated means of filing and preparing the SED.

Regulatory Impact Analysis and Information Collection

This is not a major rule in accordance with the criteria set forth in Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Pursuant to the provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), the General Counsel of the Department of Commerce certified to the Small Business Administration that this amendment will not have a significant economic effect on a substantial number of small entities because it raises the exemption level, thereby reducing the reporting requirements of smaller entities. The collection of this information has been approved by the Office of Management and Budget under control numbers 0607–0001, 0607–0018, 0607–0150, and 0607–0152. Moreover, this amendment imposes no additional burden on the public, thus satisfying the requirements of the Paperwork Reduction Act of 1980.

This Final Rule is being made effective immediately because it raises the value limit for the exemption for SED requirements from $1,000 to $1,500.

List of Subjects in 15 CFR Part 30

Economic statistics, Foreign trade, Reporting and recordkeeping requirements.

Amendment to the Regulations

The Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below.

PART 30—FOREIGN TRADE STATISTICS

1. The authority citation for 15 CFR Part 30 continues to read as follows:

Authority: Secs. 30.1 to 30.95 issued under R.S.161:(5 U.S.C. 301); Reorganization Plan No. 5 of 1950, 15 FR 3174, 64 Stat. 1263; Department of Commerce Order No. 85, June 21, 1962, 27 FR 6397. Interpret or apply 76 Stat. 951.77A Stat. (13 U.S.C. 301–307; 19 U.S.C. 1202, 1484(e)), unless otherwise noted.

2. Section 30.55(h) is amended by changing "$1000" wherever it appears in this section to "$1,500," so that as revised, § 30.55(h) reads as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(h) Shipments (except shipments requiring a validated export license and excluding shipments through the U.S. Postal Service) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries prohibited by the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368–399) [8] where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is $1,500 or under; *Provided, however,* That this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to

[8] County groups are established and maintained by the Office of Export Administration. See Export Administration Regulations (15 CFR Parts 368–399) for lists of countries included in each country group.

compile statistics on $1,500-and-under shipments.

* * * * *

Dated: August 10, 1987.

John G. Keane,

Director, Bureau of the Census.

I concur:

Francis A. Keating II,

Assistant Secretary, Department of the Treasury.

[FR Doc. 87-19775 Filed 8-28-87; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-256; Ref. Notice No. 619]

Ozark Highlands Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) has decided to establish a viticultural area in south central Missouri, to be known as "Ozark Highlands." This decision is the result of petition from the Ozark Highland Vintners, an association of seven bonded wineries in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising enables winemakers to label wines more precisely and helps consumers to better identify the wines they purchase.

EFFECTIVE DATE: September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW, Washington, DC 20226; (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

Establishment of the "Ozark Highlands" viticultural area was proposed to ATF in a petition prepared by Mr. Laurence R. Carver of the Carver Wine Cellar, Rolla, Missouri. Mr. Carver submitted the petition on behalf of the Ozark Highland Vintners, an association of seven Missouri wineries, of which the Carver Wine Cellar is one. All seven of the bonded wineries forming the Ozark Highland Vintners are located in the viticultural area. An eighth winery in the area is not a member of that association. The "Ozark Highlands" area includes portions of eleven Missouri counties, namely, Phelps, Maries, Osage, Gasconade, Franklin, Crawford, Texas, Shannon, Dent, Reynolds, and Pulaski. The area contains an estimated 2,000 square miles, within which there are approximately 500 acres planted to winegrapes. (Another 500 acres are in table grapes.) Grapes have been grown in the area since 1898, and commercial winemaking dates from the 1930's. The new viticultural area is located entirely within the boundaries of the approved "Ozark Mountain" viticultural area.

Notice of Proposed Rulemaking

In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 619, in the **Federal Register** on February 9, 1987 (52 FR 4036). That notice proposed establishment of the "Ozark Highlands" viticultural area with boundaries approximately as stated in the petition. The notice also solicited public comment concerning the proposed viticultural area.

Public Comment

In response to the notice of proposed rulemaking, ATF received one public comment. That comment, from Mr. Mario A. Pertici of St. Louis, Missouri, expressed full approval of the "Ozark Highlands" area as proposed in Notice No. 619. Accordingly, this Treasury decision establishes the "Ozark Highlands" viticultural area with the name and boundaries proposed in that notice.

Name of the Area

On occasion, the name "Ozark Highlands" has been used synonymously with "Ozark Mountains" to refer to the entire Ozark region, encompassing most of southern Missouri and northern Arkansas. Examples of this usage can be seen in *The Geography of the Ozark Highland of Missouri* by Carl O. Sauer, University of Chicago Press, 1920, and *Early History of the Northern Ozarks* by Gerard Schultz, M.A., Midland Printing Company, 1937.

In recent years, however, the name "Ozark Highlands" has developed an additional meaning. Due to the efforts of the Ozark Highland Vintners, this name has come to refer specifically to the more limited area being established as a viticultural area by this Treasury decision. To demonstrate the prevalence of this narrower meaning, the petitioner submitted more than a dozen newspaper clippings and magazine articles relating to wine production in the "Ozark Highlands" area. In each instance, the name "Ozark Highlands" refers to the viticultural area established by this Treasury decision, not to the entire Ozark region.

One such article even included a map, pinpointing the location of the viticultural area within the State of Missouri. The articles were taken from well-known local and national publications, including the *St. Louis Post-Dispatch* and *Wines and Vines*.

Under 27 CFR 4.30(a) and 4.64(a)(1), no wine label or advertisement may be misleading. Notice No. 619, while requesting public comment generally concerning the name of the proposed area, also inquired specifically as to whether the name "Ozark Highlands" would be misleading or confusing, in view of the fact that a viticultural area has already been established in the Ozark region under the name "Ozark Mountain" (T.D. ATF-231, 51 FR 24142). The sole commenter expressed his opinion that "Ozark Highlands" would be the "perfect" name for the area proposed in Notice No. 619.

ATF agrees that the name "Ozark Highlands" will not be misleading, when used in wine labeling and advertising to refer to the area established by this Treasury decision. The evidence indicates that this name will not be likely to confuse a typical consumer of "Ozark Highlands" wines. The broad meaning of "Ozark Highlands" (having reference to the entire Ozark region) seems to be found primarily in geological and geographical treatises; whereas the narrower meaning is found in publications having wide popular distribution (e.g. newspapers), and in contexts relating to wine and viticulture. Moreover, the precise delimitation of "Ozark Mountain" and "Ozark Highlands" in regulations, as separate and distinct viticultural areas, will undoubtedly alleviate any remaining

possibility of confusion. (This is one of the purposes for the establishment of American viticultural areas with boundaries defined by regulation.)

Therefore, ATF believes that the regulatory requirement for evidence supporting the name "Ozark Highlands" has been met, and that the use of this name in wine labeling and advertising will not be misleading.

Geography of the Area

Geographically, the "Ozark Highlands" viticultural area constitutes "the region formed by the undissected northern uplands of the Ozark plateau" (to quote the petition). This region has several distinguishing geographical features, the most striking of which is its topography. Topographically, the new viticultural area consists of an elevated plateau, which is surrounded by highly dissected river and stream valleys. Relative to surrounding areas, therefore, the "Ozark Highlands" are flat. They are also higher in elevation than their immediate surroundings. One effect of this topography on the viticulture of the area has been described by the petitioner as follows:

"The higher elevations are often in the form of flat to rolling 'ridge tops' producing prominent and completely unshaded hilltops that are excellent sites for vineyards." To demonstrate this topographical distinction, the petitioner submitted a map titled "Topography of Missouri," prepared in 1978 by the Geology and Land Survey of the Missouri Department of Natural Resources. This map shows the "Ozark Highlands" area to be "Isolated Rolling Plains," which are surrounded by "Highly Dissected Plateaus." The topographical distinction is also apparent by examination of contour lines of the U.S.G.S. maps on which the area appears. (Those maps are listed in § 9.115, as added by this Treasury decision.)

The "Ozark Highlands" can also be distinguished from surrounding areas by soil. To demonstrate this distinction, the petitioner submitted a publication of the U.S. Department of Agriculture's Soil Conservation Service, entitled *Missouri General Soil Map & Soil Association Descriptions.* This publication shows that the soils of the Lebanon-Hobson-Clarksville series are especially distinctive of the "Ozark Highlands" area. This soil series occurs extensively within the viticultural area, but is found in only a few isolated spots outside of it. Other soils in the area include the Gerald-Union-Goss series and the Hobson-Coulstone-Clarksville series. The latter series occurs to a limited extent within the area, but it becomes predominant immediately outside of the area. Distinctive soil patterns often reflect distinctive underlying geologic structures. That this is so in the "Ozark Highlands" is demonstrated by a map called "Geologic Map of Missouri," published in 1979 by the Missouri Geological Society. A copy of this map was submitted by the petitioner. It shows that the soil of the proposed viticultural area is predominantly derived from the Roubidoux Formation, with some Smithville Formation and Pennsylvanian Undifferentiated. That pattern contrasts with the Gasconade Dolomite soil in many of the immediately surrounding areas.

Finally, the "Ozark Highlands" are also distinguished from surrounding areas on the basis of climate. The petition states: "These upper portions are relatively frost-free for longer periods of the year. The cooler frost-causing air in the Spring and Fall of the year flows down the hillsides from the higher to the lower elevations, especially into the deeply trenched river valleys. This leaves the . . . Highlands relatively frost free as compared to the lower elevations."

Boundaries of the Area

The natural boundaries of the "Ozark Highlands" viticultural area are extremely convoluted. It would be impossible to define those boundaries precisely and functionally by features that appear on the applicable U.S.G.S. maps. Accordingly, this Treasury decision prescribes boundaries that define the area as closely as practicable on those maps. The boundaries reflect the location of the "Ozark Highlands" on land generally over 1,000 feet in elevation, between a number of major rivers and streams. Those rivers and streams are: The Big Piney, Gasconade, Bourbeuse, Meramec, and Current Rivers, and Jack's Fork. The boundaries include all land associated with the geographical features distinguishing the area, as discussed above under GEOGRAPHY OF THE AREA. See § 9.115, added to regulations by this Treasury decision, for a complete description of the boundaries. These boundaries place the "Ozark Highlands" viticultural area entirely within the approved "Ozark Mountain" viticultural area. In establishing a viticultural area based on geographical features that affect viticultural features, ATF recognizes that the distinctions between a smaller area and its surroundings are more refined than the differences between a larger area and its surroundings. It is possible for a large viticultural area to contain smaller approved viticultural areas, if each area fulfills the requirements for establishment of a viticultural area.

Miscellaneous

ATF does not want to give the impression by approving "Ozark Highlands" as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct but not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage can only come from consumer acceptance of "Ozark Highlands" wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities. Further, the final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau has determined that this final rule is not a major rule, since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule, because no

requirement to collect information is imposed.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Issuance

Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph A. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.115, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.115 Ozark Highlands.

* * * * *

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.115, which reads as follows:

§ 9.115 Ozark Highlands.

(a) *Name.* The name of the viticultural area described in this section is "Ozark Highlands."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Ozark Highlands viticultural area are three U.S.G.S. maps of the 1:250,000 series. They are titled:

(1) Rolla, Missouri; Illinois, 1954 (revised 1969).

(2) St. Louis, Missouri; Illinois, 1963 (revised 1969).

(3) Springfield, Missouri, 1954 (revised 1969).

(c) *Boundary*—(1) *General.* The Ozark Highlands viticultural area is located in south central Missouri. The area comprises portions of the following counties: Phelps, Maries, Osage, Gasconade, Franklin, Crawford, Texas, Shannon, Dent, Reynolds, and Pulaski. The beginning point of the following boundary description is the junction of Little Piney Creek and the Gasconade River, near Jerome, Missouri (in the northwest corner of the Rolla map).

(2) *Boundary Description*—(i) From the beginning point, the boundary goes northward along the Gasconade River to the latitude line 38°00' (the dividing line between the Rolla and St. Louis maps);

(ii) Then eastward along that latitude line to U.S. Highway 63;

(iii) Then northward along U.S. 63 to Spring Creek;

(iv) Then north-northwestward along Spring Creek to the Gasconade River;

(v) Then northward along the Gasconade River to a power transmission line (less than 1 mile north of Buck Elk Creek);

(vi) Then eastward and east-northeastward along that power transmission line to Missouri Route 19;

(vii) Then southward along Route 19 to the Bourbeuse River;

(viii) Then east-northeastward along the Bourbeuse River to the range line dividing R. 2 W. and R. 1 W.;

(ix) Then southward along that range line to the Meramec River;

(x) Then southwestward along the Meramec River to Huzzah Creek;

(xi) Then southward along Huzzah Creek to Dry Creek (on the Rolla map, where Missouri Route 8 crosses Huzzah Creek);

(xii) Then southward along Dry Creek to Cherry Valley Creek;

(xiii) Then south-southwestward along Cherry Valley Creek to Missouri Route 19;

(xiv) Then southward and southwestward along Route 19 to Crooked Creek;

(xv) Then northwestward along Crooked Creek to the Meramec River;

(xvi) Then southward along the Meramec River to Hutchins Creek;

(xvii) The southeastward along Hutchins Creek to its source near Missouri Route 32, across from the Howes Mill Post Office;

(xviii) Then in a straight line toward the Howes Mill Post Office to Route 32;

(xix) Then eastward along Route 32 to the range line dividing R. 3 W. and R. 2 W.;

(xx) Then southward along that range line to the township line dividing T. 33 N. and T. 32 N.;

(xxi) Then westward along that township line (which coincides, in R. 3 W., with the Reynolds County/Dent County line) to the boundary of Clark National Forest;

(xxii) Then generally southward along that national forest boundary to the Dent County/Shannon County line;

(xxiii) Then westward along that county line to the Current River;

(xxiv) Then southeastward along the Current River to Missouri Route 19;

(xxv) Then southward along Route 19 to Jack's Fork;

(xxvi) Then westward, southwestward and northwestward along Jack's Fork, taking the North Prong, to its northwesternmost source;

(xxvii) Then in a straight line northwestward to the southeasternmost source of Hog Creek;

(xxviii) Then northwestward along Hog Creek to the Big Piney River (on the Springfield map);

(xxix) Then northward along the Big Piney River to the township line dividing T. 35 N. and T. 36 N.;

(xxx) Then eastward along that township line to Little Piney Creek (on the Rolla map);

(xxxi) Then northward and westward along Little Piney Creek to the beginning point.

Signed: August 10, 1987.

W. T. Drake,

Acting Director.

Approved: August 13, 1987.

John P. Simpson,

Deputy Assistant Secretary, (Regulatory, Trade, and Tariff Enforcement).

[FR Doc. 87-19790 Filed 8-28-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 9

[Order No. 1210-87]

Revision of Regulations Governing the Remission or Mitigation of Civil and Criminal Forfeitures

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order revises the regulations applicable to the handling of petitions for remission or mitigation of forfeitures by the Criminal Division, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service. It consolidates and clarifies the standards and procedures used in handling such petitions in judicial and administrative forfeitures, and it incorporates the use of the recently established Department of Justice Assets Forfeiture Fund as the repository for amounts realized from forfeitures under statutes enforced or administered by the Department of Justice. This revision also will permit payment of post-seizure interest to innocent petitioners holding liens on property forfeited, and, under certain limited circumstances, will permit payments to innocent general creditors whose debts relate to property forfeited.

DATES: This order is effective August 31, 1987, but shall apply only to petitions for remission or mitigation of forfeiture submitted pursuant to 28 CFR 9.3(a) or 9.4(a) on or after the effective date.

FOR FURTHER INFORMATION CONTACT: Brad Cates, Director, Asset Forfeiture Office, Criminal Division, Department of Justice, Washington, DC 20530. Telephone: (202) 786–4950.

SUPPLEMENTARY INFORMATION: This order is not a rule within the meaning of either Executive Order 12291, section 1(a), or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Lists of Subjects in 28 CFR Part 9

Administrative practice and procedure, Seizures and forfeitures.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 524, Title 28 of the Code of Federal Regulations is hereby amended to revise Part 9 as follows:

PART 9—REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

Sec.

9.1 Purpose and scope.
9.2 Definitions.
9.3 Procedure relating to petitions in judicial forfeitures.
9.4 Procedure relating to petitions in administrative forfeitures.
9.5 Criteria governing remission and mitigation.
9.6 Provisions applicable to particular situations.
9.7 Terms and conditions of remission of judicial and administrative forfeiture.

Authority: 28 U.S.C. 509, 510, and 524, 5 U.S.C. 301; Reorganization Plan No. 1 of 1968.

§ 9.1 Purpose and scope.

The following definitions, regulations and criteria are designed to reflect the intent of Congress relative to the remission or mitigation of forfeiture of certain property as set out in section 1618 of Title 19, United States Code, and are applicable only to those civil and criminal forfeitures which arise under statutes in relation to which the Attorney General has assigned remission or mitigation functions to the Criminal Division, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, or the United States Marshals Service (§§ 0.55(d), 0.85, 0.100, 0.105, and 0.111 of this title).

§ 9.2 Definitions.

As used in this part:

(a) The term "appraised value" means the estimated price at the time and place of seizure if such or similar property were freely offered for sale.

(b) The term "Attorney General" means the Attorney General of the United States or the designee of the Attorney General of the United States.

(c) The term "beneficial owner" means a person with actual use of, as well as an interest in, the property subject to forfeiture.

(d) The term "determining official" means the official who has the authority to grant or deny petitions for remission or mitigation of forfeitures of property incurred under the laws referred to in § 9.1.

(e) Whenever the term "Director, Asset Forfeiture Office" is used in these regulations, the power or responsibility referred to may be exercised by the Attorney General, the Deputy Attorney General, the Associate Attorney General, the Assistant Attorney General of the Criminal Division, any Deputy Assistant Attorney General of the Criminal Division, or any duly authorized Acting Director, Asset Forfeiture Office.

(f) The term "general creditor" means one whose claim or debt is not secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

(g) The term "lienholder" means a creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

(h) The term "net equity" means the amount of a lien-holder's monetary interest in property subject to forfeiture. Net equity is to be computed by determining the amount of unpaid principal and unpaid interest at the time of seizure, and by adding to that sum unpaid interest calculated from the date of seizure through the last full month prior to the date of the notification granting the petition. The rate of interest to be used in this computation will be the annual percentage rate specified in the security agreement which is the basis of the lienholder's interest. In this computation, however, there shall be no allowances for unearned extended warranty, insurance, or service contract charges incurred after the date of seizure, nor allowances for dealer's reserve, attorney's fees, or other similar charges.

(i) The term "owner" means the person who holds primary and direct title to the property seized for forfeiture. However, even though a person may be an "owner" of property, such person may not have sufficient actual beneficial interest in the property to support a petition if the facts indicate that another person had dominion and control over the property. The mere existence of a community property interest without proof of financial contributions to the purchase of the property will not be deemed a sufficient interest to support a petition.

(j) The term "person" means an individual, partnership, corporation, joint business enterprise, or other entity capable of owning property.

(k) The term "petition" means the petition for remission or mitigation of forfeiture. This includes a petition for restoration of the proceeds of sale of forfeited property and a petition for value of the forfeited property placed into official use.

(l) The term "petitioner" means the person applying for remission or mitigation of the forfeiture of seized property.

(m) The term "property" means property of any kind capable of being owned or possessed.

(n) The term "record" means: A series of arrests for related crime (unless the user was acquitted or charges were dismissed for lack of evidence); a conviction for related crime or completion of sentence within ten years of the acquisition of the property; or two convictions for related crime at any time in the past.

(o) The term "related crime" means any crime similar in nature to that which gives rise to the seizure of property for forfeiture, for example, where property is seized for a violation of the Federal laws relating to drugs, a "related crime" would be any previous offense involving a violation of the Federal laws relating to drugs or the laws of any State or political subdivision thereof relating to drugs.

(p) The term "violator" means the person whose use of the property in violation of the law subjected such property to seizure for forfeiture.

§ 9.3 Procedure Relating to Petitions in Judicial Forfeitures.

(a) A petition for remission or mitigation of judicial forfeiture shall be addressed to the Attorney General, and shall be sworn to by the petitioner, or by petitioner's counsel upon information and belief, and shall be submitted in triplicate to the United States Attorney for the judicial district where the forfeiture proceedings are brought.

(b) Petitions shall be sworn and shall include the following information in clear and concise terms:

(1) A complete description of the property, including model and serial numbers, if any, and the date and place of seizure;

(2) The interest of the petitioner in the property, as owner, mortgagee or otherwise, to be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

(c) Upon receipt of a petition, the United States Attorney shall direct the seizing agency to investigate the merits of the petition and to submit a report thereon. Upon receipt of such report, the United States Attorney shall forward a copy thereof together with the petition and a recommendation as to allowance or denial of the petition to the Director, Asset Forfeiture Office, Criminal Division.

(d) Upon receipt of a petition and report thereon, the Asset Forfeiture Office of the Criminal Division shall prepare a report based upon the allegations of the petition and the report of the seizing agency. No hearing shall be held. Upon the basis of the report prepared in this Office, the Director of the Office shall either grant the petition by remission or mitigation of the forfeiture or shall deny it.

(e) If the Director, Asset Forfeiture Office, grants a petition or otherwise mitigates the forfeiture, appropriate notices of such action shall be mailed to the petitioner or petitioner's attorney, to the appropriate United States Attorney, the United States Marshals Service, and the appropriate seizing agency. The United States Attorney shall be advised of the terms and conditions, if any, upon which the remission or mitigation is granted and the procedures to be followed in order for the petitioner to obtain a release of the property, or, in the case of a chattel mortgagee, and at the petitioner's option, to obtain his net equity in said property. The Director of the Office shall advise the petitioner or petitioner's attorney to confer with the United States Attorney as to such terms and conditions. The United States Attorney shall confer with the office of the agency which submitted the report on the petition regarding the release and shall coordinate disposition of the property with that office and the United States Marshals Service.

(f) If the Director, Asset Forfeiture Office, denies a petition, appropriate notices of such action shall be mailed to the petitioner or petitioner's attorney, to the appropriate United States Attorney, and to the appropriate seizing agency. Such notice shall specify the reason that the petition was denied. The notice also shall advise the petitioner or petitioner's attorney that a request for reconsideration of the denial of the petition may be submitted to the Director, Asset Forfeiture Office, in accordance with paragraphs (k) through (n) of this section.

(g) A petition for remission of the proceeds from the sale of forfeited property or for the appraised value of forfeited property, when the forfeited property has been retained or delivered for official use of a government agency, may be submitted in cases in which the petitioner: (1) Did not know of the seizure prior to the entry of a final order of forfeiture; and (2) was in such circumstances as prevented petitioner from knowing thereof. Such a petition must be submitted pursuant to paragraph (a) of this section and within ninety (90) days from the date the property is sold or otherwise disposed of.

(h) The Director, Asset Forfeiture Office, shall not accept a petition in any case in which a similar petition has been administratively denied by the seizing agency prior to the referral of the case to the United States Attorney for the institution of forfeiture proceedings.

(i) The Director, Asset Forfeiture Office, shall accept and consider petitions submitted in judicial forfeiture proceedings under the Internal Revenue liquor laws only prior to the time a decree of forfeiture is entered. Thereafter, District Courts have exclusive jurisdiction.

(j) In all other forfeiture cases, the Director, Asset Forfeiture Office, shall accept and consider petitions until the property is sold or placed in official use or otherwise disposed of according to law. The notice of seizure of and intent to forfeit the property will advise prospective petitioners that they should submit their petitions within 30 days after they receive the notice.

(k) Within 10 days from the receipt of the denial of a petition for remission or mitigation, a request for reconsideration of the denial, based on evidence recently developed or not previously considered, may be submitted to the Director, Asset Forfeiture Office. The applicant shall simultaneously submit a copy to the appropriate United States Attorney.

(l) Upon receipt of a copy of a request for reconsideration of the denial of a petition, the United States Attorney shall withhold further action in the case pending advice of the action taken on the request by the Director, Asset Forfeiture Office.

(m) If the United States Attorney does not receive a copy of a request for reconsideration within the prescribed period, the United States Attorney shall proceed with the forfeiture.

(n) Only one request for reconsideration of a denial of a petition shall be considered.

§ 9.4 Procedure Relating to Petitions in Administrative Forfeitures.

(a) A petition for remission or mitigation of forfeiture of property that is subject to administrative forfeiture shall be addressed to the Director of the Federal Bureau of Investigation (FBI) or to the Administrator of the Drug Enforcement Administration (DEA), or to the Regional Commissioner of the Immigration and Naturalization Service (INS) depending upon which agency seized the property. Such a petition shall be filed in triplicate with the local or regional office of the seizing agency that covers the judicial district in which the seizure occurred except in DEA cases where the petition shall be filed with DEA headquarters, Office of Chief Counsel.

(b) The agency which seized the property shall accept and consider petitions until the property is sold or placed in official use or otherwise disposed of according to law. The notice of seizure of and intent to forfeit the property will advise prospective petitioners that they should submit their petitions within 30 days after they receive the notice.

(c) Petitions shall be sworn and shall include the following information in clear and concise terms:

(1) A complete description of the property, including model and serial numbers, if any, and the date and place of seizure;

(2) The interest of the petitioner in the property, as owner, mortgagee or otherwise, to be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

(d) A petition for restoration of the proceeds of sale or for the appraised value of forfeited property, when the forfeited property has been retained or delivered for official use of a government agency, may be submitted in cases in which the petitioner: (1) Did not know of the seizure prior to the entry of a declaration of forfeiture; and (2) was in such circumstances as prevented the petitioner from knowing thereof. Such a petition shall be submitted pursuant to paragraph (a) of this section and within ninety (90) days from the date the property is sold or otherwise disposed of.

(e) Upon receipt of a petition for property subject to administrative

forfeiture, the Special Agent-in-Charge of the FBI or the DEA or the Regional Commissioner of the INS, depending upon which agency seized the property, shall have an investigation of the petition conducted. For property seized by the FBI or DEA the completed petition investigation and the recommendation of the Special Agent-in-Charge of the FBI or the DEA, depending upon which agency seized the property, shall be forwarded to their respective headquarters in Washington, DC for a ruling. For property seized by INS, the Regional Commissioner's Office rules on the petition.

(f) Upon the receipt of a petition and a report thereon, the Director of the FBI or the Administrator of the DEA shall assign it within the agency to the FBI Legal Counsel Division, or to the DEA Office of Chief Counsel, as appropriate, where a ruling shall be recommended based on the petition and the report of investigation. No hearing shall be held. The ruling on a petition properly addressed to the Director of the FBI shall be made by the Director of the FBI or his designee. The ruling on a petition properly addressed to the Administrator of the DEA shall be made by the Administrator of the DEA or his designee.

(g) Upon receipt of a petition for property subject to administrative forfeiture seized by INS, the Regional Commissioner of the INS or his designee shall conduct an investigation of the merits of the petition. No hearing shall be held. The Regional Commissioner of the INS or his designee shall make a determination based upon the petition and the investigation thereon.

(h) Notice of the granting or the denial of a petition for property subject to administrative forfeiture shall be mailed to the petitioner or petitioner's attorney, and to the United States Marshals Service. If the petition is granted, the conditions of relief and the procedure to be followed in order to obtain the release of the property or a monetary interest shall be set forth. If the petition is denied, the petitioner shall be advised of the reasons for such denial.

(i) A request for reconsideration of the denial must be submitted within 10 days from the receipt of the letter denying the petition. Such request shall be addressed, depending upon which agency seized the property, to the Director of the FBI for referral to the FBI Legal Counsel Division, or the Administrator of the DEA for referral to the Office of the Chief Counsel, or to the Regional Commissioner of the INS, and shall be based on evidence recently developed or not previously considered. Only one request for reconsideration of a denial of a petition shall be considered.

(j) Additional information concerning property subject to seizure for narcotic violations is contained in 21 CFR 1316.71 through 1316.81, and 28 CFR 0.101(c). Additional information concerning nondrug-related forfeitures is found in 28 CFR Part 8 and 8 CFR Part 274.

§ 9.5 Criteria governing remission and mitigation.

(a) The Determining Official shall not consider whether the evidence is sufficient to support the forfeiture but shall presume a valid forfeiture.

(b) Remission. The Determining Official shall not remit a forfeiture unless the petitioner establishes:

(1) That petitioner has a valid, good faith interest in the seized property as owner or otherwise; and

(2) That petitioner had no knowledge that the property in which petitioner claims an interest was or would be involved in any violation of the law; and

(3) That petitioner had no knowledge of the particular violation which subjected the property to seizure and forfeiture; and

(4) That petitioner had no knowledge that the user of the property had any record for violating laws of the United States or of any State for a related crime; and

(5) That petitioner had taken all reasonable steps to prevent the illegal use of the property.

(c) Mitigation. In addition to having the discretionary authority to grant relief by way of complete remission of forfeiture, the determining official may, in the exercise of discretion, mitigate forfeitures of seized property. This authority may be exercised in those cases where the petitioner has not met the minimum conditions precedent to remission but where there are present other extenuating circumstances indicating that some relief should be granted to avoid extreme hardship. Mitigation may also be granted where the minimum standards for remission have been satisfied but the overall circumstances are such that, in the opinion of the determining official, complete relief is not warranted. Mitigation shall take the form of a money penalty imposed upon the petitioner in addition to any other sums chargeable as a condition to remission. This penalty is considered as an item of cost payable by the petitioner, and shall be deposited as an amount realized from forfeiture in accordance with 28 U.S.C. 524(c).

§ 9.6 Provisions applicable to particular situations.

(a) General creditors. (1) A general creditor may be granted remission or mitigation of forfeiture provided that, in addition to satisfying the requirements for remission or mitigation set forth herein, the general creditor also:

(i) Provides a sworn statement that there are no known alternative assets available for satisfaction of the debt;

(ii) Satisfactorily establishes a reasonable, good faith connection between the debt and the property subjected to forfeiture other than the ownership of such property by the debtor; and

(iii) Satisfactorily establishes that the debt is for services or goods provided within four months prior to the seizure of the property subjected to forfeiture or that the circumstances of the transaction reasonably justify the failure to collect in a more timely manner.

(2) Any grant of remission or mitigation to general creditors shall not exceed the net amount realized from the forfeiture of the property after payment, in the following order of priority, of:

(i) The expenses of seizure and forfeiture of the property;

(ii) The recognized net equity of lienholders; and

(iii) The recognized claims of victims of the related criminal activity.

In the exercise of his discretion, the Determining Official may establish priorities or apportionments among general creditors.

(b) The United States Marshals Service generally may not pay the claims of general creditors from the Department of Justice Assets Forfeiture Fund if such payment may jeopardize the legitimate claims of existing lienholders. However, if the United States Marshals Service determines that it is necessary to recognize and satisfy the legitimate claims of general creditors for debts incurred within thirty (30) days before seizure in order to preserve the continued operation of a seized business, it may do so for the following debts:

(1) Payment of reasonable salaries and benefits of employees not believed to have been involved in the unlawful activities giving rise to forfeiture and not having an ownership interest in the firm;

(2) Payments to third party contractors for goods or services essential to carry on the business of the firm and who continue to provide those goods or services as a regular matter; and

(3) Utilities.

All other claims of general creditors shall be determined by the determining

official under these regulations and/or by the court.

(c) Rival claimants: If the beneficial owner of property and the owner of a security interest in the same property each files a petition, and if both petitions are found to be meritorious, the claims of the beneficial owner shall take precedence where there is a conflict.

(d) Leasing agreements. (1) A person engaged in the business of renting property shall not be excused from meeting the requirements of § 9.5.

(2) A lessor who leases property on a long term basis with the right to sublease shall not be entitled to remission or mitigation of a forfeiture of such property unless the lessee would be entitled to such relief.

(e) Voluntary bailments. A petitioner who allows another to use property without cost and who is not in the business of lending money secured by property or of renting property for profit, shall be granted remission or mitigation of forfeiture in accordance with the provisions of § 9.5.

(f) Straw purchase transactions. If a person purchases or owns property for another who has a record for related crimes, and if a lienholder knows or has reason to believe that the purchaser or owner of record is not the real purchaser or owner, a petition filed by such a lienholder shall be denied unless the petitioner meets the requirements of § 9.5 as to both the purchaser or owner of record and the real purchaser or owner.

§ 9.7 Terms and Conditions of Remission of Judicial and Administrative Forfeiture.

(a) Owners. (1) Where remission of forfeiture is granted for an owner, the owner can, within 20 days after notice of the granting of the petition is received, pay the costs and expenses of the seizure and forfeiture and obtain possession of the property. If a civil judicial forfeiture action against the property is pending, release of the property must await an appropriate court order.

(2) Where the owner does not comply with the conditions imposed upon release of the property, the property is to be sold after forfeiture. Following the sale, the proceeds shall be used to pay all costs of the seizure and forfeiture and any remaining balance shall be paid to the owner.

(b) Lienholders. (1) Where remission of the forfeiture is granted for a lienholder, the determining official shall remit the property or, if the property is to be retained for official use, an amount equal to the petitioner's net equity.

(2) If the property is not retained for official use, the lienholder shall have the option of obtaining possession of the property or a monetary amount up to the lienholder's net equity following the sale of the property. Within 20 days following the granting of the petition, the petitioner can obtain possession of the property after paying the costs and expenses incident to the seizure and forfeiture or an amount by which the appraised value exceeds the petitioner's net equity, whichever is greater.

(3) Where the lienholder does not comply with the conditions imposed upon the release of the property, the property is to be sold after forfeiture. From the proceeds of the sale all costs incident to the seizure, forfeiture and sale shall first be deducted, and the balance up to the net equity shall be paid to the petitioner.

(c) Where a complaint for forfeiture has been filed with the District Court, but no judgment of forfeiture has been ordered, a lienholder shall also be required to furnish the United States Attorney with:

(1) An instrument executed by the registered owner and any other known claimant of an interest in the property, if they are not in default, releasing their interest in such property, or

(2) If the registered owner or any other known claimant is in default, an agreement to save the government, its agents and employees harmless from any and all claims which might result from the grant of remission.

(d) Alternatively, a lienholder may elect to permit the litigation to proceed to judgment. In that event, the court shall be advised that the Department has granted the petition for remission of the forfeiture and shall be requested to recognize the granting of the petition in its order of forfeiture. Alternatively, in administrative forfeitures, or where a judicial forfeiture judgment has been rendered, the lienholder may elect to have the property sold at public sale. Pursuant to either alternative, the proceeds of such sales will be distributed as follows:

(1) Payment to the petitioner of an amount up to his net equity if the proceeds are sufficient after deducting from the gross sales proceeds an amount equal to the government's costs and expenses incident to the seizure, forfeiture and sale, including court costs and storage charges, if any;

(2) Payment of such costs and expenses;

(3) Payment of the balance remaining, if any, to the Department of Justice Assets Forfeiture Fund.

(e) If a complaint for forfeiture has not been filed, a petitioner who is a lienholder, in addition to paying an amount equal to all costs and expenses incident to the seizure, including any court costs and accrued storage charges, or an amount by which the appraised value of the property exceeds the net equity therein, whichever is greater, shall:

(1) Furnish an instrument executed by the registered owner and any other known claimant of an interest in the property releasing their interest in such property, or

(2) Furnish an agreement to hold the government, its agents and employees harmless from any and all claims which might result from the grant of remission.

(f) The determining official may impose such other terms and conditions as may be appropriate.

(g) Upon compliance with the terms and conditions of remission or mitigation in cases subject to judicial forfeiture proceedings, the United States Attorney shall take appropriate action to effect the release to the petition of the property involved and to dismiss the complaint if one has been filed or otherwise dispose of the matter by forfeiture, sale and distribution of the proceeds therefrom as set forth herein.

(h) In any case, if the owner of record or any other claimant wishes to contest the forfeiture, judicial condemnation of the property shall be consummated, the court shall be apprised of the granting and terms of the remission or mitigation by the Attorney General, and the court shall be requested to frame its decree of forfeiture accordingly.

Dated: August 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-19864 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-87-21]

Special Local Regulations; 1987 Cleveland National Air Show, Cleveland, OH, Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Cleveland National Air Show which is to be conducted over the eastern portion of Cleveland Harbor for the 04th of September through the 07th of September, 1987. The regulations are needed to provide for the safety of life

and property on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 04 September and terminate on 07 September, 1987.

FOR FURTHER INFORMATION CONTACT: CWO Gerald M. Trackim, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–3982.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until 22 June, 1987, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

This has been an annual event for many years and no negative comments concerning it have been received.

Drafting Information

The drafters of this regulation are CWO Gerald M. Trackim, project officer, Office of Search and Rescue and LCDR C.V. Mosebach, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The 1987 Cleveland National Air Show will be conducted over the eastern portion of Cleveland Harbor from the 04th of September through the 07th of September, 1987. This event will have low flying aircraft demonstrations, high performance aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. Vessels desiring to transit the area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Cleveland, Ohio).

Economic Assessment and Certification

These regulations are considered to be non-major Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because of the short duration of these regulations, their economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35–0921 to read as follows:

§ 100.35–0921 Cleveland National Air Show, Cleveland, OH—Lake Erie.

The following area will be closed to vessel navigation or anchorage from 8:30 a.m. (local time) until 3:30 p.m. on 04 September, 7:30 A.M. until 6:00 P.M. on 05, 06 and 07 September, 1987.

(a) *Restricted area.* That portion of Lake Erie and Cleveland Harbor enclosed by a line running from the northwest corner of Dock No. 24 northwest to a point on the east breakwall at 41 degrees 30 minutes 36.0 seconds North, 81 degrees 42 minutes 34.2 seconds West; thence, northeastward along the breakwall to 41 degrees 30 minutes 51.7 seconds North, 81 degrees 42 minutes 07.6 seconds West; then, northwestward to 41 degrees 31 minutes 08.1 seconds North, 81 degrees 42 minutes 22.2 seconds West; thence, eastward to 41 degrees 32 minutes 18.1 seconds North, 81 degrees 40 minutes 17.0 seconds West; then, southeastward to a point on the east breakwall at 41 degrees 32 minutes 02.5 seconds North, 81 degrees 40 minutes 03.4 seconds West; continuing east along the breakwall to 41 degrees 32 minutes 13.2 North, 81 degrees 39 minutes 44.0 seconds West; then, southeast to a point on the shoreline at position 41 degrees 31 minutes 49.8 seconds North, 81 degrees 39 minutes 20.5 seconds West; thence, shoreline to the northeast corner of Dock No. 24.

(b) *Special local regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) This section is effective from 8:30 a.m. (local time) on 04 September 1987 until 6:00 p.m. (local time) 07 September 1987.

Dated: August 19, 1987.

A.M. Danielsen,

RADM, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 87–19943 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–87–24]

Special Local Regulations; Downriver River Roar Thunderboat Race, Detroit River, Detroit, MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Downriver River Roar Thunderboat Race. This event will be held on the Detriot River, Trenton Channel, on the 23, 24, 25 and 27 September 1987. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 23 September 1987 and terminate on 27 September 1987.

FOR FURTHER INFORMATION CONTACT: CWO Gerald M. Trackim, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–3982.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until 06 August 1987, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 111034; February 26, 1979). Because of the short duration of these regulations, their economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of this regulation are CWO Gerald M. Trackim, project officer, Office of Search and Rescue and LCDR C. V. Mosebach, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Downriver River Roar Thunderboat Race will be conducted on the Detroit River, Trenton Channel, on 23, 24, 25 and 27 September 1987. This event will have an estimated 35 powerboats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Commander, U.S. Coast Guard Group, Detroit, MI).

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35–0924 to read as follows:

§ 100.35–0924 Downriver River Roar Thunderboat Race—Detroit River, Trenton Channel.

(a) *Regulated area.* That portion of the Detroit River, Trenton Channel, enclosed by a line from the west shoreline at position 43 degrees 13 minutes 06.5 seconds North to a point at 42 degrees 13 minutes 06.5 seconds North 83 degrees 08 minutes 01 seconds West to a point 42 degrees 12 minutes 07 seconds North 83 degrees 08 minutes 10 seconds West to the west shoreline at postion 42 degrees 12 minutes 07 seconds North, then North along shoreline to point of origin.

(b) *Special local regulations.* (1) The above area will be closed to vessel navigation or anchorage from 1:00 p.m. (EDT) until 6:00 p.m. on 23 and 24 September 1987 and from 9:00 a.m. until 6:00 p.m. on 25 and 27 September 1987.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(3) A succession of sharp, short signals by whistle or horn from vessels patroling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) This section is effective from 1:00 p.m. (EDT) on 23 September 1987 until 6:00 p.m. on 27 September 1987.

Dated: August 19, 1987.

A.M. Danielsen,

RADM, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 87–19942 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3250–4]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Control of Volatile Organic Compound Emissions From the Manufacture of Polystyrene Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts on February 21, February 25, and June 23, 1986. This action approves a regulation to reduce volatile organic compound (VOC) emissions from the manufacture of polystyrene resins. The intended effect of this action is to approve this regulation adopted by Massachusetts in accordance with commitments made in its federally-approved ozone attainment plan. This action is being taken under section 110 of the Clean Air Act.

EPA is also codifying the certification submitted on November 8, 1985 by the Commonwealth of Massachusetts that no polypropylene and polyethylene manufacturing sources are located in the State. The intended effect of this action is to provide this information in 40 CFR Part 52.

EFFECTIVE DATE: This rule will become effective on September 30, 1987.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA Region I office, JFK Federal Building, Room 2313, Boston, MA 02203; the Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th floor, Boston, MA 02108; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lorenzo Thantu, (617) 565–3250; FTS 835–3250.

SUPPLEMENTARY INFORMATION:

Regulation for Manufacture of Polystyrene Resins

On February 25, 1987 (52 FR 5552), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed to approve revisions which included: (1) The addition of two

new definitions, "continuous process polystyrene resins manufacturing plant" and "material recovery section," to 310 CMR 7.00; (2) an amendment to the SIP definition of "VOC" in 310 CMR 7.00; and (3) the addition of a regulation to control the emissions of VOCs from the manufacture of polystyrene resins adopted at 310 CMR 7.18(18). A more detailed description of these revisions and EPA's rationale for approving them were provided in the NPR and will not be restated here. No public comments were received on the NPR.

Negative Declarations

States with areas which could not attain the National Ambient Air Quality Standard (NAAQS) for ozone by 1982 must require Reasonably Available Control Technology (RACT) on all sources of VOCs covered by EPA's Control Techniques Guidelines (CTGs). EPA published a Group III CTG which defines RACT for "Control of Volatile Organic Compound Emissions from the Manufacture of High Density Polyethylene, Polypropylene, and Polystyrene Resins" (EPA–450/3–83–008) in November 1983. On November 8, 1985, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a certification that there are no polypropylene and polyethylene manufacturing sources located in the Commonwealth of Massachusetts. EPA is accepting the DEQE's certification and is codifying this information at 40 CFR 52.1168.

Final Action

1. EPA is approving revisions to the Massachusetts SIP which amend Regulation 310 CMR 7.00 and add Regulation 310 CMR 7.18(18) for the control of volatile organic compound emissions from the manufacture of polystyrene resins, including the implementation guidance adopted pursuant to that regulation, submitted by the DEQE on February 21, February 25, and June 23, 1986.

2. EPA is codifying at 40 CFR 52.1168 a certification that there are no polypropylene and polyethylene manufacturing sources located in the Commonwealth of Massachusetts submitted by the DEQE on November 8, 1985.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 1987. This action may not be challenged later in proceedings to enforce its requirements. (see section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Date: August 17, 1987.

A. James Barnes,

Acting Administrator.

Subpart W, Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1120 is amended by adding paragraph (c)(73) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(73) Revisions to the State Implementation Plan submitted by the Commonwealth of Massachusetts on February 21, February 25, and June 23, 1986.

(i) Incorporation by Reference.

(A) A letter from the Commonwealth of Massachusetts Department of Environmental Quality Engineering dated February 21, 1986 and amendments to 310 CMR 7.00 and 310 CMR 7.18 of the Regulations for the control of Air Pollution in the Berkshire, Central Massachusetts, Merrimack Valley, Metropolitan Boston, Pioneer Valley and Southeastern Massachusetts Air Pollution Control Districts.

(B) A letter from the Commonwealth of Massachusetts Department of Environmental Quality Engineering (DEQE), dated June 23, 1986 and the Implementation Guidance, 310 CMR 7.18(18), Polystyrene Resin Manufacturing, dated February 1986.

(C) A Regulation Filing and Publication document from the Commonwealth of Massachusetts Department of Environmental Quality Engineering, dated February 25, 1986.

(ii) Additional Materials.

(A) Nonregulatory portions of the state submittals.

3. In § 52.1167, the Table 52.1167 is amended by adding the following entries in numerical order by State citation. The date approved by EPA and the Federal Register citation will be the publication date and citation of today's FR document.

§ 52.1167 EPA-Approved Massachusetts state regulations.

* * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	FR citation	52.1120 (c)	Comments/unapproved sections
310 CMR 7.00	Definitions	2/21/86; 2/25/86; 6/23/86.	8/31/87	52 FR —	73	Two new definitions and one amended definition.
310 CMR 7.18(18)	Polystyrene Resin Manufacture.	2/21/86; 2/25/86; 6/23/86.	8/31/87	52 FR —	73	Regulation pursuant to Group III CTG, "Control of VOC Emissions from the Manufacture of Polystyrene Resins".

4. Section 52.1168 is revised to read as follows:

§ 52.1168 Certification of no sources.

The Commonwealth of Massachusetts has certified to the satisfaction of EPA that no sources are located in the Commonwealth which are covered by the following Control Techniques Guidelines:

(a) Large Petroleum Dry Cleaners.

(b) Natural Gas/Gasoline Processing Plants.

(c) Air Oxidation Processes/SOCMI.

(d) Polypropylene/Polyethylene Manufacturing.

[FR Doc. 87–19431 Filed 8–28–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A-1-FRL-3249-5]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology for Keene Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision provides a final compliance date extension to control organic solvent emissions from six paper coating lines at Keene Corporation in East Providence, Rhode Island. The intended effect of this action is to approve a revision submitted by the Rhode Island Department of Environmental Management under section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on September 30, 1987.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA Region I, JFK Federal Building, Room 2311, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC 20460; and the Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252, FTS 835-3252; or Robert C. Judge, (617) 565-3248, FTS 835-3248.

SUPPLEMENTARY INFORMATION: On January 16, 1987 (52 FR 1934), EPA published a Notice of Proposed Rulemaking (NPR) to approve an administrative consent agreement between the Rhode Island Department of Environmental Management (DEM) and Keene Corporation (Keene). The consent agreement between the DEM and Keene requires Keene to implement alternative control technologies to meet emission limitations in subsection 19.3.1 of Rhode Island Regulation No. 19, "Control of Volatile Organic Compounds from Surface Coating Operations," by December 1, 1989.

On July 6, 1983 (48 FR 31026), EPA approved Rhode Island's Ozone Attainment Plan and incorporated it into the SIP. As part of Rhode Island's Ozone Attainment Plan, Rhode Island adopted Regulation No. 19. This regulation applies to facilities which emit more than 100 tons per year (TPY) of volatile organic compound (VOC) emissions from paper, fabric, or vinyl surface coating operations. Rhode Island's definition of VOC (subsection 19.1.1) does not exempt any of the photochemically nonreactive solvents, including methylene chloride, which EPA allows to be exempted from VOC control. Since this definition does not exempt any of these solvents, Regulation No. 19 is more stringent than EPA's requirements for the control of VOC. A source subject to this regulation is required under subsection 19.3.1 to apply reasonably available control technology (RACT) to its VOC emitting processes by July 1, 1985. The RACT limitations specified in subsection 19.3.1 are equivalent to those specified in EPA's applicable Group I control techniques guideline (CTG) document.

On November 5, 1985, the Rhode Island DEM submitted a revision to its SIP. This revision consists of a consent agreement between the DEM's Division of Air and Hazardous Materials and Keene of East Providence, Rhode Island. This consent agreement was issued pursuant to provisions found in Rhode Island's Regulation No. 19, subsection 19.3.3. The provisions found in subsection 19.3.3 allow the DEM to impose alternative compliance dates and emission limitations to those set forth in subsection 19.3.1 on a case-by-case basis.

Amendments to Rhode Island Regulation No. 19 which included subsection 19.3.3 were submitted to EPA by Rhode Island on May 14, 1982. EPA approved these amendments on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. It was EPA's intention when approving subsection 19.3.3 that all compliance date extensions and emission limitation relaxations granted pursuant to this subsection by the DEM would be submitted to EPA as SIP revisions.

Keene operates six existing paper coating lines in East Providence, Rhode Island. Due to the nature of substrates coated, Keene is subject to the control requirements of Rhode Island SIP Regulation No. 19, subsection 19.3.1 which requires that the VOC content of each coating employed at Keene be at or below 2.9 lbs VOC/gallon of coating (minus water) by July 1, 1985 except as provided in subsection 19.3.3.

Keene has primarily employed solvent based coatings in its coating lines. Keene's emissions are primarily methylene chloride. Although EPA has stated that methylene chloride, because of negligible photochemical reactivity, can be exempted from VOC control in any SIP (44 FR 32042 and 45 FR 32424), the State of Rhode Island did not include methylene chloride as an exempt solvent in its approved Ozone Attainment Plan. Therefore, a surface coating source in Rhode Island which uses methylene chloride is subject to the same control requirements as those emitting photochemically reactive VOC. Under this consent agreement, Keene will be required to implement alternative control technologies (i.e., hot melt application, aqueous coating and high solids coatings) to meet the emission limitations in subsection 19.3.1 by December 1, 1989. This strategy should reduce approximately 90% of the emissions from this facility.

EPA realizes that the time frame Keene needs to implement these alternative control technologies generally exceeds what is considered to be expeditious under the Clean Air Act. However, as noted above, EPA has determined that methylene chloride has negligible photochemical reactivity and does not appreciably affect ambient ozone levels. Therefore, this compliance date extension will not interfere with continued maintenance of the National Ambient Air Quality Standard (NAAQS) for ozone in Rhode Island. In addition, Keene emits less than 100 tons per year (TPY) of photochemically reactive VOC. Pursuant to EPA's VOC control policy for states that have demonstrated attainment of the NAAQS for ozone by December 31, 1982, Rhode Island is not required to adopt regulations which require the control of VOC emissions from facilities that emit less than 100 TPY. Hence, Rhode Island Regulation No. 19 does not require controls from surface coating sources which emit less than 100 TPY. Had Rhode Island exempted methylene chloride from VOC control as allowed by EPA policy, this source would emit less than 100 TPY of VOC and would be exempted from meeting the emission limits contained in Regulation No. 19. This compliance date extension is actually more stringent than EPA's policies for the control of VOCs. Therefore, it is EPA position that the time frame outlined in the consent agreement is expeditious. This rationale for EPA's proposed action was explained in the NPR and no public comments were received on that NPR.

Final Action

EPA is approving an administrative consent agreement between the Rhode Island DEM and Keene Corporation as a

revision to the Rhode Island SIP. EPA has determined that the consent agreement establishes a final compliance date extension for control of organic solvent emissions from six paper coating lines at Keene Corporation in East Providence, Rhode Island.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Date: August 13, 1987.

Lee M. Thomas,

Administrator.

Subpart 00, Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart 00—Rhode Island

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2070 is amended by adding paragraph (c)(28) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(28) Revision submitted on November 5, 1985 by the Rhode Island Department of Environmental Management consisting of an administrative consent agreement granting a final compliance date extension for the control of organic solvent emissions from six paper coating lines at Keene Corporation in East Providence, Rhode Island.

(i) Incorporation by Reference.

(A) Letter from the Rhode Island Department of Environmental Management dated November 5, 1985 submitting revisions to the Rhode Island State Implementation Plan.

(B) An administrative consent agreement between the Rhode Island Department of Environmental Management and Keene Corporation, effective on September 12, 1985.

3. In § 52.2081, the Table 52.2081 is amended by adding the following entry to No. 19. The date approved by EPA and the **Federal Register** citation will be the publication date and citation of today's document.

§ 52.2081 EPA-Approved EPA Rhode Island State regulations.

* * * * *

TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
•	•	•	•	•	•	
No. 19	Control of VOCs from surface coating operations.	9/12/85	8/31/87	52 FR—	(c)(28)	Compliance date extension for Keene Corporation under 19.3.
•	•	•	•	•	•	

[FR Doc. 87–19313 Filed 8–27–87; 4:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–217; RM–5237]

Radio Broadcasting Services; Lowell, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 270C2 to Lowell, Arkansas, as that community's first local FM service, in response to a petition filed by Marsha M. Walker and Kenneth G. Eklund. With this action, this proceeding is terminated.

DATES: Effective October 5, 1987; The window period for filing applications will open on October 6, 1987, and close on November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530, regarding the allocation. For information related to the application process contact Audio Services Division, FM Branch, (202) 632–6908.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–217, adopted August 3, 1987, and released August 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding Lowell, Channel 270C2, under Arkansas.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19923 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86–271; RM–5275]

Radio Broadcasting Services; Malvern, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 227A to Malvern, Arkansas, as that community's second local FM service, in response to a petition filed by Tom Hohrine.

With the action, this proceeding is terminated.

DATES: Effective October 5, 1987; The window period for filing applications will open on October 6, 1987, and close on November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530 concerning the allotment. For information related to the window application filing process, contact Audio Services Division, FM Branch, (202) 632–6908.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–271, adopted August 3, 1987, and released August 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, in the entry for Malvern, Arkansas, Channel 227A is added.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19924 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket Nos. 86–154; RM–4968, RM–5068, RM–5360, RM–5439, RM–5483, RM–5495]

Radio Broadcasting Services; Wrightsville, Perryville and Maumelle, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 299A to Wrightsville, AR, Channel 290C2 to Perryville, AR and Channel 245A to Maumelle, AR, as a first local service to each, as requested by Wrightsville Communications Company, Deborah Lee Vaile and LRW, Inc., respectively. Mutually-exclusive proposals are denied at Conway, Hot Springs, and Fairfield Bay, AR, as proposed by KCON Broadcasting, Inc. Noalmark Broadcasting Corporation, and Robert W. and Rosemary Holiday, respectively. With this action, this proceeding is terminated.

DATES: Effective October 8, 1987; The window period for filing applications for Channel 299A at Wrightsville, AR, Channel 290C2 at Perryville, AR, and 245A at Maumelle, AR, will open on October 9, 1987, and close on November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–6908.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–154, adopted July 29, 1987, and released August 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Six mutually-exclusive petitions were filed in this proceeding as follows: (1) KCON Broadcasting, Inc., licensee of Station KCON(AM), Conway, AR, seeking the allotment of Channel 290A to that community as its third commercial FM service (RM–4968); (2) Noalmark Boradcasting Corporation, licensee of Station KLAZ(FM) (Channel 292A), Hot Springs, AR, requested the substitution of Channel 290C1 for Channel 292A and modification of its license to specify operation on the higher class channel to provide that community with its second wide-coverage area FM service (RM–5069); (3) Wrightsville Communications Company requested the allotment of Channel 290A to Wrightsville, AR, as that community's first local broadcast service (RM–5360); (4) Robert W. and Rosemary Holiday, licensee of Station KFFB(FM) (Channel 292A), Fairfield Bay, AR, requested the substitution of Channel 291C2 for Channel 292A and modification of its license to expand its coverage area (RM–5439); (5) Deborah Lee Vaile requested the allotment of Channel 290C2 to Perryville, AR, as that community's first local broadcast service (RM–5483); and (6) LRW, Inc. requested the allotment of Channel 290A to Maumelle, AR, as that community's first local broadcast service (RM–5495). Since each request for Channel 290 and Channel 291 conflicted with each other proposed use of those channels, our decision was based on the availability of alternate channels for Wrightsville and Maumelle and the Commission's comparative evaluation process to determine which of the remaining communities could prevail. As a result, the population to receive new primary service, as afforded by the Perryville proposal, was favored over a showing of an insubstantial second aural service inherent in the Hot Springs modification proposal. The Conway and Fairfield Bay proposals were ranked lower in priority pursuant to our allotment criteria, and thus could not succeed on the merits in this proceeding. Moreover, no other channels were found available to accommodate either of those proposals.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding Wrightsville, Channel 299A; Perryville, Channel 290C2; and Maumelle, Channel 245A, under Arkansas.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19925 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–479; RM–5505]

Radio Broadcasting Services; Bismarck, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Class C Channel 254 to Bismarck, North Dakota, as the community's fourth local FM service, at the request of BDF Broadcasting, Inc. Channel 254 can be allocated to Bismarck in compliance with the Commission's minimum distance separation requirements

without the imposition of a site restriction. Canadian concurrence has been received since Bismarck is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective October 8, 1987; The window period for filing applications will open on October 9, 1987 and close on November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-479, adopted July 29, 1987, and released August 25, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Bismarck, North Dakota, is amended by adding Channel 254.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-19926 Filed 8-28-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-486; RM-5536]

Radio Broadcasting Services; Delta, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 239C1 to Delta, Utah, as that community's first FM service, at the request of Glen S. Gardner. With this action, this proceeding is terminated.

DATES: Effective October 5, 1987; The window period for filing applications will open on October 6, 1987 and close on November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-486, adopted July 28, 1987, and released August 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., Suite 140 Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, in the entry for Delta, Utah, Channel 239C1 is added.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-19927 Filed 8-28-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF JUSTICE

48 CFR Part 2801

[Justice Acquisition Circular 87-1]

Amendments to the Justice Acquisition Regulation (JAR) Implementing a Contracting Officer Standards Program

AGENCY: Justice Management Division, Office of the Procurement Executive, Justice.

ACTION: Final rule.

SUMMARY: The Justice Acquisition Regulation, Part 2801, is revised to implement a contracting officer standards program. This program will provide Departmentwide standards for education, training and experience for appointing contracting officers in Justice.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Office of the Procurement Executive, (202) 272-8354.

SUPPLEMENTARY INFORMATION:

The Contracting Officer Standards Program is issued in accordance with the initiatives outlined in Executive Order 12352 and the DOJ's Procurement Executive charter to enhance the professionalism of the procurement work force. The revisions to the JAR were not published for public comment because they do not have an effect beyond the internal operating procedures of the agency. The revisions have been reviewed and commented upon by the several procurement components of the Department. As a result of this review the proposed program was changed in significant aspects to address Bureau concerns. The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1986 exempted agency procurement regulations from review under Executive Order 12291 except for selected areas. The exemption applies to this rule. The Department of Justice certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 60 et seq.)

List of Subjects in 48 CFR Part 2801

Government procurement.

Harry H. Flickinger,

Assistant Attorney General for Administration.

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Part 2801 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2801.6—Contracting Authority and Responsibilities

§ 2801.601 [Amended]

2. Section 2801.601, paragraph (c)(1)(i) is amended by removing the semi-colon and the word "or" and adding the words "and have been determined eligible for a delegation of authority in accordance with the standards in Subpart 2801.603; or,". Section 2801.601 is further amended by revising paragraph (c)(1)(i)(A) to read as follows:

"(A) That the office(s) they serve would otherwise be without supply support for their immediate needs or the individuals are being authorized to place task orders or similar instruments against established DOJ or other agency contracts; and".

3. Section 2801.603 is added to read as follows:

§ 2801.603 Selection, appointment and termination.

(a) *Contracting officer standards.* This subpart set forth policies and procedures for establishing standards for contracting officers in DOJ. The program sets forth minimum requirements for procurement related training and experience to be eligible for a delegation of authority as a contracting officer. The purpose of this program is to assure that DOJ procurement activities appoint qualified individuals as contracting officers.

(b) *Applicability.* (1) The eligibility requirements of this subpart apply to all personnel in the GS or GM 1102 series, or to other personnel, who award contracts in excess of $25,000. It is not applicable to management officials of the Department and its components who have contracting officer authority by virtue of their organizational placement at a level above the Chief of the Contracting activity as defined in JAR 2802.102(f) or to the following:

(i) Individuals authorized to award procurement actions equal to or less than the small purchase threshold established in FAR Part 13.

(ii) Individuals authorized to place orders under Federal Supply Schedule Contracts or other agency (including DOJ) established source contracts; or

(iii) Personnel authorized to conduct or issue imprest fund transactions, training authorizations, travel documents, printing and duplicating services, placement of newspaper advertisements, or procurement of similar services.

(2) *Other limitations on applicability.* A determination by a Bureau official having the authority to redelegate procurement authority that an individual meets the prescribed standards as stated herein does not affect established Office of Personnel Management and DOJ qualifications for hiring, promotion or other personnel actions. There is no direct relationship between a determination that a candidate meets the standards and an individual's grade level or eligibility for promotion. Bureaus, however, may establish relationships between grade level, experience, and training and the dollar amount or other limitations when issuing delegations of authority. Any established relationship, however, may not be inconsistent with, or lower the qualification requirements of this section.

(c) *Delegation of authority requirements.* To be determined eligible for a delegation of authority as a DOJ contracting officer the candidate must meet the following minimum standards:

(1) Level I Purchasing agent—Signature authority to award contracts not exceeding the small purchase threshold as set forth in FAR Part 13. A determination of eligibility in accordance with Department-wide standards is not required for level I appointments (see other exceptions at 2801.601(c)). Bureaus shall establish standards for Level I appointments in accordance with their needs and policies.

(2) Level II Contracting Officer—Signature authority to award contracts not exceeding $100,000.

(i) Two years of procurement experience as a contract specialist, contract administrator or purchasing agent that demonstrated the ability to perform as a contracting officer at Level II.

(ii) Completion of 120 hours of procurement training from the subject areas listed in 2801.601(f).

(3) Level III Contracting Officer—Signature authority to award contracts not exceeding $500,000.

(i) Three years combination of procurement experience as a contract specialist or contract administrator, including six months as a contracting officer equivalent to Level II responsibilities, that demonstrated the ability to perform as a contracting officer at Level III.

(ii) Completion of an additional 80 hours of training (cumulative total of 200 hours) from the subject areas listed in 2801.601(f).

(4) Level IV Contracting Officer—Signature authority to award contracts exceeding $500,000.

(i) Four years combination of procurement experience as a contract specialist or contract administrator including one year of experience as a contracting officer equivalent to the Level III responsibilities that demonstrated the ability to perform at Level IV.

(ii) Completion of an additional 80 hours of training (cumulative total of 280 hours) from the subject areas listed in 2801.601(f).

(d) *Equivalencies.* (1) Completion of an undergraduate degree (baccalaureate) from an institution of higher education regardless of the major field of study may be substituted for one year of procurement experience.

(2) Completion of an undergraduate degree (baccalaureate) from an institution of higher education with a major in business, economics, accounting or procurement may be substituted for two years of procurement experience and 40 hours of classroom training.

(3) Completion of a graduate degree from an institution of higher education regardless of major field of study may be substituted for two years of procurement experience.

(4) Completion of a graduate degree from an institution of higher education with a major in business, economics, accounting, or procurement may be substituted for two years of procurement experience and 120 hours of classroom training.

(5) Completion of a Juris Doctor (J.D.) degree from an American Bar Association accredited law school may be substituted for three years of procurement experience and 180 hours of training. If the J.D. degree is combined with state bar membership in any state or U.S. territory an additional six months experience and 20 hours of training will be credited.

(6) Passing of an examination or certification by a nationally recognized professional contract or procurement organization and which has been approved by the Procurement Executive may be substituted for experience requirements and prescribed training courses.

(e) *Training subject areas.* (1) It is understood that the following are meant to be general subject areas, not course titles. The Bureau in determining the acceptability of a particular course will make a determination based on what is generally understood in the procurement field to be procurement or procurement related training. Training may be accomplished in-house or obtained from outside sources.

(i) Basic Procurement
(ii) Sealed Bids
(iii) Negotiated Procurements
(iv) Cost and Price Analysis (recommended 40 hrs)
(v) Contact Law
(vi) Negotiation Techniques (recommended 40 hrs)
(vii) Contract Administration (recommended 40 hrs)
(viii) ADP Procurement
(ix) A & E Contracting
(x) Construction Contracting
(xi) Small Purchase/Federal Supply Schedules
(xii) Contract Termination and Negotiation Settlements

(2) In addition the candidate should have taken or scheduled to take at least 40 hours classroom training in a specialized area applicable to his or her assigned workload. For example, a candidate for certification who primarily works with ADP or construction contracting would be expected to have training in those areas as part of the minimum hours.

(f) *Eligibility applications/delegation of procurement authority.* Bureau officials authorized to redelegate procurement authority shall make a written determination that the individual meets the standards set forth in this Subpart prior to granting the redelegation of authority. Eligibility determinations shall be based on documentation provided by the candidate. Applications shall include at a minimum a completed and signed SF 171 or equivalent that demonstrates training, experience, and education and a copy of the applicant's existing delegation of authority, if applicable, and the proposed delegation of authority. Applicants shall be responsible for submitting adequate documentation concerning education, training, and experience to enable the Bureau official to make a determination regarding the candidates' eligibility for a delegation of authority. Once approved, a copy of the redelegation and supporting documents shall be sent to the Office of the Procurement Executive for review (See JAR 2801.601(g)).

(g) *Existing delegations of authority.* Contracting officers having an existing redelegation of procurement authority on the effective date of this rule shall submit an application for review by the Bureau official within six months of the effective date of this regulation. Individuals holding existing redelegations of procurement authority who are ineligible for a delegation of authority based on the standards in this subpart may retain their existing redelegation for a period of two years from the effective date of this regulation while qualifying under the standards. If the individual fails to qualify for a delegation of authority during the two year period the delegation of authority shall be terminated by the procurement activity.

Existing redelegation shall not be changed to increase the dollar authority or remove other limitations until the individual is determine eligible under the prescribed standards.

(h) *Waivers.* It is recognized that implementation of a standards program may cause, particularly in its initial implementation, significant problems. Circumstances may exist beyond the individual's control that prevent a candidate from achieving training goals or agencies established staffing practices, particularly in field installations, may conflict, and not be subject to immediate practical resolution. To address these situations a waiver may be granted on an individual basis in accordance with the following procedures:

(1) Waivers may only be granted by the Procurement Executive.

(2) The request for a waiver must be in writing and contain a complete justification for the action requested. In addition, a plan must be submitted with the request setting forth a schedule of training if the lack of classroom training is the deficiency factor.

(3) Waiver requests shall be submitted by the individual authorized to grant the delegation of procurement authority.

(4) Waiver requests should be viewed as exceptional and only be made where no other practical solution can be found. In addition to the above requirements, a waiver request must demonstrate that the individual on whose behalf the request is made is, except for the specific deficiencies under the standards, qualified to perform as a contracting officer at the level requested.

[FR Doc. 87-19862 Filed 8-28-87; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-88; Amdt. 192-57]

Gas Pipeline Damage Prevention Programs

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTON: Final rule.

SUMMARY: One part of the current damage prevention rule requires operators, when advised of intended excavation, to give the excavator notice of whether there is or is not a buried pipeline in the area of excavation. This amendment deletes the requirement to give such notice when the operator does not have a pipeline in the area of intended excavation. This final rule will reduce the burdens and costs to pipeline operators, particularly those who comply with the current rule by participating in "one-call" systems. The amendment will enhance the effectiveness of established "one-call" systems by providing uniformity of response procedures for all utility participants.

EFFECTIVE DATE: The effective date of this final rule is September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 366-4561, regarding the content of this final rule or the Dockets Branch, (202) 366-5046, regarding other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Beginning April 1, 1983, operators of gas pipelines were required to conduct or participate in damage prevention programs to reduce the risk of excavation damage to buried pipelines in populated areas (47 FR 13818, April 1, 1982). Section 192.614(b) sets forth key elements of the programs, some of which are: Receiving notice about pending excavations, advising persons giving notice whether there are piplines in the areas of excavation, and temporarily marking any pipelines in those areas.

To publicize the program and provide a means for receiving notices of planned excavation, most gas pipeline operators participate in "one-call" systems. These systems, which may be run by governmental or private entities, advertise a single telephone number for all excavators in a region to call to tell pipeline and other underground utility operators of the time and place of intended excavations. Information received by the "one-call" system is then relayed to participating utility operators. Operators who do not participate in "one-call" systems are required to publicize their individual damage prevention programs and provide for receipt of notices on their own.

Following implementation of new damage prevention program rule, RSPA noted problems with the program requirement in § 192.614(b)(4) that operators call (or otherwise actually notify) the persons giving notice to let them know whether a pipeline is located in the area of excavation activity. When "one-call" systems use grids that cover large land areas to identify participating utilities, pipeline operators have to return many calls for excavations that do not affect and are far away from their pipelines. In these cases, such negative "call-backs" can take the full time of several employees and be costly. For these reasons, some operators have avoided joining "one-call" systems, choosing instead to conduct independent programs. However, even independent program operators can be faced with having to make numerous negative "call-backs" when their pipelines traverse wide regions and all incoming notices are funneled to a central receiving station. In most "one-call" systems other utilities are not required to make negative "call-backs" but they still have effective damage prevention programs.

Another significant problem is that some excavators who have received negative "call-backs" from one, but not the only, gas pipeline operator or company division (i.e., transmission and distribution) in an area have erroneously assumed that there were not any gas pipelines near the excavation site. Fortunately, these errors are not known to have led to any reported accidents, but RSPA considers the accident potential serious enough to warrant modification of the existing rule.

The theory behind the "call-back" feature a § 192.614(b)(4) is that preliminary communication from operators to excavators prevents excavators from becoming impatient and digging before any utilities, including pipelines, in the area are marked. The benefit of preliminary communication as a deterrent to impromptu digging is obvious when pipelines are in the area of intended excavation. But, if no pipelines are in the area, the call-back imposes an undue burden on the pipeline operator without serving any safety purpose.

Lacking any hard evidence to substantiate the benefits of negative "call-backs," RSPA examined the issue as part of a wider study titled "An Examination of Outside Forces Damage and Damage Prevention," completed in April 1986. This study was unable to attach any direct benefit to making negative "call-backs."

Before the results of the study were published, RSPA issued a Notice of Proposed Rulemaking (Notice 1) (50 FR 49575; December 3, 1985), proposing to delete the requirement of § 192.614(b)(4) that gas pipeline operators respond to notices of intended excavation in areas that do not contain buried gas pipelines.

Favorable comments on the proposal were received from 21 respondents, consisting of eleven gas distribution pipeline operators, four gas transmission pipeline operators, three industry organizations, one "one-call" system operator and two State pipeline safety regulatory agencies (Michigan and Oregon). The commenters favoring the proposal concurred that requiring gas pipeline operators to respond to notices of proposed excavation in areas that do not contain buried gas pipelines was costly and provided negligible safety benefits. Eight of these commenters argued that the excavator could easily be confused by one gas pipeline operator indicating that it did not have gas pipelines in the excavation area when pipelines of another operator were present. This is particularly confusing to excavators because in most "one-call" systems it is only the pipeline operators who are required to make negative "call-backs."

Comments opposing the proposal were received from seven respondents, consisting of three distribution pipeline operators, one trade organization (The American Congress on Surveying and Mapping (ACSM)), and three State pipeline safety regulatory agencies (Arizona, Maryland and Montana).

(Note: The three State agencies and one distribution pipeline operator are in States having negative "call-back" requirements by law other than the Federal pipeline safety regulations.)

The comments from those respondents opposing the proposal and the RSPA responses are as follows:

Comment: Six comments indicated that the present negative "call-back" requirement assures the excavator that the pipeline operator has properly received a notice of intent to dig made through a "one-call" system and that the notice is not lost or misplaced. Without the communication of a negative "call-back," the excavator cannot be sure there are no pipelines in the area.

Response: Notices forwarded to utilities by "one-call" systems most often are on a teletype or similar "hard copy." This procedure reduces to a minimum the probability of a notice of intent to dig not reaching the pipeline operator or being lost. RSPA has not found and no commenter supplied information indicating, that lost or misplaced notices are a problem in the operation of "one-call" systems.

In the Notice of Proposed Rulemaking, RSPA noted that the potential benefit to excavators of negative "call-backs" is diminished by their knowledge of a time frame within which operators must mark their underground pipelines after receiving notice of an intent to excavate. If pipelines are not marked, excavators can assume none exist in the area. "One-call" systems normally require participants to mark their utilities within a specified time after they receive notice and callers to the systems are advised of this time. The 1986–1987 "Directory of One-Call Systems," published by the American Public Works Association, Utility Location and Coordination Council, lists all "one-call" systems that were known to exist in the U.S. on January 1, 1985. With one exception, each "one-call" system has a specified response time listed in the directory that varies between systems (1, 2 or 3 days). The "one-call" system that does not have a specified time for marking advises each excavator of the time that can be expected for marking underground facilities on a case by case basis. Because "one-call" systems advise excavators of the time required to temporarily mark underground facilities, RSPA believes the marginal benefits of negative "call-backs" for gas pipelines do not outweigh the actual burdens and costs of compliance. Thus, the negative "call-back" feature of the current rule is deleted as proposed to provide the least burdensome effective rule.

Comment: One State agency and four other respondents stated that the proposed rule change would have no effect in those States where a negative response is required by State law, would provide very little cost savings, and would reduce a desirable communications link with excavators.

Response: As a result of this comment RSPA contacted each State having a pipeline safety program and determined that 31 States now have laws relating to "one-call" systems. Thirteen of these States have laws, other than the requirements of Part 192, that would require gas operators to continue responding to excavators who give notice of intended excavations in areas that do not contain buried pipelines. Under the Natural Gas Pipeline Safety Act of 1968, as amended, the authority of these and other States to require a negative "call-back" by intrastate operators subject to State pipeline safety regulations would not be affected by the final rule.

RSPA disagrees that costs would not be reduced by eliminating the negative "call-back" requirement. For example, a study by Michigan Consolidated Gas Company indicated it would have saved $221,000 in 1983 if negative "call-back" had not been required. Another study, done by Southern Natural Gas Company summarized the calls they received from the "one-call" systems in which they participate in two States during the 5-month period of September 1986 through January 1987. In Alabama, there was a total of 3,247 notices received with only 85 of these having a potential effect on their pipeline. Similarly, in Georgia there was a total of 3,647 notices received with only 10 of these requiring marking of the pipeline. Under the current requirements, Southern not only was required to contact the 95 excavators who were potentially effected by their pipeline but also the 6,799 excavators who were not close to the pipeline. This data is only for two States out of the seven States in which Southern participates in "one-call" systems.

As to the Communication link, RSPA believes that a sufficient link is maintained through the requirement that operators communicate with excavators who plan to dig in areas where pipelines

are located. This requirement would not be altered by this final rule.

Comment: In response to RSPA's point that excavators can reasonably assume that pipelines are not in an area when marking has not been done within 1–3 days after notice, one commenter stated that in many cases notice is given only a few hours before digging begins. This commenter said that an excavator is unlikely to wait 1–3 days to hear from an operator, having heard from all other operators on the first day, especially if that operator does not normally call-back with a negative response.

Response: If an excavator gives very short notice, "one-call" systems expedite the notification of all utility participants. OPS believes that in order to protect their pipelines the operators will expeditiously respond and mark any pipelines in the area before excavation begins. (§ 192.614(b)(5)). If no gas pipelines exist in the area, an excavator's hasty action in the absence of a negative "call-back" from operators should not cause any gas pipeline problems.

Comment: The ACSM stated that "If a surveyor does not have access to the most accurate information possible, he not only risks his own professional liability, but the safety of the public as well."

Response: The concern about professional liability and public safety by ACSM assumes that pipelines will not be marked. The remaining portion of § 192.614(b)(4) is not affected by this final rule, because pipeline operators are still required to notify persons who give notice of their intent to excavate if there are buried pipelines in the area of excavation activity.

Technical Pipeline Safety Standards Committee

Notice 1 was presented to the Technical Pipeline Safety Standards Committee on December 10, 1985. The Committee found the proposed rule to be technically feasible, reasonable, and practicable. A copy of the Committee report is available in the docket.

Classification

Since this final rule will have a positive effect on the economy of less than $100 million a year, will result in cost savings to consumers, industry, and government agencies, and no adverse impacts are anticipated; the proposed rule is not "major" under Executive Order 12291. Also it is not "significant" under Department of Transportation procedures (44 FR 11034). RSPA believes that the final rule will reduce the costs of damage prevention programs by reducing the number of telephone calls required by the current rule and the records of those calls. However, this savings is not expected to be large enough to warrant preparation of a Regulatory Evaluation.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Damage Prevention Program.

In view of the above, RSPA amends Part 192 to Title 49 of the Code of Federal Regulations as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 is revised to read as set forth below:

Authority: 49 App. U.S.C. 1672 and 1804; and 49 CFR 1.53.

2. Section 192.614(b)(4) is revised to read as follows:

§ 192.614 Damage Prevention Program

* * * * *

(b) * * *

(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

* * * * *

Issued in Washington, DC, on August 26, 1987.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87-19908 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1132

Technical Amendment to CFR Regarding Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Technical amendment.

SUMMARY: In § 1132.1(b), three cross references regarding definitions of household goods that appear in sections in Parts 1056 and 1040 are incorrect. This notice revises those cross references.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Ann Guthridge, (202) 275–6796.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1132

Administrative practice and procedure.

Title 49 of the CFR, Part 1132 is amended as follows:

PART 1132—PROTESTS AGAINST TARIFFS; PROCEDURES IN CERTAIN SUSPENSION AND LONG AND SHORT HAUL RESTRICTION MATTERS

1. The authority citation for Part 1132 continues to read as follows:

Authority: 49 U.S.C. 10321, 10707, 10708, and 10726; 5 U.S.C. 553 and 559.

§ 1132.1 [Amended]

2. In the sixth sentence of § 1132.1(b), the references to "49 CFR 1056.1(a)" and "49 CFR 1040.2(b)" are revised to read "49 CFR 1056.1(b)(1)."

Noreta R. McGee,

Secretary.

[FR Doc. 19918 Filed 8-28-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

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

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

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA announces the closure of the treaty Indian salmon fishery in the exclusive economic zone (EEZ) from the U.S.-Canada border to Point Chehalis, Washington, at 1 p.m., Pacific Daylight Time, August 26, 1987, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS, has determined in consultation with the Pacific Fishery Management Council (Council), the Oregon Department of Fish and Wildlife (ODFW), the Washington Department of Fisheries (WDF), and representatives of the treaty Indian tribes, that the ocean quota for the treaty Indian fisheries will be reached by that time and date. The closure is necessary to conform to the preseason announcement of 1987 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the EEZ from the U.S.-Canada border to Point Chehalis, Washington, to treaty Indian salmon fishing is effective at 1 p.m., Pacific Daylight Time, August 26, 1987. Comments on this notice will be received until September 10, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director) at 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached." The regulations further specify at § 661.10 that: "Except as otherwise provided in this part, treaty Indian fishing in any part of the fishery management area is subject to the provisions of this part, the Magnuson Act, and any other regulations issued under the Magnuson Act."

Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The treaty Indian ocean fishery for all salmon species except coho salmon extended from May 1 to the earlier of either June 22 or attainment of the chinook quota. The treaty Indian ocean fishery for all salmon species was scheduled to open on June 23, and extend until the earliest of September 30 or attainment of the chinook or coho quota. Treaty Indian quotas are 15,800 chinook and 86,000 coho salmon.

Several inseason adjustments to the season were imposed by treaty Indian tribal regulations to slow their harvest of chinook salmon and increase the opportunity for harvest of their coho quota, including a 26-day delay in the opening of the all species season.

Based on the best available information, the treaty Indian ocean fishery is projected to reach its 86,000 coho salmon quota by 1300 hours, local time, August 26, 1987. The Regional Director consulted with the Chairman of the Council, and representatives of ODFW, WDF, and affected treaty Indian tribes, regarding a closure of the treaty Indian fishery between the U.S.-Canada border and Point Chehalis, Washington. The tribal and WDF representatives confirmed their intent to close tribal fisheries in waters adjacent to this area of the EEZ at the time and date of projected attainment of the coho quota.

Therefore, NOAA issues this notice to close the treaty Indian salmon fishery in the EEZ from the U.S.-Canada border to Point Chehalis, Washington, effective 1 p.m., Pacific Daylight Time, Wednesday, August 26, 1987. Actual notice of this closure will be given by tribal officials to affected tribal members. This notice does not apply to other fisheries which may be operating in other areas.

Pursuant to § 661.21(a) of the framework salmon regulations, the Regional Director will consider reopening the treaty Indian ocean salmon fisheries if he finds that the actual catch has been overestimated and that part of the tribal quota remains, that reopening of the fishery is consistent with the management objectives for the affected species, and that the additional open period is no less than 24 hours.

Other Matters

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

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 26, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–19974 Filed 8–26–87; 4:28 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 168
Monday, August 31, 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

Food Safety and Inspection Service

9 CFR Parts 304, 305, 306, 308, 309, 310, 313, 317, 318, 320, 325, 329, 335, 350, 351, 352, 354, 355, 362, and 381

[Docket No. 87-004N]

Regulatory Review of Enforcement-Related Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments; regulatory review.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act, FSIS is undertaking a review of its enforcement-related regulations promulgated under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Agricultural Marketing Act of 1946. This Notice requests the submission of comments to assist Agency personnel in completing this review.

DATE: Comments must be received on or before October 30, 1987.

ADDRESS: Written comments should be sent in duplicate to the Policy Office, Attn: Ms. Linda Carey, FSIS Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, 20250. Any person desiring an opportunity for an oral presentation of views should make such request to Mr. G. Edward McEvoy, Director, Planning Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington DC, 20250, (202) 447-3317, so that arrangements may be made for such views to be presented. A transcript will be made of all oral presentations.

FOR FURTHER INFORMATION CONTACT: Mr. G. Edward McEvoy, Director, Planning Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3317.

SUPPLEMENTARY INFORMATION: The Food Safety and Inspection Service (FSIS) carries out a mandatory inspection program for meat and poultry products under the Federal Meat Inspection Act and the Polultry Products Inspection Act; and, a voluntary inspection program for related species and products (e.g., rabbit, reindeer, buffalo, and game birds) under the Agricultural Marketing Act of 1946. FSIS is authorized to exercise a number of legal authorities to deal with violations, including criminal actions against individuals and business units (prosecutions for felonies and misdemeanors) and actions against products (condemnations, detentions, and judicial seizures). Civil injunctions and administrative actions to withdraw or deny inspection services are other examples of the enforcement authority granted to FSIS under the meat and poultry laws.

FSIS is currently undertaking a regulatory review, pursuant to Executive order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 note), of its existing enforcement-related regulations, which have been adopted to implement the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.).

Enforcement-related regulations are defined, for purposes of this Notice, as those pertaining to criminal actions and the acts of retention; condemnation; detention; seizure; the grant, denial, or withdrawal of inspection service; and appeals from any of these listed actions. The FSIS regulations identified for inclusion in this review are listed in the Appendix to this Notice.

It should be noted that enforcement-related requirements under the transportation regulations contained in 9 CFR Parts 325 and 381, Subpart S, are included in this review because of their close relationship to FSIS enforcement-related requirements. However, the enforcement regulations relating to the importation of meat food products and poultry products contained in 9 CFR Part 327 and 9 CFR Part 381, Subpart T, are not included, but will be reviewed at a later time.

The review of regulations outlined in this document is not related to the Agency's adoption of regulations to implement the Processed Products Inspection Imporvement Act of 1986, adopted as Title IV of the Futures Trading Act of 1986, Pub. L. 99-641. That regulatory action will be the subject of separate rulemaking.

FSIS is requesting public comments on which to base future improvements in current regulations. Interested members of the public and the affected industries are requested to submit suggestions for improving the clarity, understandability, andf completeness of FSIS' enforcement-related regulations. The FSIS is interested in obtaining information that might be included in its regulations which would improve their usefulness to the public and the affected industries in understanding how the FSIS administers its enforcement-related regulations.

Done at Washington, DC, on August 26, 1987.

Donald. L Houston,

Administrator, Food Safety and Inspection Service.

Appendix—List of Regulations Under Review

AREA OF REVIEW: ENFORCEMENT-RELATED REGULATIONS

9 CFR—CHAPTER III, FOOD SAFETY AND INSPECTION SERVICE MEAT AND POULTRY INSPECTION DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

1. 9 CFR 304.2 ..... Drawings, information to be furnished; grant or refusal of inspection.
2. 9 CFR 305.5 ..... Withdrawal of inspection; statement of policy.
3. 9 CFR 305.6 ..... Reports of violations.
4. 9 CFR 306.5 ..... Appeals.
5. 9 CFR 308.15 ..... Tagging insanitary (sic) equipment, utensils, rooms or compartments.
6. 9 CFR 309.2 ..... Livestock suspected of being diseased or affected with certain conditions; identifying suspects; disposition on post-mortem inspection or otherwise.
7. 9 CFR 309.3 ..... Dead, dying, disabled, or diseased and similar livestock.

8. 9 CFR 309.13 ..... Disposition of condemned livestock.
9. 9 CFR 310.3 ..... Carcasses and parts in certain instances to be retained.
10. 9 CFR 310.4 ..... Identification of carcasses and parts; tagging.
11. 9 CFR 310.5 ..... Condemned carcasses and parts to be so marked; tanking; separation.
12. 9 CFR 313.50 ..... Tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter.
13. 9 CFR 317.11 ..... Labeling, filling of containers, handling of labeled products to be only in compliance with regulations.
14. 9 CFR 317.12 ..... Relabeling products; requirements.
15. 9 CFR 318.2 ..... Reinspection, retention, and disposal of meat and poultry products at official establishments.
16. 9 CFR 318.4 (a), (b) ..... Preparation of products to be officially supervised; responsibilities of official establishments.
17. 9 CFR 318.15 ..... Tagging chemicals, preservatives, cereals, spices, etc., "U.S. retained.".
18. 9 CFR 320 ..... Records, Registration, and Reports..
19. 9 CFR 325 ..... Transportation.
20. 9 CFR 329 ..... Detention; Seizure and Condemnation; Criminal Offenses.
21. 9 CFR 335 ..... Rules of Practice Governing Proceedings under the Federal Meat Inspection Act.

SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE
PART 350. SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

1. 9 CFR 350.6 ..... Denial or refusal of (voluntary inspection and certification) service.

PART 351. CERTIFICATION OF TECHNICAL ANIMAL FATS FOR EXPORTS

1. 9 CFR 351.15 ..... Reports of violations.
2. 9 CFR 351.20 ..... Withdrawal of service from certified plants.
3. 9 CFR 351.21 ..... Appeals.

PART 352. BUFFALO; VOLUNTARY INSPECTION

(adopted within last 5 years—not included in review)

PART 354. VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

1. 9 CFR 354.38 ..... Suspension of plant approval.
2. 9 CFR 354.45 ..... Denial of service.
3. 9 CFR 354.46 ..... Misrepresentation; deceptive or fradulent acts or practices.
4. 9 CFR 354.47 ..... Use of facsimile forms.
5. 9 CFR 354.48 ..... Willful violation of the regulations.
6. 9 CFR 354.49 ..... Interfering with an inspector or employee of service.
7. 9 CFR 354.51 ..... Miscellaneous.
8. 9 CFR 354.53 ..... Other applicable regulations.
9. 9 CFR 354.60 ..... Approval of official identification.
10. 9 CFR 354.92 ..... Reports of violation.
11. 9 CFR 354.122 ..... Condemnation on ante-mortem inspection.
12. 9 CFR 354.127 ..... Condemnation and treatment of carcasses.
13. 9 CFR 354.248 ..... Scope and applicability of rules of practice.

PART 355. CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA; INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

1. 9 CFR 355.17 ..... Tagging equipment "U.S. rejected.".
2. 9 CFR 355.23 ..... Tagging products "U.S. retained.".
3. 9 CFR 355.24 ..... Processes to be supervised.
4. 9 CFR 355.25(i) ..... Canning (lack of suitable incubation facilities, retention).
5. 9 CFR 355.27 ..... Reports of violations of regulations.
6. 9 CFR 355.31 ..... Supervision by inspector.
7. 9 CFR 355.38 ..... Withdrawal of service.
8. 9 CFR 355.39 ..... Appeals from decisions made under this part.

PART 362. VOLUNTARY POULTRY INSPECTION REGULATIONS

1. 9 CFR 362.4 ..... Denial or withdrawal of service.

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION
PART 381. POULTRY PRODUCTS INSPECTION REGULATIONS

1. 9 CFR 381.20 ..... Survey and grant of inspection..
2. 9 CFR 381.21 ..... Refusal of inspection.
3. 9 CFR 381.28 ..... Report of violations.
4. 9 CFR 381.29 ..... Suspension or other withdrawal of inspection service.
5. 9 CFR 381.35 ..... Appeal inspections; how made.
6. 9 CFR 381.71 ..... Condemnation on ante mortem inspection.
7. 9 CFR 381.78 ..... Condemnation of carcasses and parts: separation of poultry suspected of containing biological residues.
8. 9 CFR 381.79 ..... Passing of carcasses and parts.
9. 9 CFR 381.129 ..... False or misleading labeling or containers.
10. 9 CFR 381.130 ..... False or misleading labeling or containers; orders to withhold from use.
11. 9 CFR 381.145 (a,)(b) ..... Poultry products and other articles entering or at official establishments; examination and other requirements.
12. 9 CFR 381, Subpart Q ..... Records, Registration, and Reports.
13. 9 CFR 381, Subpart S ..... Transportation; Exportation; or Sale of Poultry or Poultry Products.
14. 9 CFR 381, Subpart U ..... Detention; Seizure and Condemnation; Criminal Offenses.
15. 9 CFR 381, Subpart W ..... Rules of Practice Governing Porceedings Under the Poultry Products Inspection Act.

[FR Doc. 87-19889 Filed 8-28-87; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 018CE, Special Conditions No. 23-ACE-18A]

Special Conditions; Petersen Aviation, Inc., Modified Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes, To Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions; amendment to Special Conditions No. 23–ACE–18.

SUMMARY: This notice proposes to amend Special Conditions No. 23–ACE–18, for Petersen Aviation, Inc., modified Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes, to incorporate ADI system provisions which was published in the **Federal Register** on April 10, 1987 (52 FR 11627). One special condition paragraph on the ADI fluid quantity indicator was inadvertently omitted when these special conditions were originally proposed and adopted. This supplemental notice presents the omitted paragraph for public comment prior to adoption into final special conditions.

DATES: Comments must be received by September 30, 1987.

ADDRESS: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 018CE, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 018CE. Comments may be inspected in the Docket File between 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Type Certification Basis

The certification basis for the Beech Aircraft Corporation Model 33 Series, Model 35 Series, and Model 36 Series Airplanes (TC 3A15) is Part 3 of the Civil Air Regulations, as amended to May 15, 1956, and Amendment 3–8; in addition, for the Models A36TC and B36TC only, §§ 23.909, 23.1043, 23.1527(b), and 23.1583(a), as amended by Amendment 23–7 and §§ 23.959, 23.967(a)(5), and 23.1121(b) as amended by Amendment 23–18 of the Federal Aviation Regulations, Part 23, dated February 1, 1965, and for the Model B36TC only, § 23.1545(a) as amended by Amendment 23–23.

For Model/Serial Numbers F33A (S/N CE–891 and after), V35B (S/N D–10313 and after), F33C (S/N CJ–156 and after), A36 (S/N E–1609 and after), A36TC (S/N EA–1 through EA–241 and EA–243 through EA–272), and B36TC (S/N EA–242, EA–273 and after), Part 36 through Amendment 36–10 of the Federal Aviation Regulations is applicable.

For Model V35B (S/N D–9948 and after), A36 (S/N E–927 and after), F33A (S/N CE–674 and after), F33C (S/N CJ–129 and after), A36TC (all serials) findings of equivalent level of safety for CAR 3.664 and CAR 3.757 are applicable.

For Model V35B (all serials), A36 (all serials), F33A (all serials), F33C (all serials), A36TC (all serials), and B36TC (all serials), findings of equivalent level of safety for CAR 3.387 are applicable.

For all models, Special Conditions No. 23–ACE–18 and this proposed amendment, are applicable when Petersen ADI systems are installed.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Beech Bonanza Series Airplanes. This installation incorporates ADI tanks, pumps, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas).

Special conditions for the certification of this ADI system were proposed in Notice No. 23–ACE–18, published in the **Federal Register** on August 21, 1986. The closing date for comments was September 22, 1986. Two comments were received. The special conditions were adopted as proposed on April 1, 1987 and published in the **Federal Register** on April 10, 1987 (52 FR 11627) to be effective May 11, 1987.

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

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following amendment to Special Conditions No. 23–ACE–18 to become a part of the type certification basis for Beech Model 33 Series, Model 35 Series, and Model 36 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Special Condition 2 is proposed to be amended by adding a new paragraph (1) to read as follows:

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

Issued in Kansas City, Missouri, on August 6, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19875 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 21 and 23

[Docket No. 025CE, Notice No. 23-ACE-25A]

Special Conditions; Petersen Aviation, Inc., Modified Bellanca Model 17-30 Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Bellanca Model 17-30 Airplanes to incorporate ADI system provisions, which was published in the **Federal Register** on August 28, 1986 (51 FR 30669). This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions No. 23-ACE-25. This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 025CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 025CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Bellanca Model 17-30 Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 28, 1986 (51 FR 30669). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Bellanca Model 17-30 Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read as follows:

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

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-19872 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 020CE, Notice No. 23-ACE-20A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 185 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 185 Series Airplanes to incorporate ADI system provisions. This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions which was published in the **Federal Register** on August 21, 1986 (51 FR 29941). This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 020CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 020CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 185 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 21, 1986 (51 FR 29941). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 185 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read as follows:

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

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19873 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 21 and 23

[Docket No. 017CE, Special Conditions No. 23–ACE–16A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 188 Series Airplanes, to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions; amendment to Special Conditions No. 23–ACE–16.

SUMMARY: This notice proposes to amend Special Conditions No. 23–ACE–16, for Petersen Aviation, Inc., modified Cessna Model 188 Series Airplanes, to incorporate ADI system provisions which was published in the **Federal Register** on August 25, 1986 (52 FR 30207). One special condition paragraph, on the ADI fluid quantity indicator, was inadvertently omitted when these special conditions were originally proposed and adopted. This supplemental notice presents the omitted paragraph for public comment prior to adoption into final special conditions.

DATES: Comments must be received by September 30, 1987.

ADDRESS: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 017CE, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 017CE. Comments may be inspected in the Docket File between 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Type Certification Basis

The certification basis (TC A9CE) for the Cessna Aircraft Company Model 188 Series Airplanes is, for Restricted Category, Part 21 of the Federal Aviation Regulations, dated February 1, 1965; for Normal Category, Part 23 of the Federal Aviation Regulations, dated February 1, 1965; and, in addition, for S/N 18803297 and on, in Normal Category, § 23.1559, effective March 1, 1978.

For the Model T188C only, the certification basis is Part 21 of the Federal Aviation Regulations dated February 1, 1965, Part 23 of the Federal Aviation Regulations dated February 1, 1965, with exception to § 23.221, per § 21.25(a)(1), and, in addition, § 23.1559, effective March 1, 1978.

Equivalent Safety Findings were made on S/N 678T, 18802349 and on, S/N T18803307T, T18803308T, T18803325T and on, relative to Airspeed Indicator § 23.1545 (see Note 7 on TCDS on use of IAS), and Airspeed Limitations § 23.1583(a)(1).

Special Conditions No. 23–ACE–16, and any additional special conditions that may result from this proposal are applicable to all Model 188 Series Airplanes modified to incorporate the Petersen Aviation, Inc. ADI System.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application to the FAA for a supplemental type certificate

(STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 188 Series Airplanes. This installation incorporates ADI tanks, pumps, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas).

Special conditions for the certification of this ADI system were proposed in Notice No. 23–ACE–16 which was published in the **Federal Register** on June 13, 1986. The closing date for comments was July 14, 1986. One comment was received. The special conditions were adopted as proposed on August 8, 1986, and published in the **Federal Register** on August 25, 1986 [51 FR 30207] to be effective September 24, 1986.

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

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following amendment to Special Conditions No. 23–ACE–16 to be a part of the type certification basis for Cessna Model 188 Series Airplanes modified. to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

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

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

Issued in Kansas City, Missouri on August 6, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19876 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 21 and 23

[Docket No. 021CE, Notice No. 23–ACE–21A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 206 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Special Conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 206 Series Airplanes to incorporate ADI system provisions which were published in the **Federal Register** on August 28, 1986 (51 FR 30667). This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions No. 23–ACE–21. This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 021CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 021CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 206 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 28, 1986 (51 FR 30667). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 206 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read as follows:

(k) In § 23.1337(b), for ADI systems, replace the lead-in paragraph with "There must be a means to indicate the quantity of ADI fluid in each tank. A dipstick, sight gauge, or an

indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition, * * *"

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-19867 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 022CE, Notice No. 23-ACE-22A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 207 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 207 Series Airplanes to incorporate ADI system provisions. This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions, which was published in the **Federal Register** on August 21, 1986 (51 FR 29940). This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 022CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 022CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 207 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 21, 1986 (51 FR 29940). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 207 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read:

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

Issued in Kansas City, Missouri, on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-19870 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 019CE, Notice No. 23-ACE-19A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 310 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 310 Series Airplanes to incorporate ADI system provisions. This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions 23-ACE-19, which was published in the **Federal Register** on August 28, 1986 (51 FR 30666). This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 019CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 019CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 310 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 28, 1986 (51 FR 30666). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 310 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read as follows:

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

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-19874 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 23

[Docket No. 024CE, Notice No. 23-ACE-24A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 320 Series, Model 340 Series, and Model 335 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 320 Series, Model 340 Series, and Model 335 Series Airplanes to incorporate ADI system provisions. This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions, which was published in the **Federal Register** on September 17, 1986 (51 FR 32927). This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 024CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 024CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 320 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a

Notice of Proposed Special Conditions on September 17, 1986 (51 FR 32927). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 320 Series, Model 340 Series, and Model 335 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read:

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

Issued in Kansas City, Missouri, on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19865 Filed 8–28–87; 8:45 am]

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14 CFR Parts 21 and 23

[Docket No. 026CE, Notice No. 23–ACE–26A]

Special Conditions; Petersen Aviation, Inc., Modified Gulfstream Aerospace Model 500 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Gulfstream Aerospace Model 500 Series Airplanes to incorporate ADI system provisions which was published in the **Federal Register** on August 21, 1986 (51 FR 29944). This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions No. 23–ACE–26. This supplemental notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 026CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 026CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Gulfstream Aerospace Model 500 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engines in measured quantities to allow the engines to be operated on automobile gasoline (autogas). The engines will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** s a Notice of Proposed Special Conditions on August 21, 1986 (51 FR 29944). Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Gulfstream Aerospace Model 500 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read as follows:

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

Issued in Kansas City, Missouri on July 29, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–19871 Filed 8–28–87; 8:45 am]

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14 CFR Parts 21 and 23

[Docket No. 031CE, Notice No. 23-ACE-29]

Special Conditions; Piaggio Model P-180 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Piaggio Model P-180 airplane. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness requirements in Part 23 of the Federal Aviation Regulations (FAR). The novel and unusual design features are associated with the use of advanced composite materials for primary flight structure, the location of the propellers, forward wing (canard) configuration, and an outward opening, main entry door in the pressurized cabin for which the regulations do not contain adequate or appropriate safety standards. This notice contains the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that envisioned in the applicable regulations.

DATE: Comments must be received on or before September 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 031CE, 601 East 12th Street, Kansas City, Missouri 64106; or delivered in duplicate to: Room 1558, 601 East 12th Street, Kansas City, MO. All comments must be marked: Docket No. 031CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar E. Ball, Aerospace Engineer, Standards Office, ACE-110, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, MO 64106, telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Type Certification Basis

The certification basis for the Piaggio Model P-180 airplane is 14 CFR, Part 21, Section 21.29; 14 CFR, Part 23, effective February 1, 1965, including amendments 23-1 through 23-30; Special Federal Aviation Regulations No. 27, effective February 1, 1974, including amendments 27-1 through 27-5; 14 CFR, Part 36, effective December 1, 1969, including amendments 36-1 through amendment effective on the date of type certification; exemptions, if any; and any special conditions resulting from this notice.

Background

On December 29, 1983, Rinaldo Piaggio, S.p.A. made application for a type certificate through Registro Aeronautico Italiano (RAI) to the FAA Brussels Office for the Model GP-180, and submitted a revised application changing the model designation to Model P-180 on November 12, 1986.

The Model P-180 is a small, normal category, 9-passenger airplane with a partially composite-structure airframe, forward wing (canard) with aft-mounted, T-tail configuration, laminar flow wing and twin turboprop engines that are main-wing-mounted with pusher propellers aft of the main wing trailing edge.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, will be adopted and issued after public notice, in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, in accordance with § 21.17(a)(2).

The proposed type design of the Model P-180 airplane contains a number of novel or unusual design features with respect to the state of technology not envisaged by the applicable Part 23 airworthiness standards for an airplane to be type certificated under Part 23 requirements. Special conditions are necessary because the airworthiness requirements do not contain adequate or appropriate safety standards for the novel and unusual design features for the Model P-180 airplane.

The Model P-180 will be operated at high altitudes where stall-Mach buffet encounters are likely to occur which are not presently addressed in Part 23. A special condition is proposed which will require buffet onset tests and the inclusion of information in the Airplane Flight Manual/Pilot's Operation Handbook (AFM/POH) to provide guidance to the flightcrew. This information will enable the flightcrew to plan flight operations that will maximize the maneuvering capability during high altitude cruise flight and preclude inadvertent operations exceeding the boundary of perceptible buffet.

The proposed operating envelope for the Model P-180 airplane includes areas in which Mach effects (e.g., buffet, changes in pressure distribution over the main wing and forward wing causing reduction in control authority) may be significant. The anticipated low drag of the airplane, coupled with the unusual design features associated with the forward aerodynamic surface, and the proposed operating envelope are conditions not envisioned by the existing Part 23 regulations. These conditions may degrade the ability of the flightcrew to promptly recover from inadvertent excursions beyond maximum operating speeds. The ability to pull at least 1.5g positive load factor is needed to assure that, during recovery from upset, the airplane speed does not continue to increase to a value where recovery may not be achievable by the average pilot or flightcrew. Accordingly, a special condition is proposed to require demonstration of the ability to recover from inadvertent speed excursions beyond V_{MO}/M_{MO} and up to V_D/M_D.

Piaggio has selected airfoil designs for the Model P-180 having airfoil pressure gradient characteristics and smooth aerodynamic surfaces which may be capable of supporting natural laminar flow. Changes in flying qualities and performances may occur due to the loss of natural laminar flow caused by rain, insects, ice or other contamination adhering to aerodynamic surfaces.

Airfoil sections whose performance and flying qualities are substantially degraded by contamination, which would normally be encountered in service, were not envisaged by the existing Part 23 requirements. A special condition is proposed to require that the airplane comply with the requirements of §§ 23.141 through 23.253 with any contamination on the aerodynamic surfaces normally encountered in service and to require that information

relating to any resulting performance degradations be provided to the pilot.

The Model P–180 primary structure is to be partially constructed of composite material which requires damage tolerance methods for a thorough fatigue-type evaluation. Composite materials in existence and commonly used in aircraft airframes at this time are typically more susceptible to different types of damage from intrinsic and discrete sources that might adversely influence strength properties (more than commonly used aluminum structure). Because of this, and other factors, it is generally agreed that damage tolerance criteria should be used to show that composite material structure can withstand the repeated loads of variable magnitude expected in service. Furthermore, because of the lack of service experience base for these new materials and their mechanical properties characteristics, there is a need to apply special requirements such as (a) limit load residual strength with large area manufacturing defects (e.g., weak bonds) and impact damage from discrete sources, and (b) ability to carry ultimate load with realistic impact damage at the threshold of detectability and material environmental exposure effects. A special condition is proposed to require that composite structural components critical to safe flight be evaluated by damage tolerance criteria. When damage tolerance is shown to be impractical, the proposed special condition is worded to permit approval based on safe-life testing.

Part 23 does not address loads on the canard (forward horizontal) stabilizing surface. Although it has been generally accepted that the regulations applicable to the main wing are also applicable to the Model P–180 forward wing, Part 23 has not been amended to include appropriate requirements. A special condition is proposed to clarify and broaden the existing Part 23 requirements to account for the airplane loads associated with a forward lifting surface.

This special condition will differ from previous special conditions on this subject issued on canard-configured airplanes. The differences are associated with the unique configuration of the P–180 airframe and the design approach taken by the applicant. The P–180 airplane has both a canard surface forward and a horizontal stabilizing surface aft.

The FAA anticipates loads analysis of the P–180 airplane will show it to be a gust critical design. Gust critical design means simply that the loads on the airplane that result from applying gusts of the shape and velocity set forth in the requirements are higher than loads that result from maneuvers.

A canard configured airplane responds differently than a conventional airplane in vertical gusts. The forward wing penetrates the gust first, and causes the airplane to pitch up. This results in an increase in the main wing angle of attack and wing airload, when compared with a conventional airplane. FAA considers the 1-cosine shape and the gust criteria of § 23.333 to be adequate for certification of canard and tandem wing configurations. However, this requires a time history analysis to determine the loads on the lifting surfaces, as the maximum airloads on the forward (canard) and main wings occur at different times, and neither occur at the time of maximum airplane vertical loads.

The applicant may want to avoid running time histories for all critical conditions. A simplified method may be proposed, however, it must be shown to be conservative when compared with the 1-cosine gust.

The Model P–180 cabin entrance door opens outward, has multiple latches, and has a seal that is pressurized with cabin air. If this type door is not properly closed and locked, or if a failure in the door or its locking mechanism occurs, the pressure in the cabin can blow the door open, resulting in explosive decompression of the cabin and possible injury to its occupants. The high cabin differential pressure and outward opening doors are novel and unusual design features when compared to the state of technology envisaged in the applicable Part 23 rules because the rules do not contain any airworthiness standards for the door latching and locking mechanism and for a means to warn the crew when the doors are not properly closed and locked. A special condition is proposed to apply appropriate design standards to the door latching and locking mechanism and to require a means to warn the crew when the doors are not fully closed and locked.

The Model P–180 utilizes a T-tail empennage and small forward wing (canard) to provide the necessary balancing forces. When the wing flaps are actuated, the large pitching moment changes are countered by movement of flaps on the forward wing, resulting in little trim change during takeoff and landing. However, if movement of the forward wing flaps is not in harmony (synchronized) with the main wing flap, excessive stick forces will result or airplane control may be degraded.

Section 23.701 addresses designs where flaps on opposite sides of the airplane must be synchronized by a mechanical interconnection, unless the airplane has safe flight characteristics with the flaps retracted on one side and extended on the other. Part 23 does not envision a system where flaps are incorporated both on the forward wing and the main wing as on the Model P–180. The operating mechanism for the main wing flaps are synchronized by a mechanical interconnect. Synchronization between these surfaces, and between each forward wing flap, is achieved electrically, but no indicator or monitoring system is planned to detect any unsynchronized condition or prevent flap runaway. For the level of safety intended by § 23.701, continued safe flight to landing must be demonstrated for each combination of synchronized and unsynchronized positions between the main and forward wing flaps. A special condition is proposed to require that the airplane demonstrate continued safe flight characteristics for each combination of synchronized or unsynchronized positions of the main wing flaps and the forward wing flaps.

The Model P–180 rear-mounted pusher propellers may be susceptible to contact with the runway surface at the maximum pitch attitude attainable during takeoffs and landings. A special condition is proposed to provide adequate ground clearance. If a tail skid is provided to show compliance with the special condition, that special condition will also require that (1) suitable design loads must be established for the skid and (2) the skid and its supporting structure must be designed to support those loads.

Since the aft location of the Model P–180 propellers is an unconventional design feature, passengers and ground personnel may be less aware of the proximity of the propeller blades. A special condition is proposed to require the necessary visibility of the propeller discs corresponding to similar requirements of Parts 27 and 29 concerning conspicuity of the tail rotor.

Because of the aft propeller location, ice shed from the wing leading edges, engine air inlet duct inertial separator, and other parts of the airplane may impact the propeller blades. Impact with shed ice fragments may have an adverse effect on the strength and fatigue characteristics of the propeller. To ensure propeller integrity and continued availability of power, a special condition is proposed to either prevent ice from accumulating on the airplane forward of the propellers, or to assure that ice shed into the propellers will not create a hazardous condition. Such protection is necessary during all

operating conditions, including unanticipated encounters with icing conditions. Also, to ensure propeller integrity, exhaust gases discharging into the plane of the propeller, not covered by § 23.1121, must be considered.

Small airplanes have typically been unpressurized where smoke or toxic fumes could be evacuated by opening windows or, if pressurized, have had maximum operating altitudes such that the airplane could be readily depressurized to evacuate smoke or toxic fumes without creating an unsafe condition. Thus, the small airplane envisioned in the Part 23 airworthiness standards inherently had smoke evacuation provisions. The Model P–180 will not have the inherent smoke evacuation provisions due to the higher differential pressures, longer times needed to depressurize and ventilate the cockpit, and the need for immediate supplemental oxygen at the maximum operating altitudes. Accordingly, a special condition is proposed to require cockpit ventilation requirements corresponding to the level of safety intended by the airworthiness standards applicable to the Model P–180 airplane.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Piaggio Model P–180 airplanes and future changes to the airplanes:

1. Buffet Onset Envelope. In addition to the requirements of §§ 23.251 and 23.1585, with the airplane in the cruise configuration, the positive maneuvering load factors at which the onset of perceptible buffeting occurs must be determined for the ranges of airspeed or Mach number, weight, and altitude for which the airplane is to be certificated. The buffet onset envelopes determined must be furnished as information in the Airplane Flight Manual. This information must include envelopes of load factor, speed, weight, and altitude which provide a sufficient range for normal operations. The buffet onset envelopes presented may reflect the center of gravity at which the airplane is normally loaded during cruise if corrections for the effect of different center of gravity locations are furnished.

2. Inadvertent Excursions Beyond Maximum Operating Speeds. In addition to the requirements of § 23.251, it must be possible to achieve a positive load factor of 1.5 for recovery from inadvertent speed excursions beyond V_{MO}/M_{MO} and up to V_{DF}/M_{DF}, for each combination of weight, altitude and center of gravity.

3. Effects of Contamination on Laminar Flow Airfoils. In the absence of specific requirements for airfoil contamination, airplane airfoil designs which have airfoil pressure gradient characteristics and smooth aerodynamic surfaces which may be capable of supporting natural laminar flow must comply with the following:

(a) It must be shown by tests or analysis supported by tests that the airplane complies with the requirements of §§ 23.141 through 23.253 with any airfoil contamination which would normally be encountered in service and which would cause significant adverse effects on the handling qualities of the airplanes resulting from the loss of laminar flow.

(b) Significant performance degradations identified as resulting from the loss of laminar flow must be provided as part of the information required by §§ 23.1585 and 23.1587.

4. Evaluation of Composite Structure. In addition to complying with § 23.572, all composite structure, the failure of which would result in catastrophic loss of the airplane, including the tail section, each forward wing and its attaching structure, and each movable control surface, must be evaluated to the damage tolerance criteria prescribed in paragraphs (a) through (h) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (j) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (i) of this special condition.

(a) It must be demonstrated, by test or by analysis supported by test evidence, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstrations, factored to obtain inspection intervals, must permit development of an inspection program for application by operations and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the result of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection methods specified the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) The empennage, tail cone, forward wing, forward wing attaching structure and each movable control surface, must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(g) The effects of material variability and environmental conditions; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

(h) The structure must be shown by analysis to be free from flutter to V_D with the extent of damage for which residual strength is demonstrated.

(i) In lieu of a non-destructive inspection technique which assures ultimate load carrying capability of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraph (f) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(j) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

5. Loads. (a) In addition to the requirements of paragraph 23.301(b), the following shall be required: Methods used to determine load intensities and distribution over the various aerodynamic lifting and control surfaces must be validated by flight test measurement unless the methods used for determining those loads are shown to be reliable or conservative for the configuration under consideration.

(b) In lieu of paragraph 23.301(d), the following applies: The forward lifting surface

of a canard or a tandem wing configuration must meet all the requirements of Part 23, Subpart C, "Structure", applicable to a wing.

(c) In lieu of § 23.331 the following apply:

(1) The appropriate balancing loads must be accounted for in a rational or conservative manner when determining forward and main wing loads and linear inertia loads corresponding to any of the symmetrical flight conditions specified in §§ 23.333 through 23.341.

(2) The incremental forward wing and horizontal tail loads due to maneuvering and gusts must be reacted by the angular inertia of the airplane in a rational or conservative manner.

(3) Mutual influence of the aerodynamic surfaces must be taken into account when determining flight loads.

(d) In addition to the gust load requirements of § 23.341 the following applies:

The gust loads for a canard or a tandem wing configuration must be computed using a rational analysis considering the gust criteria of § 23.333(c) or may be computed in accordance with § 23.341 provided the resulting loads are shown to be conservative with respect to the gust criteria of § 23.333(c).

(e) In lieu of the balancing loads requirements of § 23.421, the following apply:

(1) A horizontal surface balancing load is a load necessary to maintain equilibrium in any specified flight condition with no pitching acceleration.

(2) Horizontal balancing surfaces must be designed for the balancing loads occurring at any point on the limit maneuvering envelope and in the flap conditions specified in § 23.345. The distribution in figure B6 of Appendix B of Part 23 may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(f) In addition to other applicable requirements, for gust loads on each horizontal surface forward of the main wing, the following apply:

(1) Each horizontal surface, other than the main wing, must be designed for loads resulting from—

(i) Gust criteria specified in § 23.333(c) with flaps retracted; and

(ii) Positive and negative gusts of 25 f.p.s. nominal intensity at V_F corresponding to the flight conditions specified in § 23.345(a)(2).

(2) When determining the total load on the horizontal surfaces for the conditions specified in paragraph (f)(1) of this special condition, the initial balancing loads for steady unaccelerated flight at the pertinent design speeds, V_F, V_C, and V_D must first be determined. The incremental load resulting from the gusts must be added to the initial balancing load to obtain the total load.

(g) In addition to the requirements of § 23.425, for gust loads on the horizontal tail surface of a canard or tandem wing configuration, the loads computed in accordance with § 23.425 must be shown to be conservative with respect to the gust criteria of § 23.333(c).

6. Outward Opening Doors and Exits in the Pressure Cabin or Compartments. In addition to the requirements of §§ 23.783 and 23.807, each outward opening external door and exit must comply with the following:

(a) There must be a means to lock and safeguard each external door and exit against opening in flight, either inadvertently by persons or as a result of a mechanical failure or failure of a single structural element, either during or after closure.

(b) There must be a provision for direct visual inspection of the locking mechanism by a crewmember to determine, under operational lighting conditions, or by using a flashlight or equivalent lighting source, that all external doors and exits are fully closed and locked.

(c) There must be a visual warning means to signal flight crewmembers if any external door or exit is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable.

7. Forward and Main Wing Flap Interconnection. In lieu of § 23.701(a):

(a) The main wing flaps and the related moveable surfaces as a system must:

(1) Be synchronized by mechanical connection; or

(2) Maintain synchronization so that the occurrence of an unsafe condition has been shown to be extremely improbable; or

(b) The airplane must be shown to have safe flight characteristics with any combination of extreme positions of individual moveable surfaces; however, mechanically inter-connected surfaces are to be considered as a single surface.

8. Propeller Ground Clearance. In addition to the propeller clearance requirements of § 23.925, the following apply:

(a) The airplane must be designed such that the propellers will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings; and

(b) If a tail bumper or an energy absorption device is provided to show compliance with paragraph (a) of this special condition, the following apply:

(1) Suitable design loads must be established for the tail bumper or energy absorption device; and

(2) The supporting structure of the tail bumper or energy absorption device must be designed to withstand the loads established in paragraph (b)(1) of this special condition and inspection/replacement criteria must be established for the tail bumper or energy absorbing device and provided as part of the information required by § 23.1529.

9. Propeller Marking. In the absence of specific regulations, the propellers must be marked so that their discs are conspicuous under normal daylight ground conditions.

10. Propeller Ice and Exhaust Gas Impingement Protection. In the absence of protection requirements for pusher propellers, the following shall apply:

(a) Ice impingement on the propeller: All areas of the airplane forward of the propellers that are likely to accumulate and shed ice into the propeller disc during any operating condition must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(b) Exhaust gas impingement on propeller: If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests or analysis supported by tests that the propeller material is capable of continuous safe operation.

11. Cockpit Smoke Evacuation. In the absence of specific requirements for smoke evacuation, the following apply:

If accumulation of hazardous quantities of smoke in the cockpit area is reasonably probable, smoke evacuation must be readily accomplished starting with full pressurization and without depressurization beyond safe limits.

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

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-19866 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 25

[Notice No. 637]

Operation of a Tavern at a Brewery

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is proposing to establish criteria and procedures for operating a retail beer dealership for on-premises consumption (a tavern) on brewery premises. This proposal is the result of a petition submitted by Mr. Bill Owens, proprietor of Buffalo Bill's Brewery, located in Hayward, California.

DATE: Written comments must be received by October 30, 1987.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Notice No. 637).

Copies of written comments received in response to this notice will be available during normal business hours at: ATF Disclosure Branch, Room 4412, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

Several newly established breweries operate contiguous taverns as their only sales outlet. ATF believes that more breweries will establish such taverns in the future. This trend presents two

problems under existing regulations. First, the tavern must be segregated from brewery premises, since regulations prohibit the retention of tax-determined beer on brewery premises. Second, by law beer must be physically removed in portable containers from the brewery to the tavern. ATF has some latitude in determining the size and portability of the container, but physical removal is required by law. Taverns are thus forced to use portable packaging, including physically removing a small tank which ATF has determined to be a "suitable consumer container". Although they would prefer to dispense beer through pipelines from the brewery, removal of beer by pipeline is only permitted to a contiguous distilled spirits plant, under 26 U.S.C. 5412.

In general, the law permits beer to be consumed at a brewery by employees and visitors without payment of tax. However, the sale and transfer of possession of beer for consumption at a brewery is a taxable event (26 U.S.C. 5052(c)(1)).

Proposal

ATF is reconsidering its position of precluding the retention of tax-determined beer on brewery premises, so that a brewer may establish a tavern on such premises, and utilize portable packages or dispense beer through pipelines. It is also necessary to establish certain controls and procedures to protect the revenue. These controls and procedures are considered to be the minimum controls which are necessary to protect the revenue.

The proposed regulations will amend § 25.23 to specifically provide for the operation of a tavern on brewery premises which has been approved pursuant to the procedures set forth in a new regulation, § 25.25. The new regulation provides that a brewer desiring to operate a tavern on brewery premises shall submit a Brewer's Notice, ATF F 5130.10, to the regional director (compliance) for approval prior to engaging in the operation. This notice will be approved if it is found that the operation of the tavern will not jeopardize the revenue or impede the effective administration of the beer regulations, and is not contrary to the law. The proposed regulation requires that the Brewer's Notice submitted for approval contain information on (1) the boundaries of the tavern and the security measures used to segregate public areas from non-public areas, (2) the method to be used for measuring beer for the purposes of tax determination, and (3) the identification of all tanks which will periodically contain tax-determined beer.

In addition to the information required in the Brewer's Notice, any brewer operating a tavern will have to follow certain procedures deemed necessary to protect the revenue. These procedures require the brewer to (1) determine the tax on the beer, whether in bulk or packaged, prior to the time it is dispensed for consumption and record such tax determination in the brewer's records, (2) identify each tank used for tax determination, and (3) determine the taxes each time beer is added to a tax-determination tank. Finally, the proposed regulation provides an exception to § 25.24 which will allow the retention of tax-determined beer on brewery premises when it is intended for sale at a tavern operated on such premises.

Public Participation—Written Comments

Based on the above discussion, ATF is issuing this notice of proposed rulemaking to request comments concerning the proposed amendments of 27 CFR Part 25. ATF is particularly interested in receiving comments on the proposed criteria or procedures. Any alternatives to the proposed criteria or procedures will be carefully considered, and weighed against the need to provide adequate controls to protect the revenue. ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure. Comments received after the close of the comment period will be given careful consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 60 day comment period. The request should include reasons why the respondent believes a public hearing is necessary. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse affect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information proposed in this notice have previously been approved by the Office of Management and Budget under control numbers 1512–0045 (Brewer's Notice) and 1512–0333 (record of tax determination). Comments relating to ATF's compliance with the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320—Controlling Paperwork Burdens on the Public, should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503.

Drafting Information

The principal author of this document is John Linthicum of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 25

Administrative practice and procedure, Authority delegations, Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping

requirements, Research, Surety bonds, Transportation.

Issuance.

Title 27 CFR is amended as follows:

PART 25—[AMENDED]

1. The authority citation for Part 25 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1309; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

2. The table of sections in Part 25 is amended to add the heading of § 25.25, as follows:

Sec.

* * * * *

25.25 Operation of a tavern on brewery premises.

* * * * *

3. Section 25.23 is amended by making conforming changes in the punctuation and continuity of paragraphs (b)(4) and (b)(5), by adding a new paragraph (b)(6), and by revising paragraph (c), to read as follows:

§ 25.23 Restrictions on use.

* * * * *

(b) *Other authorized uses.* * * *

* * * * *

(4) Are in the public interest because of emergency conditions;

(5) Involve experiments or research projects related to equipment, materials, processes, products, by-products, or waste of the brewery; or

(6) Involve operation of a tavern on brewery premises in accordance with § 25.25.

(c) *Application.* Except as provided in § 25.25 for operation of a tavern on brewery premises, a brewer desiring to use a brewery for other purposes shall submit to the Director through the appropriate regional director (compliance), an application listing the purposes. The Director will approve the application if the use for other purposes will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

§ 25.24 [Amended]

4. Paragraph (a) of § 25.24 is amended by replacing "§ 25.213" with "§ 25.25 or § 25.213".

5. In Subpart C, immediately after § 25.24, the following new § 25.25 is added to read as follows:

§ 25.25 Operation of a tavern on brewery premises.

(a) *General.* A brewer desiring to operate a tavern as an alternate use of brewery premises, shall submit a Brewer's Notice, ATF F 5130.10, containing the information required by paragraph (b) of this section. If the regional director (compliance) finds that the operation of the tavern on brewery premises will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law, the approval of the Brewer's Notice, ATF F 5130.10, shall constitute approval of the alternate use of brewery premises, in lieu of the application required by § 25.23. As used in this section, "tavern" means a portion of brewery premises where beer is sold to consumers.

(b) *Brewer's notice.* In preparing the Brewer's Notice, ATF F 5130.10, the applicant shall show the following information, in addition to the information required by the form:

(1) The applicant shall identify the portion of the brewery which will be operated as a tavern by providing a diagram or narrative description of the boundaries of the tavern. The diagram or description shall identify areas of the brewery which are accessible to the public and areas which are not. The applicant shall describe security measures to be used to segregate public areas from non-public areas.

(2) The applicant shall describe in detail the method to be used for measuring beer for the purposes of tax determination.

(3) The applicant shall identify the tanks which will periodically contain tax-determined beer, and any other areas where tax-determined beer will be stored.

(c) *Procedures.* The following procedures shall apply to operation of a tavern on brewery premises:

(1) The brewery shall have a suitable method for measurement of the beer, such as a meter or gauge glass. Tax determination shall consist of the measurement of the beer and the preparation of the brewer's record of tax determination, required by § 25.292(a)(8). The taxes shall be determined prior to the time that the beer is dispensed into a container for consumption.

(2) If the brewer uses one or more tanks for tax determination, the following procedures shall apply:

(i) Each such tank shall be durably marked with the words "tax-determination tank";

(ii) The taxes shall be determined each time beer is added to a tax-determination tank; and

(iii) The brewer may never simultaneously pump into and out of a tax-determination tank.

(3) A brewer qualified under this section may store, on brewery premises, tax-determined beer which is intended for sale at a tavern operated on brewery premises, in accordance with this section. The prohibition of § 25.24 shall not apply to such tax-determined beer.

(4) Beer consumed by employees and visitors in the brewery's tavern shall be beer on which the tax has been paid or determined.

Dated: July 21, 1987.

Stephen E. Higgins,

Director.

Approved: August 14, 1987.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 87–19791 Filed 8–28–87; 8:45 am]

BILLING CODE 4810-31-M

POSTAL SERVICE

39 CFR Part 266

Privacy Act of Information; Schedule of Fees

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its Privacy Act regulations relating to fees that may be charged in connection with Privacy Act requests for records to make them consistent with the changes made in its FOIA fee schedule pursuant to the guidelines recently issued by the Office of Management and Budget (52 FR 10012 of March 27, 1987) implementing the fee provisions of the Freedom of Information Reform Act of 1986, and to reflect the increase in the direct cost to the Postal Service of duplicating records (from 10 cents to 15 cents per page).

DATE: Comments concerning the proposed fee provisions should be received on or before September 30, 1987.

ADDRESS: Written comments should be addressed to Records Office, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–5010. Copies of written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m. in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Program Manager, Records Office (202) 268–2931.

SUPPLEMENTARY INFORMATION: The fee schedule included in this proposal, i.e., to cover requests for information about

an individual (made by the subject individual or authorized representative) would amend 39 CFR 266.8 to conform the fees charged for duplication of records under the Privacy Act to the duplication fees reflected in 39 CFR 265.8(c)(4), Freedom of Information Act (FOIA) fee regulations (52 FR 13667 of April 24, 1987). In effect, the duplication fee assessed for processing a request for information maintained within a privacy system of records would be consistent with the fee charged for processing a request for information about an individual made by the subject of the information pursuant to the FOIA.

List of Subjects in 39 CFR Part 266

Postal Service, Privacy.

Accordingly, Part 266 of 39 CFR is amended as follows:

PART 266—PRIVACY OF INFORMATION

1. The authority citation for Part 266 continues to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552a.

2. Section 266.8 is revised to read as follows:

§ 266.8 Schedule of fees.

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit duplication of records for subject individuals (or authorized representatives) while recovering the full allowable direct costs incurred by the Postal Service.

(b) *Duplication.* (1) For duplicating any paper or micrographic record or publication or computer report, the fee is $.15 per page, except that the first 100 pages furnished in response to a particular request shall be furnished without charge. See paragraph (d) of this section for fee limitations.

(2) The Postal Service may at its discretion make coin-operated copy machines available at any location. In that event, requesters will be given the opportunity to make copies at their own expense.

(3) The Postal Service normally will not furnish more than one copy of any record.

(c) *Aggregating requests.* When the custodian reasonably believes that a requester is attempting to break a request for similar types of records down into a series of requests in order to evade the assessment of fees, the custodian may aggregate the requests and charge accordingly.

(d) *Limitations.* No fee will be charged an individual for the process of retrieving, reviewing, or amending a record pertaining to that individual.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-19879 Filed 8-28-87; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-329, RM-5699]

Radio Broadcasting Services; Wickenburg, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Consolidated Communications Network, Inc., seeking the substitution of FM Channel 287C2 for Channel 288A at Wickenburg, Arizona, and modification of the license of Station KUUK(FM) accordingly, to provide that community with its first wide coverage area FM service.

DATES: Comments must be filed on on before October 16, 1987, and reply comments on or before November 2, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Joel Rothstein Wolfson, Esq., 1815 H Street, NW., Suite 600, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-329, adopted August 3, 1987, and released August 25, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-19929 Filed 8-28-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-311, RM-5858 and RM-5859]

Radio Broadcasting Services; Virden and Rushville, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separately filed petitions. The first, submitted by Virden Broadcasting Corporation, licensee of Station WRVI-FM, Virden, Illinois, proposes to substitute Channel 259B1 for Channel 244A and to modify its Class A license accordingly. The second petition, was filed by Berry-Price Communications, licensee of Station WKXQ(FM), Rushville, Illinois, proposing to modify its license to a Class B1 facility by substituting Channel 244B1 for Channel 244A at Rushville. This proposal in contingent on WRVI(FM) moving from its current channel (244A).

DATES: Comments must be filed on on before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Randall J. Miller, President, Virden Broadcasting Corporation, 815 West Dean, Box 68, Virden, Illinois 62690

L.K. "Bud" Price, President, Berry-Price Communications, P.O. Box 396, Rushville, Illinois 62681

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–311, adopted July 27, 1987, and released August 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, Suite 140, Washington, DC 20037.

Provisions of the Regulation Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19930 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–328, RM–5740]

Radio Broadcasting Services; Senatobia, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Christian Impact, Inc., requesting the allocation of FM Channel 229A to Senatobia, Mississippi.

DATES: Comments must be filed on or before October 16, 1987, and reply comments on or before November 2, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William Ray Ingram, Christian Impact, Inc., 359 West Cherry Circle, Memphis, Tennessee 38117.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–328, adopted August 3, 1987, and released August 25, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commisson.

Mark N. Lipp,

Chief, Allocation Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19931 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-02-M

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47 CFR Part 73

[MM Docket No. 87–320, RM–5906]

Television Broadcasting Services; Albuquerque, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Exponential Broadcasting Association proposing the allocation of UHF TV Channel 50 to Albuquerque, New Mexico, as the community's ninth local television service. Channel 50 can be allocated to Albuquerque in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.

DATES: Comments must be filed on or before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert J. DeMattia, President, Exponential Broadcasting Association, 4721 Danube Drive, N.E., Albuquerque, New Mexico 87111 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Lesile K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–320, adopted July 29, 1987, and released August 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19934 Filed 8–28–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-318, RM-5825]

Radio Broadcasting Services; Tri-City, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Robert W. Larson d/b/a Gee Jay Broadcasting, seeking the allocation of Channel 288A to Tri-City, Oregon, as the community's first local FM service. Channel 288A can be allocated to Tri-City in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.2 kilometers (4.5 miles) northwest to avoid a short-spacing to the construction permit of Station KHUG–FM, Channel 286C1, Phoenix, Oregon. The allocation is also contingent upon the licensing of Station KYNG–FM, Coos Bay, Oregon, on Channel 293C2 as specified in its outstanding construction permit (BMPH–861007IA) in lieu of its present Channel 288A. Petitioner is requested to state its intention to apply for the channel if allocated since it failed to do so in its petition.

DATES: Comments must be filed on or before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert W. Larson, Gee Jay Broadcasting, P.O. Box 1555, 916 Douglas Street, Myrtle Creek, Oregon 97457 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–318, adopted July 29, 1987, and released August 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW.; Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW.; Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19932 Filed 8–28–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–319, RM–5755]

Radio Broadcasting Services; Watertown, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lake Region Broadcasting Company to allocate Channel 225C1 to Watertown, SD, as the community's third local FM service. Channel 225C1 can be allocated to Watertown in compliance with the Commission's minimum distance separation requirements without a site restriction.

DATES: Comments must be filed on or before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard F. Swift, Esq., Tierney & Swift, 1200–18th Street, NW., Suite 210, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–319, adopted July 29, 1987, and released August 24, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–19933 Filed 8–28–87; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments and replies to notice of proposed rules.

SUMMARY: In the **Federal Register** Notice of August 14, 1987 (52 FR 30393) the Commission established September 14, 1987 as the due date for comments and 15 days thereafter as the due date for replies concerning the proposal to release to the public all non-proprietary data used in calculating the all inclusive index of railroad input prices. The index is used to calculate the quarterly rail cost adjustment factor. At the request of the Association of American Railroads the due dates have been postponed to September 30, 1987 for filing comments and to October 15, 1987 for filing replies.

DATES: Comments are due September 30, 1987 and replies are due October 15, 1987.

FOR FURTHER INFORMATION CONTACT:
William T. Bono (202) 275–7354
or
Robert C. Hasek (202) 275–0938
TDD for hearing impaired (202) 275–1721

By the Commission, Paul H. Lamboley, Acting Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 87–19920 Filed 8–28–87; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 168
Monday, August 31, 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

Office of Energy

National Panel on Cost Effectiveness of Fuel Ethanol Production; Meetings

AGENCY: Office of Energy, USDA.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act. Pub. L. 92–463, as amended, the Office of Energy, USDA announces two forthcoming meetings of the National Panel on Cost Effectiveness of Fuel Ethanol Production.

September meetings: September 23, 1987, 1:00 p.m. to 7:00 p.m., and September 24, 1987 8:00 a.m. to 2:30 p.m. at American Farm Bureau Federation, 600 Maryland Avenue SW., Suite 800, Washington, DC.

October meeting: October 14, 1987, 8:30 a.m. to 4:30 p.m. at Room 3056–S, South Building, USDA, 14th and Independence Avenue SW., Washington DC.

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 meetings will be open to the public.

Agenda

September 23, 1987

1:00 p.m.
—Review draft report.
—Preliminary discussion of findings.
7:00 p.m.—Adjourn.

September 24, 1987

8:30 a.m.
—Review draft report.
—Preliminary discussion of findings.
2:30 p.m.—Adjourn.

October 14, 1987

8:30 a.m.—Review and approve Final Report.
4:30 p.m.—Adjourn.

Earle E. Gavett,
Director, Office of Energy.

[FR Doc. 87–19982 Filed 8–28–87; 8:45 am]
BILLING CODE 3410–73–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Manufacturers' Shipments, Inventories, and Orders.

Form Number: Agency—M–3 (SD), M–3 (MD); OMB—0607–0008.

Type of Request: Revision of a currently approved collection.

Burden: 4,900 respondents; 19,600 reporting hours.

Needs and Uses: This is the only survey that provides monthly statistical information to Government and industry on the entire manufacturing sector of the economy. These statistics are an essential part of the development of the gross national product accounts, and the survey is designated a "principal Federal economic indicator" by the Office of Information and Regulatory Affairs.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: August 25, 1987.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–19956 Filed 8–28–87; 8:45 am]
BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket No. 11–87]

Foreign-Trade Zone 70, Detroit, Michigan; Application for Subzones by General Motors Auto Assembly Plants in Detroit, and Orion Township, MI

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), grantee of Foreign-Trade Zone 70, requesting special-purpose subzone status for two General Motors Corporation (GM) auto assembly plants, one in the City of Detroit, the other in Orion Township, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 17, 1987.

The proposed subzones would involve GM's Detroit/Hamtramck (D/H) and Orion assembly plants. The D/H plant occupies 362 acres at 250 East General Motors Boulevard, Detroit, a portion of the plant being within the adjacent community of Hamtramck. The Orion plant covers 492 acres at 4555 Giddings Road, Orion Township.

Both plants are in the B–O–C group, which produce Buick, Oldsmobile, and Cadillac products. The D/H plant employs 4,900 workers and the Orion plant employs 7,000. GM plants use mostly domestic components, with some 2 percent being sourced abroad. The foreign items include radios, cassettes, wiring harnesses, instrument panel pads and steering wheels.

Zone procedures will exempt GM from paying duties on foreign components used in exports. On domestic sales, the company will be able to defer duty and take advantage of the same duty rate that is available to

importers of finished automobiles. The average duty rate on the foreign parts used by GM is 4.3 percent, whereas the duty rate for automobiles is 2.5 percent. These savings are part of GM's overall cost-reduction efforts designed to make the company's U.S. plants more competitive with auto assembly facilities abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, 477 Michigan Avenue, Detroit, Michigan 48226–2568; and Colonel Robert F. Harris, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231–1027.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 9, 1987.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1140 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Room 1529, Washington, DC 20230

Dated: August 24, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–19959 Filed 8–28–87; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 12–87]

Foreign-Trade Zone 70, Detroit, MI; Application for Subzone by General Motors Auto Manufacturing Complex in Lansing, MI

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), grantee of Foreign-Trade Zone 70, requesting special-purpose subzone status for the General Motors Corporation (GM) auto manufacturing complex in Lansing, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 18, 1987.

The proposed subzone would involve 4 plants comprising GM's Lansing manufacturing complex, which covers a total of 714 acres. The facilities produce autos and components for GM's B–O–C Group, employing 24,000 persons. The Townsend Plant, located at 920 Townsend Street, and the Body Assembly Plant, located at 401 North Verlindon Avenue, assemble Buick, Oldsmobile, and Cadillac automobiles. The Fabricating Plant, located at 2800 West Saginaw Street produces interior and exterior parts, and machines engine parts. The Engine Plant, located at 2901 South Canal Road, produces 4-, 6-, and 8-cylinder engines for B–O–C and other GM autos.

GM plants use mostly domestic components, with some 2 percent being sourced aboard. These include radios, radio-cassettes, wire harnesses, instrument panel pads, steering wheels and transaxles.

Zone procedures will exempt GM from paying duties on foreign components used in its exports. On domestic sales, the company will be able to defer duty and take advantage of the same duty rate that is available to importers of finished automobiles. The average duty rate on the foreign parts used by GM is 4.3 percent, whereas the duty rate for automobiles is 2.5 percent. These savings are part of GM's overall cost-reduction program designed to help it become more competitive with auto assembly facilities abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, 477 Michigan Avenue, Detroit, Michigan 48226–2586; and Colonel Robert F. Harris, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231–1027.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 14, 1987.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1140 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Room 1529, Washington, DC 20230

Dated: August 24, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–19960 Filed 8–28–87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C–401–056]

Antidumping; Viscose Rayon Staple Fiber From Sweden; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 18, 1987, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1983 through December 31, 1985 and three programs. We determine the net subsidy to be 5.40 percent *ad valorem* for the period of October 1, 1983 through December 31, 1983, 6.50 percent *ad valorem* for the period January 1, 1984 through December 31, 1984, and 5.78 percent *ad valorem* for the period January 1, 1985 through December 31, 1985.

EFFECTIVE DATE: August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian Sewell or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 23194) the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 28319; May 15, 1979). The Department has now completed this administrative

review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act")

Scope of Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus ("modal") viscose rayon staple fiber, currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under items 5504.10.00—2 and 5504.90.00—2 of the Harmonized System.

The review covers the period October 1, 1983 through December 31, 1985 and three programs: (1) Loans/Grants for Plant Creation; (2) Elderly Employment Compensation Program; and (3) Grant for Manpower Reduction and a Conditional Loan

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. However, because of a clerical error in our preliminary calculations for the Conditional Loan program we revised the subsidy rates for that program from 1.90 percent to 1.64 percent *ad valorem* in 1984 and from 1.74 percent to 1.10 percent *ad valorem* in 1985.

As a result of our review, we determine the net subsidy to be 5.40 percent *ad valorem* for the period October 1, 1983 through December 31, 1983, 6.50 percent *ad valorem* for the period January 1, 1984 through December 31, 1984, and 5.78 percent *ad valorem* for the period January 1, 1985 through December 31, 1985.

The Department will instruct the Customs Service to assess countervailing duties of 5.40 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after October 1, 1983 and on or before December 31, 1983, 6.50 percent on all shipments of this merchandise exported on or after January 1, 1984 and on or before December 31, 1984, and 5.78 percent on all shipments of this merchandise exported on or after January 1, 1985 and on or before December 31, 1985.

Further, the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 5.78 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication 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 355.10 of the Commerce Regulations 19 CFR 355.10.

Joseph A. Spetrin,

Acting Deputy Assistant Secretary, Import Administration.

Date: August 24, 1987.

[FR Doc. 87-19961 Filed 8-28-87; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of Washington et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87-220. Applicant: University of Washington, Department of Geological Science AJ-20. Seattle, WA 98195. Instrument: Thermal Ionization Mass Spectrometer, Model VG Sector. Manufacturer: VG Isotopes Ltd., United Kingdom. Intended Use: Measure the isotopic composition of elements in rocks, minerals and other natural materials. The objectives of the research include investigating the age and origin of the earth's crust, the chemical composition of the earth's crust, the chemical composition of the earth's mantle through time and the characteristics and time constants of various geochemical cycles. The instrument will also be used to train graduate students to understand and use a state-of-the-art mass spectrometer, so that they may conduct scientific research. Application Received by Commissioner of Customs: June 5, 1987.

Docket Number: 87-251. Applicant: University of California, Los Angeles, 900 Veteran Avenue, Los Angeles, CA 90024-1786. Instrument: Mass Spectrometer, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended Use: The instrument will be used to measure the concentrations of oxygen-18 and deutrium in the water in blood or urine or saliva from wild animals that have been injected with enriched, doubly-labeled water ($H^2H^{18}O$). Investigations will be conducted to answer a variety of basic and applied questions related to the resource requirements of wild and domestic animals and man. These studies will bear on the following:

1. Endangered species: food needs, habitat size requirements;

2. Domestic species: which breeds produce the most marketable product with the least food (or water, or space);

3. Humans: energy metabolism in space, in primitive peoples, in different disease states, in different work roles; obesity and overeating; polar survival.

Application Received by Commissioner of Customs: July 16, 1987.

Docket Number: 87-255. Applicant: Haverford College, Haverford, PA 10041. Instrument: Electron Microscope, Model H-600-3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use: Studies of the development of the non-parasitic nematode *Caenorhabditis elegans*, specifically investigation of mutants affecting formation of the cuticle, which is the external extracellular structure that surrounds the worm. The instrument will also be used to train students in the skills useful in many fields of cellular and organismic biology. They will learn the fundamentals of optical theory as well as a number of advanced techniques in electron microscopy. Application Received by Commissioner of Customs: July 20, 1987.

Docket Number: 87-256. Applicant: Yale University, Physics Department, 217 Prospect Street, P.O. Box 6666, New Haven, CT 06511. Instrument: Wavemeter. Manufacturer: Centre National de la Recherche Scientifique, France. Intended Use: Studies of the atom-radiation interaction involving basic tests of fundamental physics and the education of Ph.D.'s. Application Received by Commissioner of Customs: July 20, 1987.

Docket Number: 87-257. Applicant: University of Miami, Department of Civil and Architectural Engineering, P.O. Box 248294, Coral Gables, FL 33124. Instrument: Digital Controllers. Manufacturer: GDS Instruments, Ltd., United Kingdom. Intended Use: Investigations of soils to evaluate the soil behavior under a variety of conditions and develop a unique constitutive model of soil behavior. In addition, the instrument will be used to acquaint undergraduate students with the state-of-the-art procedures for

performing advanced tests. Application Received by Commissioner of Customs: July 22, 1987.

Docket Number: 87–258. Applicant: University of California, San Diego, 3175 Miramar Road, Bldg. 509, La Jolla, CA 92093. Instrument: Photomicroscope III. Manufacturer: Carl Zeiss, West Germany. Intended Use: The instrument will be used to characterize the morphology and microenvironment of growth cones at different stages of development during the study of axonal pathfinding in the embryonic vertebrate brain of the frog *Xeonopus laevis*. Application Received by Commissioner of Customs: July 23, 1987.

Docket Number: 87–259. Applicant: University of Wisconsin-Madison, 1513 University Avenue, Madison, WI 53706–1572. Instrument: Demonstration Model of Measuring Machine. Manufacturer: Institut fur Werkzeugmaschinenbau und Fertigungstechnik, Switzerland. Intended Use: The instrument will be used for educational purposes in the course Mechanical Engineering 601: Precision Engineering which places emphasis on the design, development and manufacture of machines, instruments and computer control systems of the highest precision. The device will be demonstrated to the students who will then use the device on their own to perform learning experiments that demonstrate precision engineering concepts. Application Received by Commissioner of Customs: July 24, 1987.

Docket Number: 87–260. Applicant: Brown University, Division of Engineering, Providence, RI 02912. Instrument: Optical Fiber Draw Facility. Manufacturer: Special Gas Control, United Kingdom. Intended Use: Studies involving the basic properties of optical lightguides and how they may be employed as both passive and active sensors. Silica optical fiber preforms will be drawn into optical fibers with the draw tow. Experiments will be performed to determine what are the specific criteria that can maximize the sensitivity of an optical fiber sensor to a particular external parameter, i.e, pressure, temperature, electromagnetic field. In addition, the instrument will be used for educational purposes in various engineeering courses. Application Received by Commissioner of Customs: July 24, 1987.

Docket Numbers: 87–261 and 87–262. Applicant: University of Alaska, Petroleum Development Laboratory, 437 Duckerring Building, Fairbanks, AK 99775–1260. Instruments: JEFRI High Pressure Recombination Apparatus and High Temperature High Pressure Miscibility Apparatus. Manufacturer: D.B. Robinson & Associates, Canada. Intended Use: The instruments will be used for the following research purposes:

1. Study phase behavior and miscibility of solvent saturated oil systems.

2. Recombine reservoir oil with solution gas to attain the original reservoir fluid composition or a fluid mixture at a specified bubble point pressure.

3. Gather experimental data such as separation of phases, measurement of volumes to each phase and determination of phase properties.

Application Received by Commissioner of Customs: July 28, 1987.

Docket Number: 87–263. Applicant: University of Alaska—Fairbanks, Fairbanks, AK 99775–1260. Instrument: Phase Behavior PVT System. Manufacturer: D.B. Robinson & Associates, Canada. Intended Use: The instrument will be used for the measurement of PVT behavior and phase behavior of Alaskan north slope crudes and mixtures of solvents and the measurement of asphaten precipitation conditions. The collection of these data is necessary for development of computer models of phase behavior of Alaskan crudes. Application Received by Commissioner of Customs: July 28, 1987.

Docket Number: 87–264. Applicant: Robert Parker Hospital, Guthrie Square, Sayre, PA 18840. Instrument: Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended Use: Studies of the short and long term effects of extracorporeal shock wave therapy. Comparative studies will be made with respect to the treatment rendered patients suffering from kidney urinary tract stone disease in order to make the most effective treatment available to the patient. Application Received by Commissioner of Customs: July 28, 1987.

Docket Number: 87–265. Applicant: U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Research Triangle Park, NC 27711. Tunable Diode Laser Spectrometer. Manufacturer: Unisearch Associates, Inc., Canada. Intended Use: The instrument is intended to be used for studying small molecule atmospheric gases such as NO_2, HNO_3, HNO_2 and H_2O_2 to determine the nature of and the extent to which they contribute to the phenomenon called rain. The gas nitric acid, will be studied initially with the following questions in mind: (1) Does atmospheric nitric acid have waters of hydration chemically associated with it? (2) Does the aerosol ammonium nitrate sublimate to nitric acid when the chemical equilibrium is disturbed? (3) What parameters of nitric acid must be measured by routine monitoring devices if accurate and defensible measurements are to be obtained? Application Received by Commissioner of Customs: July 30, 1987.

Docket Number: 87–266. Applicant: Williams College, Chemistry Department, Williamstown, MA 01267. Instrument: Rapid Kinetics Accessory, Model SFA–11. Manufacturer: Hi-Tech Scientific Instrument Division, United Kingdom. Intended Use: The instrument is an accessory to an existing spectrophotometer which will be used for studies of the rate of chemical reactions to learn about the nature of fast chemical reactions. In addition, the instrument will be used for educational purposes in the course Rate Processes; Chem 302. Application Received by Commissioner of Customs: July 30, 1987.

Docket Number: 87–267. Applicant: Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96818. Instrument: Field Portable Remote Radar, Model Alphameter. Manufacturer: Alpha Nuclear Corporation, Canada. Intended Use: The instrument is intended to be used for the study of the radioactive gas radon to determine where short term changes in radon activities can be used in the forecasting of earthquakes or volcanoes and to define the mechanisms responsible for the association already observed between radon and earthquakes. Application Received by Commissioner of Customs: July 30, 1987.

Docket Number: 87–268. Applicant: U.S Department of the Interior, U.S Geological Survey, 521 West Seneca Street, Ithaca, NY 14850–4094. Instrument: Drill-Hole Pipe Assembly and Data Collection Equipment. Manufacturer: Westbay Instruments, LTC, Canada. Intended Use: The instruments will be used in a hydrogeologic study to determine ground-water flow and ground-water quality characteristics of upper bedrock stratigraphy in the Niagara Falls area. The objective in using this system is to collect consistent ground-water flow and quality data throughout the bedrock stratigraphy and correlate this information with existing data to satisfy the data needs of the primary modeling objective. Application Received by Commissioner of Customs: August 4, 1987.

Docket Number: 87–269. Applicant: Saint Mary's College, Notre Dame, IN 46556. Instrument: Electron Microscope, Model H–300 with Accessories. Manufacturer: Nissei Sangyo, Japan. Intended Use: The instrument will be

used to provide hands-on use in a new course in electron microscopy and in the following biology courses:

1. Bio 103–104: Biology and Human Values.
2. Bio 151–152: Concepts of Biology.
3. Biology 302: Plant Morphology.
4. Biology 304: Plant Morphology.
5. Biology 320: Parasitology.
6. Biology 328: Physiology.
7. Bio 382: Introduction to Research.
8. Bio 481: Research in Biology.

Application Received by Commissioner of Customs: August 5, 1987.

Docket Number: 87–270. Applicant: New York State College of Ceramics at Alfred University, Alfred, NY 14802. Instrument: Scanning Transmission Electron Microscope, Mode JEM 2000 FX/SIP/DP. Manufacturer. JEOL, Japan. Intended Use: Structural, chemical and morphological analyses of individual samples of silicates, oxides, nitrides, carbides, borides, metals, alloys and composites. Experiments will be conducted with the aim of understanding the structure of ceramic materials on an atomic scale. In addition, the instrument will be used as an integral part of graduate level instruction and research. Application Received by Commissioner of Customs: August 5, 1987.

Docket Number: 87–270. Applicant: Massachusetts Institute of Technology, Clinical Research Center, E17–445, 40 Ames Street, Cambridge, MA 02142. Instrument: Gas Isotope Ratio Mass Spectrometer. Manufacturer. Finnigan, MAT, West Germany. Intended Use: Study of human metabolism; specifically amino acid metabolism and amino acid requirements during childhood, adulthood and old age; the interactions among amino acid metabolism, carbohydrate metabolism. In addition to the above research application, the instrument will be used to study human energy metabolism by the use of tracer water labeled with ^{2}H and ^{18}O. The objectives of this research are better to understand the relationship of dietary intake to human protein and energy metabolism; how the body metabolism adapts to a change intake of both essential and nonessential nutrients; and how various disease states affect the interaction between dietary intake and metabolism. The instrument will also be used for training undergraduate and graduate students and postdoctoral fellows. Application Received by Commissioner of Cutoms: August 5, 1987.

Docket Number: 87–272. Applicant: University of Michigan, 503 Thompson Street, Ann Arbor, MI 48109. Instrument: Multiple Function X-Ray Diffraction System, Model D/MAS–RBX. Manufacturer: Rigaku Corporation, Japan. Intended Use: The instrument will be used for two major research projects on advanced ceramic materials: (1) A fundamental study of structure-property relationships in silicon nitride ceramics for the purpose of developing a better understanding of the factors that control the properties of this important class of ceramic materials and (2) development of transformation toughened ceramic material with properties superior to those of zirconia toughened alumina (ZTA) and partially stabilized zirconia (PSZ) for use in light duty diesel engines and similar applications. Other research will involve the following:

1. The use of transient liquid-phase sintering in the fabrication of ceramic-ceramic composites.
2. Phase equilibria and crystal chemistry studies.
3. Ultrasonic-small electronics research.
4. Microelectronics gas sensors.
5. Studies of magnesium oxide surfaces.

Application Received by Commissioner of Customs: August 6, 1987.

Docket Number: 87–274. Applicant: University of Illinois, Purchasing Division, 207 Administration Building, 506 S. Wright Street, Urbana, IL 61801. Instrument: 3-Axis X-Ray Spectrometer. Manufacturer: Riso National Laboratory, Denmark. Intended Use: Studies of epitaxially grown thin films and superlattices. High resolution x-ray scattering at glancing angles for the study of these films will be conducted in order to monitor advanced crystal growth techniques via molecular beam epitaxy and to study novel semiconductor and metal structures. Application Received by Commissioner of Customs: August 10, 1987.

Docket Number: 87–275. Applicant: Florida State University, EM Center Biological Sciences, Tallahassee, FL 32306–3050. Instrument: Electron Microscope, Model JEM 1200 EX/DP/DP. Manufacturer: JEOL Ltd., Japan. Intended Use: Study of a number of different animal and plant tissues and cellular components. Most specimens studies will be of biological origin, both invertebrates and vertebrates. Some of the studies will be mainly descriptive in nature such as:

1. The comparative morphology of the gill structures of the crustacean order Decapoda.
2. The ultrastructure of the hepatopancreas of the anchialine shrimp *Procaris ascensionis*.
3. Fine structure studies of the Antarctic cryptoendolithic microbial community.

The instrument will also be use on a one-to-one basis in the training of graduate students, postdoctoral fellows, faculty and staff as the need arises. In addition, the instrument will be used to teach graduate students how to utilize the electron microscope as an important tool of scientific research. Application received by Commissioner of Customs: August 10, 1987.

Docket Number: 87–276. Applicant: University of Wisconsin, Met. & Min. Engineering, 1509 University Avenue, Madison, WI 53706. Instrument: Ultra Rapid Quenching Apparatus. Manufacturer: Edmund Buhler GmbH, West Germany. Intended use: The instrument is intended to be used for investigation of the microstructure of metallic alloys and solutions of non-metallics as related to their physical and mechanical properties. In addition the instrument will be used to educate students in solidification and heat treatment. Application received by Commissioner of Customs: August 11, 1987.

Docket Number: 87–277. Applicant: Vanderbilt University, School of Medicine, 21st and Garland, Nashville, TN 37232. Instrument: Dental Implants. Manufacturer: Nobelpharma, Sweden. Intended use: The instruments will be used as part of a multi-center study in this country and Europe testing the long-term use of these implants to anchor overdentures. The implants will be used in specific predefined clinical situations involving overdentures of the upper and lower jaws. Patients will be closely monitored for five years and several parameters will be evaluated and such parameters will indicate the success or failure of the implants when used in this specific situation. Application received by Commissoner of Customs: August 11, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87–19958 Filed 8–28–87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing a Guaranteed Access Level and an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

August 26, 1987.

The Chairman of the Committee for the Implementation of Textile

Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on September 1, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re–openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the guaranteed access level and import restraint limit for cotton and man-made fiber textile product in Category 352/652, exported during the seven-month periods which began on June 1, 1987 and extend through December 31, 1987, at the designated levels.

Background

On April 22 and 27, 1987, notices were published in the **Federal Register** (52 FR 13281 and 52 FR 13858, respectively) which announced a guaranteed access level and import restraint limit for certain cotton and man-made fiber textile products in Category 352/652, among others, exported from Jamaica during the seven-month periods which began on June 1, 1987 and extend through December 31, 1987.

During consultations held on July 8, 1987 between the Governments of the United States and Jamaica, agreement was reached to amend the bilateral textile agreement of August 27, 1986 to increase the guaranteed access level for properly certified cotton and man-made fiber textile products assembled in Jamaica from fabric formed and cut in the United States and exported from Jamaica during the period June 1 1987 through December 31, 1987. The designated consultation level for cotton and man-made fiber textile products in Category 352/652, produced or manufactured in Jamaica and exported during the period which began on June 1, 1987 and extends through December 31, 1987, is also being increased.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1987.

Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of April 16, 1987 which was issued to you by the Chairman, Committee for the Implementation of Textile Agreements concerning guaranteed access levels for certain cotton and man-made fiber textile products, assembled in Jamaica from fabric formed and cut in the United States and exported from Jamaica during the seven-month period which began on June 1, 1987 and extends through December 31, 1987.

Effective on September 1, 1987 the directive of April 16, 1987 is hereby amended to increase the guaranteed access level for cotton and man-made fiber textile products in the following category, under the terms of the bilateral textile agreement of August 27, 1986 [1]:

Category	Guaranteed access level
352/652	750,000 dozen.

This directive amends, but does not cancel, the directive of April 21, 1987 concerning import limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Jamaica and exported during the seven-month period which began on June 1, 1987 and extends through December 31, 1987.

Effective on September 1, 1987 the directive of April 21, 1987 is hereby amended to increase the import restraint limit for cotton and man-made fiber textile products in the following category, under the terms of the bilateral textile products in the following category, under the terms of the bilateral textile agreement of August 27, 1986 [1]:

Category	Guaranteed access level
352/652	200,000 dozen.

[1] The limit has not been adjusted to account for any imports exported after May 31, 1987.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–19957 Filed 8–28–87; 8:45 am]
BILLING CODE 3510–DR–M

Establishment of New Import Limits and Cancellation of Staged Entry for Certain Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 1, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 545–9481. For information on embargoes and quota re-openings, please call (202) 377–3715. For information on categories on which consultations have been requested call (202) 377–3740.

Summary

In the letter published below, the Chairman of the Committee for the

[1] The agreement provides that (1) specific limits may be exceeded by swing, carryover or carryforward; no carryover shall be available in the first agreement year; no carryforward shall be available in the final agreement period.

Implementation of Textile Agreements directs the Commissioner of Customs to cancel the current import restraint limit for lightweight, plainweave polyester/cotton fabric in Category 613–C, and to establish limits for the following newly created part category designations for man-made fiber fabrics in Category 613—613–B (man-made fiber fabrics made with yarn of different colors, cheesecloth, batistes, lawns and voiles), 613–P (man-made fiber printcloth) and 613–S (man-made fiber sheeting, poplin and broadcloth), produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Overshipments of the 1986–1987 limit for Category 613–C will be charged to Categories 613–P and 613–S each year over a five-year period, starting with the 1987 agreement year. The Commissioner of Customs is directed to cancel the phased entry procedures for goods which are exported in Category 613–C from Pakistan during the period April 27, 1986 through April 26, 1987.

Background

A CITA directive dated April 22, 1987 (52 FR 13744) continued the import restraint limit for lightweight, plainweave polyester/cotton fabric in Category 613–C for an additional twelve-month period which began on April 27, 1987 and extends through April 26, 1988. The directive also established phased entry procedures for goods exported in Category 613–C during the previous twelve-month restraint period.

A further directive dated July 24, 1987 (52 FR 28325) established import restraint limits for certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported to the United States during the period which began on January 1, 1987 and extends through December 31, 1987.

During consultations held July 13–15, 1987 under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 20 and June 11, 1987, between the Governments of the United States and Pakistan, agreement was reached to amend the bilateral agreement to create new part category designations for man-made fiber fabric in Category 613. The new part category designations are as follows:

613–B Man-made fiber fabrics made with yarn of different colors, cheesecloth, batistes, lawns and voiles,

613–P Man-made fiber printcloth

613–S Man-made fiber sheeting, poplin and broadcloth

613–O All others man-made fiber fabrics in Category 613.

The agreement establishes, among other things, specific limits for man-made fiber textile products in Categories 613–P and 613–S and a designated consultation level for Category 613–B, produced or manufactured in Pakistan and exported during the period May 1, 1986 through December 31, 1987.

In addition, the two governments agreed that overshipment charges of the 1986–1987 limit for goods shipped in Category 613–C will be charged to the levels established for Category 613–S, in the amount of 1,444,025 square yards, and Category 613–P, in the amount of 2,000,000 square yards, each year over a five–year period, starting with the agreement year which begins on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26682), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

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

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1987

Committee For The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive of April 22, 1987 issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which established a limit for man-made fiber textile products in Category 613–C,[1] produced or manufactured in Pakistan and exported during the twelve-month period which began on April 27, 1987 and extends through April 26, 1988. That directive also directed you to stage entry of goods in Catagory 613–C which were exported during the control period April 27, 1986 through April 26, 1988.

This directive amends, but does not cancel, the directive of July 24, 1987 concerning import restraint limits for certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on September 1, 1987, the directive of July 24, 1987 is amended to include new part category designations 613–B, 613–P, 613–S and 613–O for man-made fiber textile products in Category 613. The following new limits are established for man-made fiber textile products in Categories 613–B, 613–P and 613–S, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Category	New 12-mo limits [1] (sq. yds.)
613–B [2]	2,000,000
613–P [3]	15,000,000
613–S [4]	14,100,000

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

[2] In Category 613–B, only TSUSA numbers 338.5039, 338.5042, 338.5047, 338.5053, 338.5058, 338.5059, 338.5060, 338.5067, 338.5081 and 338.5089.

[3] In Category 613–P, only TSUSA numbers 338.5048, 338.5049 and 338.5050.

[4] In Category 613–S, only TSUSA numbers 338.5043, 338.5044, 338.5054, 338.5055, 338.5077, 338.5078, 338.5082 and 338.5083.

In addition, you are directed to charge the following amount sin overshipments to the limits established in this letter for goods exported in excess of the previous restraint period.

Category	Amount to be charged (sq. yds.)
613–P	2,000,000
613–S	1,444,025

There are no other imports to be charged for the January 1–May 31, 1987 period for Categories 613–P, 613–B and 613–S.

The Committee for Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

[1] In Category 613–C, only TSUSA numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058 and 338.5059.

exception to the rule-making provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-19980 Filed 8-28-87; 8:45 am]

BILLING CODE 3510-DR-M

Amendment to the Export Visa Arrangement and Exempt Certification for Textiles and Textile Articles of Cotton, Man-Made and Other Vegetable Fibers and Silk Blends Produced or Manufactured in Pakistan

August 26, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 1, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated May 27, 1983 (48 FR 2527), as amended on June 2, 1987 (52 FR 21611) established an export visa arrangement and exempt certification for certain cotton, man-made fiber, silk blends and other vegetable fiber textiles and textile articles, produced or manufactured in Pakistan.

The Governments of the United States and Pakistan have agreed to further amend the existing export visa arrangement and exempt certification requirement to include the following amended list of part-category designations:

Category	Description
613-B	Man-made fiber fabrics made with yarn of different colors, cheesecloth, batistes, lawns and voiles.
613-P	Man-made fiber printcloth.
613-S	Man-made fiber sheeting, poplin and broadcloth.
613-O	All other man-made fiber fabric in Category 613.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

August 26, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on May 27, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, which established an export visa requirement for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan.

Effective on September 1, 1987 and until further notice, the existing export visa arrangement and exempt certification requirement established by the directive of May 27, 1983, as amended, are hereby further amended to include the following amended list of part-category designations:

613-B
613-P
613-S
613-O

Accordingly, you are directed to prohibit, effective for shipments of man-made fiber textile products entered for consumption or withdrawn from warehouse for consumption into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) on or after September 1, 1987, which have been produced or manufactured in Pakistan and exported on and after September 1, 1987 from Pakistan for which the Government of Pakistan has not issued an appropriate visa with the correct subpart category designation (e.g., 613-B). The part-category designations are as follows:

Category	TSUSA Nos.
613-B	TSUSA numbers 338.5039, 338.5042, 338.5047, 338.5053, 338.5058, 338.5059, 338.5060, 338.5067, 338.5081 and 338.5089.
613-P	TSUSA numbers 338.5048, 338.5049 and 338.5050.
613-S	TSUSA numbers 338.5043, 338.5044, 338.5054, 338.5055, 338.5077, 338.5078, 338.5082 and 338.5083.
613-O	All remaining TSUSAs in Category 613.

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

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-19976 Filed 8-28-87; 8:45 am]

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 87-2-85CD]

Further Partial Distribution of 1985 Cable Copyright Royalty Fund

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of further partial distribution of 1985 cable copyright royalty fund.

SUMMARY: The Tribunal gives notice of a distribution of 96 percent of the Devotional Claimants' share of the 1985 cable copyright royalty fund to the Christian Broadcasting Network, Inc., Old Time Gospel Hour, and PTL Television Network. Four percent of the Devotional Claimants' share will be retained to satisfy the controversy between CBN, Old Time Gospel Hour and PTL, and In Touch Ministries, Inc. and Christian Television Corporation.

DATES: The distribution will take place on September 3, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, (202) 653-5175.

SUPPLEMENTARY INFORMATION: On August 17, 1987, the Christian Broadcasting Network, Inc., Old Time Gospel Hour, and PTL Television Network (Devotional Claimants) moved for a 98 percent distribution of the Devotional Claimants' share of the 1985 cable copyright royalty fund. In support of its motion, the Devotional Claimants represented that all potential Phase II controversies have been resolved except the controversy between the Devotional Claimants and In Touch Ministries, Inc. (ITM) and Christian Television Corporation (CTC). With respect to that controversy, the Devotional Claimants assert that a two percent reserve would be more than sufficient to satisfy the claims of ITM and CTC. Further, the Devotional Claimants agreed to reimburse ITM and CTC in the event that a final determination by the Tribunal should be in excess of the funds held in reserve.

On August 21, 1987, ITM and CTC responded that at least six percent of the Devotional Claimants' share of the 1985 cable copyright royalty fund should be retained. ITM and CTC filed six exhibits containing broadcast, distant

signal carriage, and viewing data to justify its view that six percent should be held in reserve.

The Tribunal has two obligations—to distribute funds as fully and as quickly as possible, yet to retain sufficient funds to satisfy any existing controversies. The Tribunal has stated previously that the extent of a controversy is not determined simply by the maximum claims asserted by the claimants. *See, Order Directing Further Partial Distribution of 1979 Cable Royalty Fees*, 48 FR 54679 (December 6, 1983); *Declaration of Controversy and Partial Distribution of Jukebox Royalty Fees*, 51 FR 44331 (December 9, 1986). If that were the case, the mere putting forward of a large percentage figure by a claimant would frustrate the Tribunal's first goal of full and early distribution. The Tribunal has traditionally tempered its view of a claimant's percentage claims with the knowledge the Tribunal has of the claimant based on previous proceedings. However, in this case, ITM and CTC are new to the Tribunal as claimants. The exhibits filed in conjunction with their response to the Devotional Claimants' motion have not been previously weighed by the Tribunal. Consequently, the Tribunal has chosen not to consider these exhibits to any extent other than to add weight to ITM and CTC's argument that retaining two percent of the fund is insufficient. The exhibits have no precedential value, and if they are to be considered by the Tribunal in the final determination, they must be introduced in the proceeding.

The Tribunal, in its discretion, will distribute 96 percent of the Devotional Claimants' share of the 1985 cable royalty funds to the Devotional Claimants on September 3, 1987. Four percent will be retained to satisfy the Devotional Claimants' controversy with ITM and CTC. The decision to retain four percent has no precedential value and does not represent the Tribunal's ultimate view of the value of the claims of ITM and CTC. In the event that a final determination by the Tribunal in favor of ITM and CTC is in excess of the funds held in reserve, the Devotional Claimants shall reimburse the difference to ITM and CTC plus the interest that would have accrued had the excess amounts remained in the 1985 cable copyright royalty funds.

J.C. Argetsinger,

Chairman.

Dated: August 25, 1987.

[FR Doc. 87-19921 Filed 8-28-87; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Tactical Directed Energy Weapons; Meeting Change

ACTION: Change in dates of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Tactical Directed Energy Weapons scheduled for September 23–24, and October 6–7, 1987 as published in the **Federal Register** (Vol. 52, No. 136, Page 26720, Thursday, July 16, 1987, FR Doc. 87–16147) will be held on September 22–23, and November 4–5, 1987.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 25, 1987.

[FR Doc. 87-19897 Filed 8-28-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 22 September 1987.

Time of Meeting: 0900–1630 hours.

Place: HQ, Army Materiel Command, Alexandria, VA.

Agenda: The Army Science Board Ad Hoc Subgroup for Army Analysis will meet to review the reorganization as it affects the acquisition process, and review the analytical support to the acquisition process. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-19909 Filed 8-28-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

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

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an information collection extension concerning Novation/Change of Name Requirements.

ADDRESS: Send comments to Mr. Ed Springer, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition and Regulatory Policy (202) 523–3775 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose.* When a firm performing under Government contracts wishes the Government to recognize (1) a successor in interest to these contracts; or (2) a name change, the contractor must submit certain documentation to the Government. The information is used to justify the Government's recognition of a third party as successor in interest, since 41 U.S.C. 15 prohibits transfer of Government contracts.

b. *Annual reporting burden.* The annual reporting burden is estimated as follows: Respondents, *1,000;* responses per respondent, *1;* total annual responses *1,000;* hours per response, *.5;* and total burden hours, *500.*

Obtaining Copies of Proposals: Requesters may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0076, Novation/Change of Name Requirements.

Dated: August 21, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87-19858 Filed 8-28-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: Interested persons are invited to submit comments on or before September 30, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732–3915.

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

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above:

Dated: August 24, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Application for Grants Under Disability and Rehabilitation Research
Agency Form Number: ED 792
Frequency: Annually
Affected Public: Individual or households; state or local governments; businesses or other for profit; federal agencies or employees; non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 800; Burden Hours: 16,000
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0
Abstract: This application is used by institutions and organizations to apply for grants that support research and related activities for the rehabilitation of individuals with disabilities. The Department uses the information collected to make grant awards.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Grants Under the Patricia Roberts Harris Public Service Education Fellowships Program
Agency Form Number: ED 404
Frequency: Annually
Affected Public: Business or other for profit institutions; non-profit institutions
Reporting Burden:
Responses: 109 Burden Hours: 2180
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0
Abstract: This application is used by institutions of higher education to apply for grants under the Patricia Roberts Harris Fellowship Program. The Department uses the information collected to make grant awards.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Extenison
Title: Application for the Bilingual Education State Educational Agency Program
Agency Form Number: T85–2P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 57; Burden Hours: 2,280
Recordkeeping Burden:
Recordkeepers: 0 Burden Hours: 0
Abstract: This form will be used by State educational agencies to apply for funding under the Bilingual Education State Educational Agency Program. The Department uses this information to make grant awards.

[FR Doc. 87–19945 Filed 8–28–87; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.062A]

Applications for New Awards Under the Indian Education Act of 1972, as amended, Part C, Educational Services Projects for Fiscal Year 1988

Purpose: Provides grants for Indian tribes, Indian organizations, and Indian institutions for educational service projects designed to improve educational opportunities for Indian adults.

Deadline for Transmittal of Applications: September 30, 1987.

Applications Available: November 16, 1987.

Available Funds: The President's budget request for this program for fiscal year 1988 is for $3,000,000, which would provide approximately $1,055,970 for new awards. The remaining funds would be used for continuation awards. The Congress has not yet completed action on the fiscal year 1988 appropriation. The estimates below assume congressional passage of the President's request.

Estimated Range of Awards: $57,000–$289,000.

Estimated Average Size of Awards: $117,330.

Estimated Number of Awards: 9.

Project Period: 12 or 24 months. It is anticipated that approximately 50 percent of the awards will be approved for 24 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 257, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Elsie Janifer, U.S. Department, 400 Maryland Avenue, SW., Room 2166, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 20 U.S.C. 1211a (b).

Dated: August 25, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87–19952 Filed 8–28–87; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.061A]

Applications for New Awards Under the Indian Education Act of 1972, as Amended, Part B, Educational Services Projects for Fiscal Year 1988

Purpose: Provides grants to serve Indian children through (1) educational services that are not available in sufficient quantity or quality and (2) innovative and exemplary approaches, methods, and techniques.

Deadline for Transmittal of Applications: September 30, 1987.

Deadline for Intergovernmental Review Comments: January 15, 1988.

Applications Available: November 16, 1987.

Available Funds: The President's budget request for this program for fiscal year 1988 is $3,710,000, which would provide approximately $1,153,000 for new awards. The remaining funds would be used for continuation awards. The Congress has not yet passed the fiscal year 1988 appropriation for this program. The estimates below assume congressional passage of the President's request.

Estimated Range of Awards: $43,000–$289,000.

Estimated Average Size of Awards: $115,300.

Estimated Number of Awards: 10.

Project Period: 12 or 24 months. It is anticipated that approximately 50 percent of the awards will be approved for 24 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 254, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Application or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue SW., Room 2166, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 20 U.S.C. 3385 (a), (c).

Dated: August 25, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87–19953 Filed 8–28–87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.061C-E]

Applications for New Awards Under the Indian Education Act of 1972, as Amended, Part B, Planning, Pilot and Demonstration Projects for Fiscal Year 1988

Purpose: Provides grants to State and local educational agencies, Indian tribes, organizations, and institutions, and federally-supported elementary and secondary schools for Indian children, for projects designed to create, test, and demonstrate programs for improving educational opportunities for Indian children.

Deadline for Transmittal of Applications: September 30, 1987.

Deadline for Intergovernmental Review Comments: January 15, 1988.

Applications Available: November 16, 1987.

Available Funds: The President's budget request for fiscal year 1988 is $1,935,000, which would provide approximately $424,099 for new planning projects, approximately $210,700 for new pilot projects and approximately $344,850 for new demonstration projects. The remaining funds would be used for continuation awards. The Congress has not yet passed the fiscal year 1988 appropriation for this program. The estimates below assume passage of the President's request.

Estimated Range of Awards: Planning—$58,000–$132,000; Pilot—$93,000–$153,000; Demonstration—$70,000–$145,000.

Estimated Average Size of Awards: Planning—$84,820; Pilot—$105,350; Demonstration—$114,950.

Estimated Number of Awards: Planning—5, Pilot—2, Demonstration—3.

Project Period: Planning—12 months. Pilot and Demonstration—12 or 24 months. It is anticipated that approximately 50 percent of the awards will be approved for 24 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 255, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

For Applications or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2166, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 20 U.S.C. 3385(a)(1), (b).

Dated: August 25, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education

[FR Doc. 87–19954 Filed 8–28–87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.072A]

Applications for New Awards Under the Indian Education Act of 1972, as Amended, Part A, Indian-Controlled Schools for Fiscal Year 1988

Purpose: Provides educational enrichment grants to meet the special educational and culturally related academic needs of Indian children in Indian-controlled elementary and secondary schools or local educational agencies.

Deadline for Transmittal of Applications: September 30, 1987.

Applications Available: November 16, 1987.

Available Funds: The President's budget request for this program for fiscal year 1988 is $2,860,000, which would provide approximately $529,000 for new awards. The remaining funds would be used for continuation awards. The Congress has not yet passed the fiscal year 1988 appropriation of this program. The estimates below assume passage of the President's request.

Estimated Range of Awards: $30,000–$252,000.

Estimated Average Size of Awards: $105,800.

Estimated Number of Awards: 5.

Project Period: 12 or 24 months. It is anticipated that approximately 50 percent of the awards will be approved for 24 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 253, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77 and 78.

For Applications or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue SW., Room 2166, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 20 U.S.C. 241bb(b).

Dated: August 25, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc 87–19955 Filed 8–28–87; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Meeting

AGENCY: National Council on Vocational Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming

meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: September 14, 1987.

ADDRESS: Griswold's Hotel, 1500 S. Raymond Avenue, Fullerton, California 92631, (714) 635–9000.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576.

The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

Agenda: The proposed agenda will include: Part I: General Council business. Part II: This Council meeting this will be held in conjunction with the first of the four issues forum. The issues will consist of four major concerns facing vocational education. For additional information pertaining to these issues contact the following:

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 2000 L Street, NW., Suite 580, Washington, DC 20036, (202) 634–6110.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9:00 a.m. to 4:30 p.m.

Signed at Washington, DC August 25, 1987.

Joyce Winterton,

Executive Director.

[FR Doc. 87–19857 Filed 8–28–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Agency Collection Under Review by the Office of Management and Budget

AGENCY: Department of Energy.

ACTION: Notice of request submitted for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the information collection listed at the end of this notice of the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor energy information requirements collected by the Energy Information Administration (EIA).

This entry contains the following information: (1) The sponsor of the collection (the DOE component); (2) Collection number; (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary or required to obtain or retain benefit; (8) Affected public: (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and, (12) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before September 30, 1987.

ADDRESSES: Address comments to Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should should be addressed to the Office of Organization and Management Systems, at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS, CONTACT: William A. Hambley, Organization and Management Systems, Mail Stop MA–21 Room 4D–035, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9383.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible.

The information collection submitted to OMB for review was:

1. Pittsburgh Energy Technology Center (PETC), Office of the Assistant Secretary for Fossil Energy.
2. Program Management 126.
3. N/A.
4. Duct Injection Technology Data Base.
5. New.
6. One-time. Surveys will be conducted in FY 1988 and is expected to be completed by March 1988.
7. Voluntary.
8. Public Utilities having Pre-NSPS coal fired electric power plants.
9. 200 respondents.
10. 200 respondents.
11. 1,200 hours (Fiscal Year 1988 only).
12. This is a survey of Pre-NSPS coal fired electric power plants to determine flue gas duct goemetries and configurations. This information will be used by the DOE's flue gas cleanup program in guiding its future research and development activities in the area of duct injection technology.

Issued in Washington, DC, August 26, 1987.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 87–19975 Filed 8–28–87; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate

Restricted Eligibility for Grant Award; Virginia Coal Council

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: DOE announces that it plans to award a grant to the Virginia Coal Council in the amount of $15,000 in partial support of the Virginia Coal Council's Ninth Annual Conference and Exhibition. Pursuant to § 600.7 (b) of the DOE Financial Assistance Rules, 10 CFR Part 600, DOE has determined the eligibility for this grant award shall be limited to the Virginia Coal Council.

Procurement Request Number: 01–87FE61384.000.

Project Scope: The Virginia Coal Council is hosting a conference and exhibition entitled, "Appalachian Coal, Meeting International Energy Needs". This conference is being held October 27, 28, & 29, 1987 in Roanoke, Virginia.

The specific focus of this meeting is on the issue of developing new markets for U.S. Coal and greater

competitiveness on the part of the U.S. Coal industry. The conference will deal with potentials and pitfalls faced by Appalachian coal producers and consumers for competitively meeting international energy needs.

The conference is to treat a number of significant issues of vital interest for the United States coal industry. Involvement as a co-sponsor and provision of financial support by the Department of Energy is deemed crucial for the success of the conference. The Department of Energy has determined that this award to the Virginia Coal Council on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Shirley A. Jones, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on August 25, 1987.

Edward T. Lovett,

Director, Contract Operations Division "A", Office of Procurement Operations.

[FR Doc. 87–19883 Filed 8–28–87; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 87–35–NG]

Application To Export Natural Gas to Mexico; Valero Industrial Gas, L.P.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on June 30, 1987, of an application from Valero Industrial Gas, L.P. (Vigas) and a supplement to this application, filed on August 6, 1987, for blanket authorization to export natural gas to Mexico for spot market sales, primarily to Petroleos Mexicanos (Pemex). Authorization is requested to export up to 4.38 Bcf of natural gas over a two-year period beginning on the date of first delivery. Valero Transmission Company, now Valero Transmission, L.P., is currently authorized to export up to 6,000 Mcf per day to Pemex under an authorization (Order No. 55–A) issued November 28, 1984, in ERA Docket No. 84–04–NG. Pemex has given a required 90-day notice that its contract with Valero Transmission Company will expire November 1, 1987, and, in accordance with the terms of Order No. 55–A, the current authorization will expire on the same date. Vigas, a Delaware limited partnership with its principal place of business in San Antonio, Texas, is authorized to do business in the States of Texas and Louisiana. Vigas proposes to purchase natural gas from various individual producers. Vigas intends to use existing facilities at the border and within the United States for the transportation of the proposed exports. Vigas will advise the ERA of the date of first delivery of the export and submit quarterly reports giving details of individual transactions.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 30, 1987.

FOR FURTHER INFORMATION:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9622

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6–E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: This export application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0.204–111. The decision on whether the export of natural gas is in the public interest will be based upon the domestic need for the gas and on whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing parties to freely negotiate their own trade arrangements. The applicant asserts that available gas supplies are more than adequate to provide the proposed export, and that the export arrangement will be competitive and in the public interest. Parties, especially those that may oppose this application, should comment in their responses on these matters.

Public Comment Procedures

In responses to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., September 30, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Vigas' application is

available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A, at the above address. 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, August 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–19884 Filed 8–28–87; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

[Notice 87–6]

Special Research Grant Program; Health Effects Research

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research of the Department of Energy (DOE) announces its interest in receiving applications for Special Research Grants that will support a coordinated multidisciplinary research effort aimed at creating the resources and technologies which would lead to a detailed understanding of human inheritance at the molecular level. Several research goals are encompassed in this Notice: (1) Research will be supported to develop technologies and resources necessary for large-scale physical mapping of deoxyribonucleic acid (DNA), i.e., establishing the original linear order of DNA fragments. This includes development of improved, standardized and automated technologies for the required DNA manipulations. It also includes development of genetic markers, human chromosomes-specific DNA fragments and better DNA sources in the form of purified chromosomes or chromsome fragments; (2) research will be supported for the development of innovative and cost-effective technologies leading to rapid and accurate large-scale DNA sequencing; (3) research will be supported to develop data management systems, data structures, retrieval schemes and user interfaces to support DNA mapping and sequencing. Also desired are improved algorithms for analyzing DNA sequences, including identification of homologies, regulatory sites, protein coding regions and the prediction of protein structures and functions. The research topics described above are not meant to limit the types of proposals that this Notice encourages but to illustrate the range of work needed at this stage of the research.

This will be a coordinated research effort to create technologies and resources which will define the primary structure of the human genome and which can be applied to a wide variety of applications in biological research and biotechnology. Although detailed coordination mechanisms will be defined later, successful applicants will participate as part of an organized effort to develop and apply technology to the ends listed above.

DATES: To permit timely consideration for award in Fiscal Year 1988, applications submitted in response to this Notice should be received by the Division of Acquisition and Assistance Management by November 2, 1987.

ADDRESS: Applications should be forwarded to: U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, Room G–236, Washington, DC 20545, ATTN: Program Notice 87–6.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Smith, Office of Health and Environmental Research, ER–72, Washington, DC 20545, (301) 353–5468.

SUPPLEMENTARY INFORMATION: It is anticipated that approximately $6M will be available for grant awards during FY 1988. Additionally, multiple year funding of awards is expected, subject to the availability of future funds. Information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures may be found at 10 CFR Part 605. The Office of Energy Research (ER), as part of its grant regulations, requires at 10 CFR 605.11(b) that any grantee funded by ER and performing research that involves recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules; May 7, 1986" (51 FR 16957, May 7, 1986). Application kits and copies of 10 CFR Part 605 are available from the U.S. Department of Energy, Division of Acquisition and Assistance Management (see above address). Telephone requests may be made by calling (301) 353–5468. Instructions for preparation of an application are included in the kit. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC, on August 13, 1987.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 87–19885 Filed 8–28–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER87–568–000 et al.]

Electric Rate and Corporate Regulation Filings; Arkansas Power and Light Company et al.

August 26, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power and Light Co.

[Docket No. ER87–568–000]

Take notice that on July 31, 1987, Arkansas Power and Light Company (the Company) tendered for filing updated Rate Schedules M33 and M33A for the period beginning September 1, 1987.

The Company states that Rates Schedules M33 and M33A require the filing of annual updates to reflect the true-up to actual costs for the preceding year and also to reflect estimated charges for the period beginning September 1 of the current year.

Copies of this filing have been sent to the wholesale customers affected by the filing and the public Service Commissions of Arkansas, Louisiana, Missouri and Tennessee.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Co.

[Docket No. ER87–564–000]

Take notice that on August 17, 1987, Arizona Public Service Company (APS) tendered as a supplement to its earlier filed Westwing Switchyard Amended Interconnection Agreement a Certificate of Concurrence by Tucson Electric Power Company (Tucson).

APS states that Tucson consents to the Agreement becoming effective as of August 14, 1987, and waives any notice requirements under 18 CFR 35.11.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corp.

[Docket No. ER87–593–000]

Take notice that on August 20, 1987, Central Hudson Gas & Electric Corporation (Central Hudson) tendered

for filing pursuant to section 35.12 of the Regulations under the Federal Power Act, a rate schedule and an agreement between Central Hudson and the County of Dutchess, New York, for the distribution of New York Power Authority's (NYPA) "Preference Power" and "Non Preference Power" by the Dutchess County Municipal Distribution Agency (MDA).

Service under enclosed Agreement will commence upon approval by the Federal Energy Regulatory Commission.

A copy of this filing has been served upon all parties affected by this filing.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Co.

[Docket No. ER87-590-000]

Take notice that on August 20, 1987, Pacific Gas and Electric Company (PGandE) tendered for filing five identical economy energy agreements and rate schedules for sales to the Cities of Anaheim, Azusa, Banning, Colton, and Riverside (Cities).

The five economy energy agreements provide for PGandE to sell economy energy to the Cities at the Midway substation. The rates for economy energy transactions under this agreements shall be one of the following: (a) The average of the Purchaser's Decremental Energy Cost and Seller's Incremental Energy Cost for each hour of the transaction; (b) 115 percent of the Seller's Incremental Energy Cost for each hour of the transaction; or (c) a mutually agreed upon price, not to exceed the Seller's cost per megawatt-hour of the highest fully allocated cost of the units deemed to provide energy for the sale. This last methods allows a rate equal to PGandE's fuel cost plus an amount up to 16.2890 mills per kilowatt-hour, the fully allocated fixed costs of the units deemed to provide energy for the sale.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Public Service Electric and Gas Co.

[Docket No. ER87-591-000]

Take notice that on August 20, 1987, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to Prime Energy Limited Partnership (Prime Energy). The Rate Schedule provides for a monthly transmission service charge of $.99 per kilowatt plus $.00038 per kilowatthour for the delivery of the net electric power output of Prime Energy's qualifying cogeneration facility to be located in the Boro of Elmwood Park, Bergen County, New Jersey to Jersey Central Power and Light Company.

PSE&G requests, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be submitted for filing at this time and PSE&G further requests that the filing be made effective within sixty (60) days of the date of this filing.

PSE&G states that a copy of this filing has been served by mail upon the customer and the New Jersey Board of Public Utilities.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Utilicorp United Inc.

[Docket No. ES87-37-000]

Take notice that on August 10, 1987, Utilicorp United Inc. ("Applicant") filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to and including 2,000,000 shares of common stock, without par value, and for exemption from competitive bidding requirements.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Indiana Gas and Electric Company.

[Docket No. ER87-594-000]

Take notice that on August 20, 1987, Southern Indiana Gas and Electric Company (Southern Indiana) tendered for filing, proposed changes in its FPC Electric Service Tariff by Modification No. 6 to its November 27, 1972 Interconnection Agreement with the City of Jasper, Indiana, which Modification No. 6 is proposed to take effect immediately upon acceptance by this Commission.

Southern Indiana indicates that the purpose of this filing is to revise Service Schedule A—Contract Power—and Schedule B—Emergency Power—and Schedule C—Maintenance Power. Under Modification No. 6 the Capacity Charge for Contract power is proposed to be increased from $7.12 to $9.14 per Kw per month of Scheduled and Unscheduled demand and the Capacity Charge for Emergency Service and Maintenance Power in Service Schedules B and C, is proposed to be increased from $1.64 to $2.11 per week and/or $0.35 per Kw per day for each day of less than a calendar week. The contract term is extended to ten (10) years from the date of Modification No. 6.

The proposed revisions reflect a desire on the part of both parties to provide for present and anticipated future increases in costs and to attain the maximum benefit from the interconnection of their systems.

Southern Indiana requests waiver of the notice requirements of section 205(d) of the Federal Power Act.

Southern Indiana states that copies of the filing were served upon City of Jasper, Indiana who has filed its Certificate of Concurrence to Modification No. 6.

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Wheelabrator Millbury Inc.

[Docket No. ER87-592-000]

Take notice that on August 20, 1987, Wheelabrator Millbury Inc., a Delaware corporation (WMI), having its principal place of business at P.O. Box 740, Millbury, Massachusetts 01527, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Succession of Ownership pursuant to 18 CFR 35.16 of the Commission's Regulations. In the Notice of Succession of Ownership, WMI adopts, ratifies and makes its own, in every respect all applicable rate schedules and supplements thereto, listed below, heretofore filed with the Commission by SES Millbury Company, L.P., effective June 30, 1987.

SES Millbury Company, L.P./Rate Schedule FERC No. 1

WMI has requested that such rate schedule be renamed:

Wheelabrator Millbury Inc./Rate Schedule FERC No. 1

Comment date: September 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Wheelabrator Millbury Inc.

[Docket No. EL87-59-000]

Take notice that on August 20, 1987, Wheelabrator Millbury Inc. (WMI) tendered for filing a Petition for Declaratory Order. WMI states that the Petition arises out of a decision to enter into a sale and leaseback financing transaction with respect to its 45 megawatt solid waste fueled small power production facility (the Facility) in Millbury, Massachusetts. WMI also states that the Petition requests the Commission to declare that (1) it will not exercise Federal Power Act jurisdiction over the transaction, the "owner trustee" (Connecticut Bank and Trust Company) or the "owner trustee" (Connecticut Bank and Trust Company)

or the "owner participant" (Ford Motor Credit Company), (2) the transaction will not affect the Facility's rate schedule currently on file with the Commission, and (3) the transaction will not result in a loss of the Facility's status as a qualifying facility under PURPA.

Comment date: September 9, 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. 87-19963 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-581-000 et al.]

Electric Rate and Corporate Regulation Findings; Boston Edison Company et al.

August 25, 1987.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Co.

[Docket No. ER87-581-000]

Take notice that on August 10, 1987, Boston Edison Company (Boston Edison) tendered for filing revised Exhibit Bs to its Rate Schedule FPC Nos. 47 and 51 for service to the Towns of Concord and Wellesley, Massachusetts, to reflect the direct cost of service effects on the S-8/PR Rate charged the two Towns of the reduction in the federal income tax rate from 46% to 34%, pursuant to the Tax Reform Act of 1986. Boston Edison asks that the rate schedule changes be made effectively as of July 1, 1987.

Boston Edison states that this filing has been posted and that copies of the filing have been served upon the two Towns and the Massachusetts Department of Public Utilities.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Co., West Penn Power Co. (The APS Companies)

[Docket No. ER87-586-000]

Take notice that on August 18, 1987, Allegheny Power Service Corporation tendered for filing an initial rate schedule on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (The APS Companies). The rate schedule provides for the sale of up to 300 MW of capacity and energy by the APS Companies to Old Dominion Electric Cooperative (ODEC) for a period to begin as soon as practicable after FERC acceptance and to end no later than December 31, 1994.

Charges for the proposed service were negotiated at arms'-length in a competitive environment and are mutually advantageous. The APS Companies and ODEC wish to begin the proposed service as soon as practicable and, therefore, request waiver of the Commission's notice requirements.

Copies of the filing were served upon ODEC, the Maryland Public Service Commission, the Ohio Public Utilities Commission, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Co.

[Docket No. ER87-408-000]

Take notice that on July 24, 1987, Boston Edison Company (Edison) tendered for filing Amendment No. 1 to the agreement for the exchange of power between itself and Montaup Electric Company of Boston, Massachusetts (Buyer) which was filed with the Commission on April 29, 1987.

Under the agreement, the parties may negotiate daily power exchanges involving Edison units and entitlements and Buyer's facilities. The parties state that the purpose of the power exchange is to attain greater efficiencies of operation.

Edison requests waiver of the Commission's notice requirements to permit the Agreement to become effective August 29, 1983.

Copies of the filing have been served upon Buyer and on the Department of Public Utilities of the Commonwealth of Massachusetts.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Central Illinois Public Service Co.

[Docket No. ER87-579-000]

Take notice that on August 17, 1987 Central Illinois Public Service Company (CIPS) tendered for filing Addenda to 12 interchange agreements between CIPS and other utilities.

The tendered Addenda provide downward flexibility from the currently effective rate for certain energy charges under the pertinent interconnection agreements, in the situation where CIPS is supplying energy purchased from a third party to a receiving party.

CIPS requests an effective date of August 1, 1987, and therefore request a waiver of the Commission's notice requirements.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Central Power and Light Co.

[Docket No. ER87-583-000]

Take notice that on August 17, 1987, Central Power and Light Company (CPL) tendered for filing a letter agreement, dated June 19, 1987, between CPL and TU Electric Company (TU). The TU Agreement provided for CPL to furnish transmission service to TU, during the period June 1, 1985 to December 31, 1986, for various periods of time from three cogenerators in the state of Texas. CPL also tendered a Notice of Cancellation with respect to the TU Agreement.

CPL requests an effective date of June 1, 1985 for the TU Agreement and an effective date of December 31, 1986 for the Notice of Cancellation. Accordingly, CPL requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to the Public Utility Commission of Texas and TU Electric Company.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Cincinnati Gas & Electric Co.

[Docket No. ER87-580-000]

Take notice that on August 7, 1987, Cincinnati Gas & Electric Company (CG&E) tendered for filing, pursuant to Part 35 of the Commission's Regulations governing the Filing of Rate Schedules, section 205(d) of the Federal Power Act and Order No. 475 issued June 26, 1987, proposed changes in its FERC Electric Tariff, First Revised Volume No. 1, which cancel and supersede the rate

schedules in tariff applicable to the full requirements electric service to the Villages of Bethel, Blanchester, Georgetown, Hamersville, and Ripley, municipalities in the State of Ohio (municipalities); The Union Light, Heat and Power Company (Union Light), a wholly-owned subsidiary of CG&E which ultimately serves retail consumers and one wholesale customer within the Commonwealth of Kentucky; and The West Harrison Gas & Electric Company (West Harrison), a wholly-owned subsidiary of CG&E which ultimately serve retail consumers in the State of Indiana.

Copies of this filing were served upon each party designated on the official service list in this proceeding.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Indiana Public Service Co.

[Docket No. ER87-585-000]

Take notice that on August 18, 1987, Northern Indiana Public Service Company (NIPSCO) tendered for filing of changes in rate schedules pursuant to § 35.13 of the Federal Energy Regulatory Commission's regulations under the Federal Power Act an original and six copies of the Service Agreements with the Towns of Argos, Bremen, Brookston, Chalmers, Etna Green, Kingsford Heights, Walkerton, and Winamac, all in Indiana.

The Service Agreements are the result of recently concluded negotiations for a ten (10) year full requirements contract for each Town which is to take effect October 1, 1987, and the initial term will terminate on January 31, 1998, and continue from year to year thereafter until terminated by either party by two years' notice.

NIPSCO respectfully request waiver of the Commission's filing requirements, and requests this filing be made effective October 1, 1987, as these rates will not become effective until after final approval by the Federal Energy Regulatory Commission.

Copies of the filing were served upon the indicated towns and the Indiana Utility Regulatory Commission.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Oklahoma Gas and Electric Co.

[Docket No. ER87-589-000]

Take notice that on August 19, 1987, Oklahoma Gas and Electric Company (OG&E) tendered for filing revisions to its TEGR Rate Schedule (Trade Electricity for Gas Rider) and its LC-1 Rate Schedule (Rider for Load Curtailment) applicable to rural electric cooperatives and municipalities to whom the Company supplies electric service under the WC-1 or WM-1 Rate Schedules that are a part of the *Oklahoma Gas and Electric Company FERC Electric Tariff*, 1st Revised Volume No. 1.

These revisions will (1) permit additional customers to be eligible for the TEGR program and (2) relax the eligibility criteria under the Load Curtailment Rider, all of which will result in savings to the participating customers. Savings to non-participating customers will also be a result due to a reallocation of generation sources.

Copies of this filing have been served on Arkansas Valley Electric Cooperative, KAMO Electric Cooperative, each wholesale municipality to whom the Company supplies electric service, the Oklahoma Corporation Commission and the Arkansas Public Services Commission.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Oklahoma Gas and Electric Co.

[Docket No. EC87-21-000]

Take notice that on August 19, 1987, Oklahoma Gas and Electric Company (Applicant), an Oklahoma Corporation with its principal office at 321 N. Harvey, P.O. Box 321, Oklahoma City, Oklahoma, 73101, tendered for filing an application pursuant to section 203 of the Federal Power Act and Part 33 of the Commission's Regulations thereunder, for authorization to sell certain transmission facilities to Oklahoma Municipal Power Authority (OMPA).

The Company states it is engaged primarily in the generation, transmission, distribution and sale of electric energy in Oklahoma and western Arkansas. The facilities being sold and purchased will be devoted to supplying service to OMPA Participants only.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Power & Light Co., an assumed business name of PacifiCorp

[Docket No. ER87-588-000]

Take notice that on August 19, 1987, Pacific Power & Light Company, an assumed business name of PacifiCorp, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a Reserve Capacity Integration Agreement dated May 5, 1987, between Pacific and Black Hills Power and Light Company.

Pacific requests waiver of the Commission's Notice requirements to permit this rate schedule to become effective July 1, 1987, this date being the date on which service commenced.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Co. of Indiana, Inc.

[Docket No. ER87-587-000]

Take notice that on August 18, 1987, Public Service Company of Indiana, Inc. tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Indianapolis Power & Light Company a Eighth Supplemental Agreement to become effective June 1, 1987, pursuant to Part 35 of the Commission's Regulations.

The Eighth Supplemental Agreement modifies the Agreement as follows:

1. Deletes reference to the 106th Street Tap Point.

2. Extends service to the Service Company at the Carmel Tap Point beyond June 1, 1987, the date presently specified as the date of termination.

Copies of the filing were served upon Indianapolis Power & Light Company and the Indiana Utility Regulatory Commission.

Public Service Company of Indiana, Inc. has requested waiver of the Commission's notice requirement to permit an effective date of June 1, 1987.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Co. of New Mexico

[Docket No. ER87-582-000]

Take notice that on August 17, 1987, Public Service Company of New Mexico (PNM) tendered for filing a Service Schedule dated July 15, 1987, to the PNM-Incorporated County of Los Alamos, New Mexico (County) Interconnection Agreement (Service Schedule). The Service Schedule provides that PNM will provide interruptible transmission service to County from the Shiprock 345 kV Switching Station to the 115 kV bus at the Norton 115 kV/345 kV Switching Station at an initial rate of three (3) mills per kWh. PNM requests that notice requirements be waived and that the Service Schedule be effective as of August 14, 1987.

Copies of the filing have been served upon County and the New Mexico Public Service Commission.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this notice.

13. Signal Shasta Energy Co., Inc.

[Docket No. ER87-575-000]

Take notice that on August 13, 1987, Signal Shasta Energy Company Inc. (Signal Shasta) tendered for filing, pursuant to 18 CFR 35.1 and 35.12, proposed Signal Shasta Rate Schedule No. 1, applicable to the sale of energy by Signal Shasta to Pacific Gas & Electric Company (PG&E) from a 49.9 net megawatt biomassfueled small power production facility currently under construction at a site located at Cottonwood and Locust Roads in Shasta County, California (Facility). Signal Shasta has given notice to the Federal Energy Regulatory Commission (Commission or FERC) stating that the Facility is a qualifying small power production facility within the meaning of section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

The proposed initial rate is set forth in that certain "Power Purchase Agreement for Long-Term Energy and Capacity," dated October 22, 1984, between Valley Power Associates and PG&E (Power Purchase Agreement).[1] The Power Purchase Agreement is an unmodified "standard offer" pre-approved by the California Public Utility Commission. It establishes that the rate for sales to PG&E for the first ten years shall be the state-forecasted energy prices as set forth in the Power Purchase Agreement. Thereafter, rates for sale shall equal PG&E's full short-run avoided operating costs.

Signal Shasta requests waiver of the Commission's rule requiring that rate schedules be filed no more than one-hundred-twenty (120) days prior to the date on which service is to commence under an initial rate schedule. This requirement is intended to prevent the use of stale data in developing the test period for cost-of-service based rates. Section 35.3(b) of the Commission's regulations allows the Commission to waiver the one-hundred-twenty (120) day notice period in appropriate circumstances. Since the rates are formula rates based on state forecasts and the buyer's costs, and do not involve Signal Shasta's costs for a particular test period, this requirement is not applicable.

Signal Shasta seeks waiver of the Commission's regulations regarding cost-of-service documentation. The Commission has recognized, in other cases,[2] that the cost-of-service data requirements contained in § 35.12(b)(5) of its regulations are irrelevant insofar as they would require a small power producer to substantiate its cost-of-service. Signal Shasta requests this waiver on the grounds that this information is not relevant because rates are initially based on state-forecasted rates and then on the buyer's costs, and are not dependent upon the seller's costs.

Signal Shasta seeks waiver of the Commission's regulations regarding the Uniform Systems of Accounts prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act specified by 18 CFR Parts 101 and 104. Since rates are initially based upon state-forecasted rates and then upon the buyer's costs, this information and need for uniformity in the seller's accounting systems are irrelevant. Moreover, this requirement imposes substantial hardship and undue burden upon Signal Shasta as it requires more detailed accounting than Signal Shasta would other wise undertake.

Signal Shasta seeks waiver of the Commission's regulations regarding certain accounts and reports required by 18 CFR Parts 41, 50, and 141. Signal Shasta seeks this waiver on the basis that such information and reports are irrelevant because the rates under the contract are not to be determined by Signal Shasta's costs. Moreover, Signal Shasta will sell to only one buyer, PG&E. Therefore, it is not necessary to protect the public in general by requiring strict compliance with these sections.

Comment date: September 8, 1987, in accordance with Standard Paragraph E at the end of this document.

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 field on or before the comment date. Protests will be considered by the Commission indetermining 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. 87-19964 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[1] Under section 14-A of the Agreement, VPA may assign its rights under the Agreement, subject to PG&E's written consent. VPA assigned the Agreement to Signal Energy System, Inc. (Signal Energy) pursuant to that certain "Assignment Agreement," dated July 1, 1985. PG&E gave its written consent to the assignment pursuant to that certain "Consent to Assignment and Agreement," dated August 16, 1985. Signal Energy assigned the contact to Signal Shasts pursuant to that certain "Assignment Agreement, dated April 24, 1987. PG&E gave its written consent to the assignment pursuant to that certain "Consent to Assignment and Agreement," dated April 24, 1987.

[2] "Wheelabrator-Frye, Inc. Declaratory Order," Docket Nos. EL82-7-000 and EL82-12-000, issued June 15, 1982.

[Docket No. EL85-19-114]

Technical Meeting Regarding Ohio River Basin Environmental Impact Statement, Ohio River Basin

August 26, 1987.

As referenced in the April 29, 1987, Notice of Intent to Prepare Environmental Impact Statement (EIS), the staff of the Federal Energy Regulatory Commission has determined that issuance of licenses for the development of 24 proposed hydropower projects in the Ohio River Basin would constitute a major Federal action significantly affecting the quality of the human environment. Site-specific and cumulative environmental impacts will be evaluated in the EIS and possible alternatives to the proposed actions will be addressed.

Applicants, Federal, State, and local agencies, and interested persons are invited to attend a technical meeting to discuss the progress on the Ohio River Basin EIS, FERC Docket No. EL85-19-114. The meeting will be held on Thursday, September 17, 1987, from 10:00 a.m. to 4:30 p.m., at the William S. Moorhead Federal Building (in Room 200), 1000 Liberty Avenue in Pittsburgh, Pennsylvania.

An update of the progress on the EIS and studies in support of the analysis for the proposed development of the 24 hydropower applications on the Ohio, Allegheny, Monongahela, Tygart, and Muskingum Rivers will be provided. Analytical procedures planned for the EIS will be presented, and comments on the approach and inputs will be solicited. Progress on the collection of field data required to support the water quality analysis will be presented; the presentation will, however, be limited to a discussion on the studies under way, not a review of the data collected to date. A discussion of the use of the support studies and the EIS in the development of mitigative measures for the proposed hydropower projects will follow.

For further information on the technical meeting, contact project managers George Taylor at (202) 376-9288 or Brian Romanek at (202) 376-1730.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19965 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-168-013]

Withdrawal of Tariff Sheets and Filing of Proposed Changes in FERC Gas Tariff; Columbia Gas Transmission Corp.

August 26, 1987.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 24, 1987, withdrew Seventh Revised Sheet No. 17 and Fifth Revised Sheet No. 26 submitted with its July 31, 1987 compliance filing, and tendered for filing a new Seventh Revised Sheet No. 17 and a new Fifth Revised Sheet No. 26 to its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1987.

Columbia states that it has agreed with Commission Staff to delete certain language in section 1(b) of the CDS and G Rate Schedules (which contain identical language) in order to more fully comply with the Commission's orders issued March 31, 1987 and July 16, 1987.

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 Procedures. All such motions or protests should be filed on or before September 2, 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 Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19966 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-87-000]

Changes in Rates and Tariff Provisions; Granite State Gas Transmission, Inc.

August 26, 1987.

Take notice that on August 20, 1987, Granite State Gas Transmission, Inc. (Granite State), 120 Royal Street, Canton, Massachusetts 02021, tendered for filing with the Commission the following revised tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 proposing changes in rates and other tariff provisions for effectiveness on September 21, 1987:

First Revised Volume No. 1

First Revised Sheet No. 2
First Revised Sheet No. 3
Original Sheet No. 3-A
Original Sheet No. 3-B
Twenty-First Revised Sheet No. 7
Original Sheet No. 7-B
Second Revised Sheet No. 14
Second Revised Sheet No. 51
Fifth Revised Sheet No. 68
Fourth Revised Sheet No. 70
Third Revised Sheet No. 71
Third Revised Sheet No. 72
Fourth Revised Sheet No. 75
Second Revised Sheet No. 75-A
First Revised Sheet No. 75-B
Original Sheet No. 75-C
Second Revised Sheet No. 82
First Revised Sheet No. 83
Original Sheet No. 84
Original Sheet No. 85
Original Sheet No. 86
Third Revised Sheet No. 112
First Revised Sheet No. 116

Original Volume No. 2

Seventh Revise Sheet No. 27
First Revised Sheet No. 31

According to Granite State, the filing is made primarily to reflect the increased cost of service for the expanded operations authorized by the Commission in the certificates issued August 4, 1987 in Docket No. CP87-39-000 for the Portland Gas Pipeline Project. Granite State states that the Project involves (1) the lease and conversion to natural gas service of 166 miles of an existing oil pipeline extending from the vicinity of Portland, Maine, to the U.S.-Canadian border near North Troy, Vermont; (2) the acquisition and operation of an existing 8-inch pipeline in Maine; (3) the construction and operation of an interconnection between the coverted 18-inch pipeline and the 8-inch pipeline near Portland and other appurtenant facilities. The facilities will be utilized to import gas from Canada delivered by Shell Canada Limited, and to increase service to its markets, according to Granite State.

Granite State states that the proposed rates in its filing are based on a cost of service for actual operations for the 12 months ended April 30, 1987, adjusted for known and measurable changes expected to occur by January 31, 1988. According to Granite State, the test period cost of service includes the cost of the capital investment in the new delivery system, costs for the operating and maintenance expenses on the new plant as well as the existing system, increased ad valorem and income taxes. An overall rate of return of 12.65 percent is claimed on the adjusted rate base which includes a return of 14.5 percent on the equity portion of the investment.

Granite state further states that its proposed rates are applicable to wholesale sales to its two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of the proposed rates in its filing is an increase of approximately $2,466,889 annually in its rates for sales to Bay State and $587,865 annually for sales to Northern Utilities, exclusive of gas costs.

According to Granite State, the projected date for the completion of the conversion of the oil pipeline to natural gas service and the construction of all related facilities to import gas is December 1, 1987. Granite State has requested a shortened suspension period for the revised rates in its filing to permit them to become effective as of the date its expanded system is completed and ready for service.

Granite State further states that copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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 sections 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 September 2, 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. 87-19967 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-58-000]

Filing; Cities of Newark, New Castle, Seaford, and Milford, Delaware, and the Towns of Smyrna, Clayton, Middletown and Lewes, DE v. Delmarva Power & Light Co.

August 24, 1987.

Take notice that on August 4, 1987, Cities of Newark, New Castle, Seaford, and Milford, Delaware, and the Towns of Smyrna, Clayton, Middletown and Lewes, Delaware pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 tendered for filing a Complaint against Delmarva Power & Light Company (DP&L).

The Delaware Municipalities state that DP&L includes in its fuel adjustment clause costs associated with its fuel and purchased power. To the extent that fuel and purchased power costs are imprudently incurred, DP&L should not be allowed to collect such costs from customers, and customers should be given refunds of overcharges connected with such imprudently incurred costs.

The Delaware Municipalities also states that they request the Commission to institute an investigation into DP&L's nuclear powerplant outages and DP&L's coal purchases and to order refunds to the Delaware Municipalities based upon any findings of imprudence in either those outages or DP&L's coal purchases.

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 September 23, 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 proceedings. 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. Answers to the complaint shall also be due on or before September 23, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19968 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-59-009]

Change in Rates and Tariff Revisions; Northern Natural Gas Co. Division of Enron Corp.

August 25, 1987.

Take notice that on August 14, 1987, Northern Natural Gas Company, Division of Eron Corp. (Northern), tendered for filing with the Commission to be effective September 1, 1987 the following tariff sheets:

Third Revised Volume No. 1

Forty-Fifth Revised Sheet No. 4a
Forty-Fifth Revised Sheet No. 4b
Thirteenth Revised Sheet No. 4b.1

Original Volume No. 2

Fifty-Second Revised Sheet No. 1c

Northern states that the purpose of the revised tariff sheets is to adjust its jurisdictional natural gas sales rates to reflect its purchased gas cost from Canadian suppliers in a manner consistent with Commission Opinion Nos. 256 and 256-A.

In accordance with the terms established in Northern's Stipulation and Agreement in Docket No. TA86-3-59 and approved by the Commission on January 30, 1987, Northern will file to adjust its market area sales commodity and demand rates within 30 days of a final non-appealable order in the Natural Gas Pipeline Company (NGPL) proceeding in Docket No. TA85-1-26-004 if the outcome of that proceeding is different than Northern's current treatment.

Accordingly, Northern files to adjust its Canadian purchase costs to a Modified Fixed-Variable allocation consistent with Opinion Nos. 256 and 256-A. The effect of this treatment will be to transfer approximately $4.4 million from Northern's demand rates to its commodity rates and will increase the Company's commodity PGA rate by $.0108 per Mcf. The decrease in Northern's D-1 rate will be $.073 per Mcf and D-2 rate will decrease by $.0025 per Mcf.

Copies of the filing were served on all of Northern's jurisdictional customers and interested state commissions.

Any persons 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 September 1, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-19969 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-495-000]

Application; Southern Natural Gas Co.

August 26, 1987.

Take notice that on August 13, 1987, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-495-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Citizens Gas Supply Corporation (Citizens), as agent for G. Heileman Brewing Company, Inc. (Heileman), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible basis up to 2,750 MMBtu of natural gas per day which Heileman has arranged to purchase from Citizens. Applicant further proposes that this transportation be authorized for a term expiring on October 31, 1988. It is stated that Citizens has agreed to sell gas to Heileman and that Citizens would deliver the gas to Applicant at various specified existing receipt points on Applicant's pipeline system. It is claimed Applicant would deliver the gas for the account of Heileman to the City of Warner Robins, Georgia (Warner Robins) at existing interconnections between Applicant and Warner Robins in Bibb and Twiggs Counties, Georgia. It is indicated Applicant would deliver an equivalent quantity of gas less 3.25 percent of the volume transported for fuel use.

Applicant proposes to charge Citizens the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Warner Robins under any and all transportation agreements with Applicant, when added to the volumes of gas delivered under

Rate Schedule OCD of Applicant's FERC Gas Tariff on such day to Warner Robins does not exceed the daily contract demand of Warner Robins, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Warner Robins exceeds the daily contract demand of Warner Robins, the transportation rate for the excess volumes shall be 77.6 cents per MMBtu.

In addition, Applicant proposes to collect the appropriate GRI surcharge.

Applicant also proposes to transport sales gas for Heileman in those instances when Heileman takes quantities of gas from Applicant in excess of quantities of gas actually delivered to Applicant.

Applicant states that the transportation arrangement will enable Heileman to diversify its natural gas supply sources and to obtain gas at competitive prices.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 16, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (10 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19970 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-7-021]

Proposed Changes in FERC Gas Tariff; Transcontinental Gas Pipe Line Corp.

August 26, 1987.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on August 21, 1987, tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The purpose of the instant filing is to revise Transco's sales, transportation and storage rates to reflect a change in the statutory federal corporate income tax rate from 46% to 34% effective July 1, 1987 in accordance with Ordering Paragraph (B) of the Commission's July 23, 1987 Order in this proceeding. The proposed effective date of the revised tariff sheets is July 1, 1987.

In addition, Transco has also included in the instant filing a reduction in its Rate Schedule LSS rates effective July 1, 1987, to reflect a "tracking" rate decrease pursuant to section 4 of Rate Schedule LSS contained in Second Revised Volume No. 1 of Transco's tariff. The purpose of this "tracking" rate decrease is to reflect a reduction in the rate for storage service purchased from Penn York Energy Corporation (Penn-York) under its Rate Schedule SS-1 which Transco utilizes to render service under its Rate Schedule LSS. The reduction to Penn-York's SS-1 rate was the result of its May 29, 1987 filing in Docket No. RP85-69-005 wherein it reflected a reduction in its various rates to reflect lower federal corporate income taxes effective July 1, 1987.

Transco further states that in accordance with § 154.16 of the Commission's Regulations, copies of the filing were mailed to all parties to this proceeding and to all persons upon whom the original filing herein was made.

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 September 2, 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. 87-19971 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-35-000]

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision; West Texas Gas, Inc.

August 26, 1987.

Take notice that on August 17, 1987, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet:

Eighth Revised Sheet No. 3a

Eighth Revised Sheet No. 3a was filed by WTG in order to place into effect its annual purchased gas adjustment (PGA) on October 1, 1987. The implementation of this PGA will result in a rate reduction to its customers served under Rate Schedules GS-1, IS-1, and I-1.

Copies of the filing were served upon the WTG's customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., 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 September 2, 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. 87-19972 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-4-43-000]

Proposed Changes in FERC Gas Tariff; Williams Natural Gas Co.

August 26, 1987.

Take notice that Williams Natural Gas Company (WNG) on August 21, 1987 tendered for filing Second Revised Sheet No. 6 and Original Sheet No. 97 to its FERC Gas Tariff, Original Volume No. 1 and First Revised Sheet Nos. 5 and 17 to its FERC Gas Tariff, Original Volume No. 2. These tariff sheets are being filed in compliance with Commission Order No. 472, issued May 29, 1987.

Second Revised Sheet No. 6 to WNG's FERC Gas Tariff, Original Volume No. 1 reflects an increase in the Current Effectiveness Rates of .21¢ per Mcf to include the FERC Annual Charge Adjustment per Order No. 472.

Original Sheet No. 97 to WNG's FERC Gas Tariff, Original Volume No. 1 reflects the addition of section 25 to the General Terms and Conditions. Section 25 includes provision for the FERC Annual Charge Adjustment.

First Revised Sheet Nos. 5 and 17 to WNG's FERC Gas Tariff, Original Volume No. 2 reflect an addition in section 3 of Rate Schedules FTS and ITS to include provision for the FERC Annual Charge Adjustment.

WNG states that copies of this filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard 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 § 385.211 and § 385.214 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 September 2, 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. 87-19973 Filed 8-28-87; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

August 21, 1987.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0019

Title: Application for Radio Station License or Modification Thereof Under Part 23 or 25

Form No.: FCC 403

Action: Extension (renewal)

Respondents: Wireline and radio common carriers

Frequency of Response: On occasion

Estimated Annual Burden: 6,000 Responses; 30,000 Hours.

Needs and Uses: Filing is required to apply for a radio station license upon completion of construction, or to modify particulars of an existing license. The data provides a means of monitoring the construction of radio facilities authorized by the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-19935 Filed 8-28-87; 8:45 am]

BILLING CODE 6712-01-M

Announcement of Closed Circuit Test of the Emergency Broadcast System During the Week of September 14, 1987

August 25, 1987.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of September 14, 1987. Only ABC, AP Radio, CBS, MBS, NBC, NPR, United Stations and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. The ABC, CBS, NBC, and PBS television networks and the national cable program supplier networks are not participating in the test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 25 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-19936 Filed 8-28-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-797-DR]

Amendment to Notice of a Major-Disaster Declaration; Minnesota

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA-797-DR), dated August 6, 1987, and related determinations.

DATED: August 21, 1987.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Minnesota, dated August 6, 1987, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 6, 1987:

Anoka County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-19890 Filed 8-28-87; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-797-DR]

Amendment to Notice of a Major-Disaster Declaration; Minnesota

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA-797-DR), dated August 6, 1987, and related determinations.

DATED: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

NOTICE: The notice of a major disaster for the State of Minnesota, dated August 6, 1987, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 6, 1987:

Beltrami, Dakota, Norman, and Polk Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 87-19891 Filed 8-28-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-655]

Final Action; Approval of Conversion Application; Crestline Building & Loan Association, Crestline, OH

Date: August 21, 1987.

Notice is hereby given that on August 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Crestline Building and Loan Association, Crestline, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 2000 Atrium Two, 221 E. 4th Street, Cincinnati, Ohio 45202.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19847 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-652]

Final Action; Approval of Conversion Application; Fellowship Savings & Loan Association, Bergenfield, NJ

Date: August 19, 1987.

Notice is hereby given that on August 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fellowship Savings and Loan Association, Bergenfield, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19848 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-654]

Final Action; Approval of Conversion Application; First Atlantic Savings & Loan Association, South Plainfield, NJ

Date: August 21, 1987.

Notice is hereby given that on August 17, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Atlantic Savings and Loan Association, South Plainfield, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19849 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-651]

Final Action; Approval of Conversion Application; First Federal Savings & Loan Association of Charlotte County, Punta Gorda, FL

Date: August 19, 1987.

Notice is hereby given that on August 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Charlotte County, Punta Gorda, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street NE., Atlanta, Georgia 30309.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19850 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

Appointment as Liquidator; First Savings of Louisiana, La Place, LA

Notice is hereby given that pursuant to the authority contained in section 406(c)(1) of the National Housing Act, as amended (12 U.S.C. 1729(c)(1) (1982), the Federal Savings and Loan Insurance Corporation, on August 20, 1987, accepted appointment by the Commissioner of Financial Institutions for the State of Louisiana, pursuant to sections 6:873 and 6:880 of the Louisiana Revised Statutes Annotated, as liquidator for First Savings of Louisiana, for the purpose of liquidation.

Dated: August 21, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19853 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; First Savings of Louisiana, La Place, LA

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(1982), the Federal Savings and Loan Insurance Corporation as sole receiver for First Savings of Louisiana, La Place, Louisiana, on August 20, 1987.

Dated: August 21, 1987.

By the Federal Home Loan Bank Board.

John F. Chizzoni,

Assistant Secretary.

[FR Doc. 87-19854 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-650]

Final Action; Approval of Conversion Application; Landis Savings & Loan Association, Vineland, NJ

Date: August 19, 1987.

Notice is hereby given that on August 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Landis Savings and Loan Association, Vineland, New Jersey for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19851 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-653]

Final Action; Approval of Conversion Application; McKinley Federal Savings & Loan Association, Niles, OH

Date: August 19, 1987.

Notice is hereby given that on August 13, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of McKinley Federal Savings and Loan Association, Niles, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 2000 Atrium TWO, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19852 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Sunbelt Federal Savings & Loan Association, Watonga, OK

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Sunbelt Federal Savings and Loan Association, Watonga, Oklahoma, on August 20, 1987.

Dated: August 21, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19855 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Twin City Savings Bank, FSB, West Monroe, LA

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982). the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Twin City Savings Bank, FSB. West Monroe, Louisiana, on August 20, 1987.

Dated: August 21, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-19856 Filed 8-28-87; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

The agency is requesting that the Office of Management and Budget renew GSA's authority to require guard contractors to submit sign-in, sign-out logs as evidence of employee hours worked.

AGENCY: Contract Policy Division, GSA.

ACTION: Notifies the public that GSA wants this information collection renewed.

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 CONTACT: Jewell Wilson, 202-566-1811. Reporting Burden: Respondents, 220; responses, 52 each; 11,440 total responses; average time to file response, one-half hour. Copy of Proposal. Readers 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: August 21, 1987.

Rodney P. Lantier,

Acting Director, Information Management Division.

[FR Doc. 87-19913 Filed 8-28-87; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service, National Vaccine Program; Delegation of Authority

By the authority vested in me as Secretary, I hereby delegate to the Assistant Secretary for Health, with authority to redelegate, authorities under Pub. L. 99-660, subtitle 1, National Vaccine Program, Title XXI of the Public Health Service Act, as amended, (42 U.S.C. 300aa-1). This delegation excludes the authorities to publish regulations and submit reports to Congress. It is effective immediately. In addition, I hereby ratify and affirm any actions taken by the Assistant Secretary for Health or other PHS officials which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

Dated: August 11, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-19902 Filed 8-28-87; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

[Docket No. 85-0131]

Denial of Request for Hearing; Globe Blood Plasma Center, Inc.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the denial of a request for a hearing by Globe Blood Plasma Center, Inc., on the agency's denial of the firm's applications for an establishment license and product license for the manufacture of Source Plasma. The firm requested a hearing in response to the publication in the Federal Register of the Food and Drug Administration's (FDA's) notice of opportunity for hearing (NOOH).

ADDRESS: Background information related to this notice is on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph G. Wilczek, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8049.

SUPPLEMENTARY INFORMATION: On January 28, 1985, FDA issued a letter under 21 CFR 601.4(b) to Globe Blood Plasma Center, Inc. (Globe), 2239 West Fond du Lac Ave., Milwaukee, WI 53206, informing the firm that it did not meet the standards for licensure established by the regulations and that FDA was, therefore, denying the firm's applications for an establishment license and product license for the manufacture of Source Plasma. The reasons for the denial as set forth in the January 28, 1985, letter included: (1) The responsible head's failure to exercise control of the establishment in all matters relating to compliance with the provisions of the establishment and product license applications; (2) the failure of the responsible head to take corrective actions as promised, demonstrating an inadequate understanding of the scientific principles and techniques involved in the plasmapheresis operation; and (3) the prelicense inspection of December 1984, which revealed significant deviations from the applicable standards that represented an unwarranted health risk to donors.

The letter advised the firm that, if the firm so requested, the Commissioner would issue a notice of opportunity for a hearing. Under 21 CFR 12.21(b) and 601.4(b), at the firm's request, FDA issued a notice of opportunity for a hearing on the denial of licensure in the Federal Register of August 19, 1985 (50 FR 33415). The NOOH noted the deficiencies in the initial and ensuing license applications, subsequent correspondence, and prelicense inspections performed in August, October, November, and December 1984. The NOOH stated that the FDA inspections revealed numerous deviations from the regulations, that these deviations demonstrated that Globe failed to provide assurance that the health and safety of donors would be protected, and that the managerial personnel lacked the training and expertise necessary to safely operate a plasmapheresis center. The NOOH described many of the significant deviations found during the December 1984 prelicensure inspection.

Applicable Regulations

FDA procedures and requirements governing a notice of opportunity for hearing, notice of appearance and request for hearing, grant or denial of hearing, and submission of data and information to justify a hearing are contained in 21 CFR Parts 12 and 601 and 21 CFR 314.200. As stated in the NOOH, the firm, in order to request a hearing, was required to submit to FDA's Dockets Management Branch a written request for a hearing by September 18, 1985, and any data justifying a hearing by October 18, 1985. A request for a hearing may not rest upon mere allegations or denials, but must set forth a genuine and substantial issue of fact that requires a hearing. When it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact the requires a hearing on the denial of the license, the Commissioner of Food and Drugs will enter summary judgment against the applicant requesting the hearing, making findings and conclusions that justify denying a hearing.

Request for Hearing and FDA's Findings

For the reasons set forth below, the Commissioner denies Globe's request for a hearing, and finds that there is no genuine and substantial issue of fact justifying a hearing. In addition, the Commissioner finds that the firm's request for a hearing and supporting data did not comply with the requirements set forth in 21 CFR Part 12.

Following publication of the August 19, 1985, NOOH, FDA's Dockets Management Branch received two letters, dated September 9, 1985, and September 13, 1985, signed by the firm's president. These letters requested a hearing on the denial of the license; however, they contained no data or information in support of the request. Thus, these letters raise no issue of fact to justify a hearing.

Globe addressed two other letters, dated September 9, 1985, to FDA's Associate Commissioner for Regulatory Affairs. These letters responded to FDA's January 28, 1985, letter denying the firm's license applications. One of the letters was unsigned, and expressed the hope that FDA would reevaluate its position on the license denials. The other letter addressed to the Associate Commissioner was signed by the responsible head but contained no request for a reevaluation or hearing.

The two September 9, 1985, letters sent to the Associate Commissioner for Regulatory Affairs are the only letters submitted following the publication of the NOOH that address any of the issues involved in the denial of licensure. These letters fail to comply with the requirements of 21 CFR 12.22 that requests for a hearing and descriptions and analyses of the factual information in support of objections to hearing request denials be submitted to the Dockets Management Branch. In addition to this procedural error, neither letter demonstrates that there is a genuine and substantial issue of fact for resolution at the hearing. (*See* 21 CFR 12.24(b).) The responsible head did not dispute the vast majority of the deficiencies noted in FDA's January 28, 1985, letter. Instead, the responsible head admitted that many of the deficiencies occurred and merely alleged that he intended to correct them.

In responding to some deficiencies noted by FDA, the responsible head stated that Globe's personnel performed procedures or used criteria copied from its competitors. No more substantive reason than this was given for some of the firm's practices. Although the responsible head stated that he disagreed with FDA regarding his familiarity with plasmapheresis procedures, he did not present any evidence in support of his position. Thus, these mere allegations and denials do not justify a hearing. (*See* 21 CFR 12.24(b)(2).)

Rather than supporting Globe's hearing request, these letters provide additional support for the license denials. The letters reveal that Globe's responsible head remained unfamiliar with the scientific principles and techniques involved in the manufacture of Source Plasma. Such familiarity is necessary so that the responsible head can ensure that employees are trained in, and have a thorough understanding

of the relevant functions involved in a plasmapheresis operation. These functions include, among others: Proper calibration of equipment, recognition of improper storage temperatures, and accurate calculations of plasma volumes and whole blood weights. Functions such as calculating whole blood weights and plasma volumes are essential to ensure that no more than the maximum permissible amount of blood is removed from donors and that plasma volume is correctly measured and labeled.

The September 9, 1985, letters also indicate that the responsible head still did not understand that he is required by 21 CFR 601.12 to notify FDA of, and receive its approval for, important proposed changes in such areas as manufacturing methods, which include the use of new or different test laboratories.

Furthermore, the responsible head acknowledged that serum protein electrophoresis (SPE) tests had not been performed on some new donors. He also demonstrated his lack of knowledge of 21 CFR 640.65(b) (1) and (2), which set forth requirements regarding SPE tests, by asking what section in the Federal regulations required immediate SPE testing. The responsible head clearly is not familiar with the applicable requirements for SPE tests or the scientific grounds on which they are based.

The September 9, 1985, letters further reveal that the responsible head is not familiar with the method described in his firm's written standard operating procedures (SOP) manual to remove air from blood collection equipment in order to prevent circulatory embolism and is not familiar with, or knowledgeable of the terminology associated with, the test for hepatitis B surface antigen (HBsAg).

The firm's letters dated September 9, 1985 and September 13, 1985, present no genuine or substantial issue of fact to support granting the hearing request. More importantly, they provide further evidence of the significant lack of understanding on the part of Globe's responsible personnel of the applicable regulations and the scientific principles and techniques involved in the production of Source Plasma. These facts provide additional support for the agency's decision to deny the firm a license based on its inability to meet established standards.

Conclusion

Because of the reasons stated above, the Commissioner finds that Globe Blood Plasma Center, Inc., has failed to show that there is a genuine and substantial issue of fact requiring a hearing. Therefore, under section 351 of the Public Health Service Act (42 U.S.C. 262) and under 21 CFR 12.28, 601.4, and 601.7, the request for a hearing is denied and the denial of license stands.

Dated: August 18, 1987.

John A. Norris,

Acting Commissioner of Food and Drugs.

[FR Doc. 87-19881 Filed 8-28-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0007 et al.]

Approved Variances for Laser Light Shows; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 12 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variance are listed in the table below.

ADDRESS: The applications and all correspondence on the applications have been placed on display in the—Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 12 organizations listed in the table below a variance from the requirements of § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical design and by warnings in the user manual and on the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer or the product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date, termination date
82P-0007 (renewal)	Memphis Pink Palace Museum, 3050 Central Avenue, Memphis Tennessee 38111.	Memphis Pink Palace Museum Laser Light Shows using the Pink Palace 265 projector with argon, krypton, and helium-neon lasers.	May 29, 1987 to Jan. 19, 1987.
82P-0141 (renewal)	Fiske Planetarium University of Colorado, Box 408, Boulder, Colorador 80309.	Fiske Planetarium laser light show which incorporates Class IV argon and HeNe laser projection systems, manufactured, assembled, and produced by Fiske Planetarium, University of Colorado.	June 2, 1987 to June 8, 1989.
82P-0296 (amendment)	Walt Disney World Company, P.O. Box 10,000, Lake Buena Vista, Florida 32830.	EPCOT Center Transportation Laser Display containing a Class IIIb helium-cadmium laser projection system; the EPCOT Center Imagination Light Writer containing Class IIIb helium-neon, argon ion, and helium-cadmium laser projection systems; and the EPCOT Center Imagination Laser Display Scene 7 containing a Class IV krypton ion and a Class IIIb argon ion laser projection system.	June 3, 1987 to Sept. 20, 1992.
85v-0284 (renewal)	Starlasers, 13156 Leadwell Street, North Hollywood, California 91605.	Class IV Starlight Series One laser projectors and laser light shows assembled and produced by Starlasers incorporating these projectors.	June 29, 2987 to June 20, 1989.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date, termination date
85V-0287 (renewal)	Centrak Corporation, 171 Merwin Avenue, Cleveland, Ohio 44113.	Laser light shows and the incorporated Class IIIb or Class IV argon, krypton, and/or helium-neon laser projectors manufactured, assembled, and produced by CENTRAK Corporation.	June 29, 1987 to June 14, 1989.
85V-0437 (amendment and renewal).	Ion Images 222 Colony, Kinsley, Kansas 67547	Ion Images laser light shows incorporating the LaserMedia Model LM3, Laser Fantasy Model 25356, Laser System Development laser projection systems, and/or an Image Engineering 4-color scanning optical head with a Class IV argon/krypton laser from the Kansas Cosmosphere.	June 2, 1987 to Sept. 12, 1989.
86V-0222 (renewal)	Briarcrest Baptist Church, 6000 Briarcrest Avenue, Memphis, Tennessee 38119.	Laser light shows manufactured, assembled and produced by Briarcrest Baptist Church with the Laser Systems Development Model C-4 Class IV laser projector.	June 9, 1987 to May 23, 1989.
86V-0476	Stone Mountain Lasers, Incorporated, 4076 Jami Lane, Lithonia, Georgia 30058.	Stone Mountain Lasers, Incorporated production of the Stone Mountain Park "Night on Stone Mountain" laser light show and other laser light shows assembled and produced by this firm incorporating Class IV Laser Media models LM, LMS, or ChromaRay projection systems with argon, krypton, or argon/krypton lasers.	June 11, 1987 to June 11, 1989.
87V-0007	C.L.S. Metro, Incorporated, 133-18 Oak Street, Tallahassee, Florida 32301.	C.L.S. Metro, Incorporated laser light show incorporating a Lighting Systems Design PM3000DD laser projector and a Class IV krypton laser system.	June 3, 1987 to June 3, 1989.
84V-0092	The Red Onion, 1139 East Dominguez Street, Suite H, Carson, California 90746.	Red Onion laser light shows using the Entertainment Technology Industries Class IV Chorus Master Model One argon laser projection system.	June 29, 1987 to June 29, 1989.
87V-0142	Six Flags-Astroworld, 9001 Kirby, Houston, Texas 77054.	Astroworld laserlight shows, such as "Fantasy of Fire," incorporating the Image Engineering Model 350W Class IV ion laser projector.	May 29, 1987 to May 29, 1989.
87V-0209	Laser FX, 1554 Kingston Drive, Escondido, California 92027.	Laser FX Model FX-1 Class IV laser projector with argon laser systems and the "California Dream" laser light show assembled and produced by Laser FX incorporating this projector.	June 29, 1987 to June 29, 1987.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket numbers in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: August 18, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87-19880 Filed 8-28-87; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Nationall Center for Health Services Research and Health Care Technology Assessment; Assessment of Guidelines for Home Air-Fluidized Bed (Clinitron) Therapy

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), has been requested by the Health Care Financing Administration (HCFA) to review and provide input on the proposed guidelines for the home use of air-fluidized bed therapy.

The air-fluidized bed contains small ceramic beads that are enclosed by a closely woven polyester sheet. Warm pressured air is forced through the beads which then take on the characteristics of a fluid medium. The bed is stated to provide a floatation environment for the patent which avoids excessive pressure over bony prominences. An air-fluidized bed (Clinitron) has been available since 1969 for the hospital management of patients with decubitus ulcers and burns. This therapy is currently available beyond institutional use, but home use is not covered under existing Medicare policy.

The manufacturer of the Clinitron bed has proposed the following guidelines for home use:

Suggested Patient Selection Criteria

All of the following must be met to obtain approval for home therapy.

1. A physician has ordered home Clinitron therapy as an alternative to hospitalization and has determined that the patient meets the additional patient selection criteria delineated below.

2. The patient has had a previous hospitalization(s) for flap surgery for the treatment of decubitus ulcer.

3. The patient has had a hospital admission for decubitus ulcer treatment within the last 9 months.

4. The patient currently has a stage 3 or stage 4 decubitus ulcer.

5. The patient is afebrile, non-septic, and does not have any other known contradindications to home therapy.

6. The patient has limited mobility due to one of the following diagnosis:

Parkinson's Disease
Multiple Sclerosis
Paraplegia/Quadriplegia
Spina Bifida

7. The patient will be compliant with home care regimen.

8. The patient has adequate home support (family or other caregiver) to use home Clinitron therapy effectively.

Treatment Protocol

1. The physician conducts an initial assessment and evaluates the patient for home Clinitron therapy.

2. The home Clinitron treatment regimen must be carried out under the direct supervision of an attending physician.

3. The patient is seen monthly by the physician, and as needed.

4. The Clinitron therapy nurse consultant provides training for the patient and caregiver and reports on the status of the patient to the attending physician.

5. Following the initial prescription, the patient must be recertified for home Clinitron therapy on a monthly basis following a physician examination.

The PHS invites public input in the evaluation of these guidelines. Questions to be answered by this assessment include: (1) Are there issues of safety and efficacy not addressed by the above guidelines that relate to the therapeutic value of the air-fluidized bed? (2) Are there conditions for use not covered by these guidelines? (3) Are there specific circumstances under which use of this device would be absolutely or relatively contraindicated? (4) Under which conditions is this therapy deemed most appropriate? (5) To what extent is home support or nursing assistance necessary for effective use of the therapy? (6) Should use be limited to a specified period. If so, why?

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a

technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing coverage policy for Medicare. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, suitable home settings as well as on the clinical acceptability, effectiveness and safety of this technology is also being sought. Proprietary information is not being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing not later than November 30, 1987.

Written material should be submitted to: Kesinee C. Nimit, M.D., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18A-27, Rockville, MD 20857, Tel: (301) 443-4990.

Date: August 19, 1987.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87-19904 Filed 8-28-87; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-87-1727]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to:

John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the toal number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Lender Approval Forms and Associated Recordkeeping.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: HUD programs under Title I of the National Housing Act insure eligibile lenders against losses which they may sustain as a result of property improvement and manufactured housing loans. These forms are used to verify lender information in connection with reviewing or monitoring their approval status.

Form Number: HUD-92001-L, 92001-LB, 92001-LC, 92001-LK, and 92001-LV.

Respondents: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Response: Annually.

Estimated Burden Hours: 10,350.

Status: Reinstatement.

Contact: Sandra L. Allison, HUD (202) 755-6924; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Affirmative Fair Housing Marketing Results Sample Survey Form.

Office: Fair Housing and Equal Opportunity.

Description of the Need for the Information and Its Proposed Use: Participants in HUD's housing programs who are subject to Affirmative Fair Housing Marketing (AFHM) requirements submit data which is needed to identify successful and unsuccessful marketing strategies. The data helps HUD assess and modify, if necessary, policy guidelines for sponsors and developers on implementing AFHM requirements.

Form Number: HUD-935.6.

Respondents: Individuals or Households and Businesses or Other For-Profit.

Frequency of Respondents: Annually.

Estimated Burden Hours: 653.

Status: New.

Contact: Joan W. Brackett, HUD, (202) 755-6540; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Moderate Rehabilitation, Section 8 Housing Assistance Payments Program.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The Housing and Community Development Act authorizes the submission of this form by Public Housing Agencies (PHAs) applying for an allocation of Section 8 Moderate Rehabilitation units. It is needed by HUD to make a funding decision based on a determination of consistency with housing needs and evidence of PHA capabilities.

Form Number: HUD-52515A.

Respondents: State or Local Governments.

Frequency of Respondents: On occasion.

Estimated Burden Hours: 1,000.

Status: Extension.

Contact: Alfonso M. Bell, HUD, (202) 755-6550; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Title X Land Development Mortgage Insurance.
Office: Housing.
Description of the Need for the Information and Its Proposed Use: This form serves as the initial application from a private developer for mortgage insurance for land acquisition and development under Title X of the National Housing Act. HUD uses the information provided on the form as a basic element of their feasibility analysis of the project.
Form Number: HUD–3551.
Respondents: Businesses or Other For-Profit.
Frequency of Respondents: On occasion.
Estimated Burden Hours: 550.
Status: Extension.
Contact: Edwin W. Baker, HUD, (202) 755–6540; John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Homeless Assistance Plan.
Office: Community Planning and Development.
Description of the Need for the Information and Its Proposed Use: Under Title IV of the Homeless Assistance Act, states, metropolitan cities, and urban counties are required to submit a comprehensive assistance plan and annual progress report in order to receive assistance. In order for other eligible applicants and recipients to receive assistance, they have to be in a jurisdiction covered by an approved plan.
Form Number: None.
Respondents: State or Local Governments and Non-Profit Institutions.
Frequency of Respondents: Annually.
Estimated Burden Hours: 16,800.
Status: New.
Contact: James R. Broughman HUD, (202) 755–5977; John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supplement to Subscription Agreement for Cooperative Housing Applicants under Sections 213 and 221(d)(3).
Office: Housing.
Description of the Need for the Information and Its Proposed Use: The information collection is used to determine capability and capacity of the applicant to meet the financial requirements of the project. HUD needs this information to determine if the mortgage could be amortized.
Form Number: HUD–93232A.
Respondents: Individuals or Households.
Frequency of Respondents: On occasion.
Estimated Burden Hours: 7,000.
Status: Extension.
Contact: William H. Bornscheuer, HUD, (202) 755–6223; John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: August 10, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87–19903 Filed 8–28–87; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–940–07–4212–12; A–22448]

Realty Action; Reconveyed Land; Mohave County, AZ

August 24, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Reconveyed Land Opened to Entry in Mohave County.

SUMMARY: Pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716), the United States recently acquired the following described land from the State of Arizona:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 12 N., R. 14 W.,
Sec. 16, W½;
Sec. 32, NW¼, W½SW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
T. 13 N., R. 13 W.,
Sec. 16, W½;
Sec. 22, all;
T. 13 N., R. 14 W.,
Sec. 16, all;
Sec. 32, W½E½, NW¼;
Sec. 36, N½, SE¼.
T. 13 N., R. 15 W.,
Sec. 16, all;
T. 13 N., R. 16 W.,
Sec. 36, all.
T. 14 N., R. 12 W.,
Sec. 16, all.
T. 15 N., R. 13 W.,
Sec. 12, NW¼NW¼;
Sec. 16, S½N½;
Sec. 32, 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, N½SW¼, SW¼SW¼, SE¼.
T. 21 N., R. 17 W.,
T. 32, E½NW¼, NE¼SW¼, NW¼SE¼.
T. 21 N., R. 20 W.,
Sec. 2, lot 4;
Sec. 36, W½E½, W½, excepting patented MS 4213.
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. 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. 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. 21 W.,
Sec. 12, all (Surface Only).
T. 26 N., R. 18 W.,
Sec. 24, all.
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. 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.

The areas described comprise 27,863.72 acres in Mohave County.

Upon the effective date, the reconveyed land described above will be open to operation of the public land laws generally subject to valid existing rights and requirements of applicable law.

The mineral estate in all of sec. 12, T. 25 N., R. 21 W., was already in Federal ownership and has been and presently remains open to the operation of the mining and mineral leasing laws. The remaining conveyed land described above, upon the effective date, will be open to applications under the general mining laws and mineral leasing laws, subject to existing State-issued leases. All applications and offers received prior to the effective date, will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2–3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

EFFECTIVE DATE: 9:00 a.m., September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Angela Mogel, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241–5534.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–19912 Filed 8–28–87; 8:45 am]

BILLING CODE 4310–32–M

INTERSTATE COMMERCE COMMISSION

[Docket No. 38676]

Changes in Routing Provisions; Conrail; July, 1981

AGENCY: Interstate Commerce Commission.

ACTION: Notice of procedure for re-establishment of joint rates.

SUMMARY: Any shipper or carrier that has been affected by Conrail's 1981 joint rate cancellations and is interested in establishing joint rates or other alternative rates must submit to Conrail concrete, specific rate proposals concerning particular rate levels on particular points (or groups of points) and commodities in which they are interested. If a settlement is not reached, the party seeking relief must file a petition with the Commission seeking a rate prescription. If the parties seeking relief do not comply with these procedures and the deadlines below, the procedures of this docket will not be available. All parties are required to negotiate in good faith as a condition to obtaining relief.

DATES: Parties must submit proposals to Conrail by October 30, 1987. If a settlement is not reached by 120 days following a timely submission of a proposal, a party must file its petition with the Commission no later than 30 days thereafter.

ADDRESSES: Send petitions referring to Docket No. 38676 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Conrail's representative: Cheryl A. Cook, 1138 Six Penn Center Plaza, Philadelphia, PA 19103

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. TDD for hearing impaired: (202) 275–1721

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357, (assistance for the hearing impaired is available through TDD services (202) 275–1721) or by pickup from TSI in Room 2229 at Commission headquarters.

Decided: August 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred with a separate expression.

Noreta R. McGee,

Secretary

[FR Doc. 87–19919 Filed 8–28–87; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Acturial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at 1211 Avenue of the Americas, 38th Floor, Conference Room A, New York City, New York on September 29, 1987, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made, that the subject of the meeting falls within the exceptions to the open meeting requirements set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Date: August 25, 1987.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 87–19859 Filed 8–28–87; 8:45 pm]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Alcan Aluminum Corp. et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on August 18, 1987, a proposed partial consent decree in *United States and the State of New York v. Alcan Aluminum Corp. et al.*, Civ. No. 87–CV–920, was lodged with the United States District Court for the Northern District of New York. That action was brought pursuant to the Comprehensive Environmental Response, Compensation and Recovery Act for the recovery of costs expended by the United States and the state of New York in connection with the Pollution Abatement Services of Oswego, Inc. site located in Oswego, New York.

The partial consent decree is entered into between the United States, the state of New York and eighty-one of the potentially responsible parties who contributed waste to the PAS site. The decree provides for the payment by those parties of $8,514,018.34 to the United States and $591,361.83 to the state of New York for costs expended by the government entities in conducting investigatory, removal and remedial activities at the PAS site. The partial consent decree does not resolve the liability of all defendants named in the complaint filed by the United States and

the state of New York in this action on July 10, 1987.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC. All comments should refer to *United States and the State of New York v. Alcan Aluminum Corp. et al.*, D.O.J. Ref. 90-11-2-2.

The proposed consent decree may be examined at the office of the United States Attorney, 369 United States Courthouse, 100 S. Clinton Street, Syracuse, New York 13260 and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the proposed partial consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW. Washington, DC 20530. A copy of the proposed decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Any request for a copy of the decree should be accompanied by a check in the amount of $1.50 for copying costs payable to the "United States Treasurer."

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-19863 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by The Superfund Reauthorization Act; Ottati & Gross et al.

In accordance with section 122(d)(2)(A) of CERCLA as amended by SARA, notice is hereby given that a proposed Consent Decree in *United States, et al.* v. *Ottati & Goss, et al.*, Civil Action No. 80-225-L, has been lodged with the United States District Court for the District of New Hampshire, on August 21, 1987. The Consent Decree resolves an action brought by the United States under section 106 and 107 of CERCLA as amended and 7003 of the Resources Conservation and Recovery Act and common law nuisance against General Electric, Solvents Recovery Service of New England and Lilly Industrial Coatings and the State of New Hampshire against the same defendants under section 107(a) of CERCLA, the Hazardous Waste Management Act, statutory nuisance and common law nuisance. The decree resolves only the liability of the above-named defendants.

The Consent Decree requires defendants to perform the soil remediation activities associated with the Ottati & Goss portion of the Ottati & Goss (O&G)/Great Lakes Container Corp. (GLCC) portion of the O&G/GLCC National Priorities List site as set forth in the Record of Decision issued by Region I on January 16, 1987 and to contribute towards the groundwater remedial action for the Ottati & Goss portion of the Site.

The Consent Decree also requires defendants to pay to plaintiffs $390,000 for reimbursement of past costs.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States, et al.* v. *Ottati & Goss, et al.*, D.J. Ref. No. 90-7-1-79.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, Federal Building, 55 Pleasant Street, Concord, New Hampshire 03301; at the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.20 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-19860 Filed 8-28-87; 8:45 pm]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Air Act; SANCAP Abrasives Inc. Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 18, 1987, a proposed consent decree in *United States* v. *SANCAP Abrasives, Inc., Corporation*, Civ. No. C85-322A, was lodged with the United States District Court for the Northern District of Ohio. This agreement resolves a judicial enforcement action brought by the United States against SANCAP Abrasives, Inc. for violations of the Clean Air Act at SANCAP's facility in Alliance, Ohio.

The proposed Consent Order provides that SANCAP will install high solids coating equipment at its capline manufacturing plant. SANCAP has already completed installation of the equipment. SANCAP is required to achieve compliance with the VOC emission limitations of the Ohio SIP by April 15, 1987. The Decree also establishes monitoring and reporting requirements and provides for stipulated penalties for violations of its provisions. Finally, the settlement provides for the payment of a civil penalty of $30,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *SANCAP Abrasives, Inc.*, D.J. Ref. 90-5-2-1-745.

The proposed consent decree may be examined at the office of the United States Attorney or the regional office of the Environmental Protection Agency as follows:

U.S. Attorney

U.S. Attorney, Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114

EPA

Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement

Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Divisions.

[FR Doc. 87-19861 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Ciba-Geigy Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 3, 1987, Pharmaceuticals Division, Ciba-Geigy Corporation, Regulatory Compliance SEF1030G, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance 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 September 30, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: August 24, 1987.

[FR Doc. 87-19944 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Presenters Section) to the National Council on the Arts will be held on September 16-18, 1987 from 9:00 a.m.-5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 18, 1987 from 1:00 p.m.-3:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on September 16-17, 1987 from 9:00 a.m.-5:00 p.m. and September 18, 1987 from 9:00 a.m.-1:00 p.m. and 3:00 p.m.-5:00 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accomodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

August 25, 1987.

[FR Doc. 87-19910 Filed 8-28-87; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on September 17-18, 1987 from 9:00 a.m. - 5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics of discussion will include guidelines and other policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682/5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

August 25, 1987.

[FR Doc. 87-19911 Filed 8-28-87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335]

Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing; Florida Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP-67, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Plant, Unit No 1, located in St. Lucie County, Florida.

The amendment would authorize the licensee to increase the spent fuel pool storage capacity from 728 to 1706 fuel assemblies. The proposed expansion is to be achieved by reracking the spent fuel pool into two discrete regions. New, high-density storage racks will be used. The existing storage racks will be removed, cleaned of loose contamination, packaged and shipped off-site.

Region 1 of the spent fuel pool includes 4 modules having a total of 342 storage cells. The cell pitch is 10.12 inches. All cells can be utilized for storage and each cell can accept new fuel assemblies with enrichments up to 4.5 weight percent U-235 or spent fuel assemblies that have not achieved adequate burnup for Region 2. Region 2 includes 13 modules having a total of 1364 storage cells. The cell pitch is 8.86 inches. All cells can be utilized for storage and each cell can accept spent fuel assemblies with various initial enrichments which have accumulated minimum burnups. Each cell in each region can accommodate a single Combustion Engineering or Advanced Nuclear Fuel Corporation (formerly Exxon) PWR fuel assembly or equivalent, from either St. Lucie Unit 1, or Unit 2.

The new racks are not double-tiered and all racks will sit on the spent fuel pool floor. The amendment application does not involve rod consolidation. The k_{eff} of the pool will be maintained at less than or equal to 0.95. Neutron absorbers in the form of Boraflex will also be used

for criticality control. The rack vendor has licensed at least 10 other racks of the same design. The construction process and analytical techniques remain substantially the same as the previous 10 racks. Thus, no new or improved technology is utilized in the construction or analysis of the proposed racks.

This amendment was requested in the licensee's application dated June 12, 1987.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves a significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application, as restated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

In the course of the analysis, FPL has considered the following potential accident scenarios:

1. A spent fuel assembly drop in the spent fuel pool.
2. Loss of spent fuel pool cooling system flow.
3. A seismic event.
4. A spent fuel cask drop.
5. A construction accident.

The probability of any of the first four accidents is not affected by the racks themselves; thus the modification cannot increase the probability of these accidents. As for the construction accident, FPL does not intend to carry any rack directly over the stored spent fuel assemblies. All work in the spent fuel pool area will be controlled and performed in strick accordance with specific written procedures. The crane which will be used to bring the racks into the Fuel Handling Building has been evaluated and meets the requirements of Section 5.1.1 of NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." In addition, the temporary construction crane which will be used to move racks within the spent fuel pool area will meet the design, inspection, testing, and operation requirements of Section 5.1.1 of NUREG–0612. This program provides for the safe handling of heavy loads in the vicinity of the spent fuel pool.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

FPL evaluated the consequences of a spent fuel assembly drop in the spent fuel pool (scenario 1) and found that the criticality acceptance criterion, K_{eff} less than or equal to 0.95, is not violated. In addition FPL found that the radiological consequences of a fuel assembly drop are not changed from the previous analysis. The NRC also conducted an evaluation of the potential consequences of a fuel handling accident. Both FPL and NRC analyses found that the calculated doses are less than 10 CFR Part 100 guidelines. The results of an analysis show that a dropped spent fuel assembly on the racks will not distort the racks such that they would not perform their safety function. Thus, the consequences of this type accident are not changed from the previously evaluated spent fuel assembly drops which have been found acceptable by the NRC.

The consequences of a loss of spent fuel pool cooling system flow (scenario 2) have been evaluated and it was found that sufficient time is availabe to provide an alternate means for cooling (i.e., the fire hose stations) in the event of a failure in the cooling system. Thus, the consequences of this type accident are not significantly increased from previously evaluated loss of cooling system flow accidents.

The consequences of a seismic event (scenario 3) have been evaluated and are acceptable. The new racks will be designed and fabricated to meet the requirements of applicable portions of the NRC Regulatory Guides and published standards. The new free-standing racks are designed, as are the existing free-standing racks, so that the floor loading from racks completely filled with spent fuel assemblies, partially filled, or empty at the time of the incident, do not exceed the structural capability of the spent fuel pool. The Fuel Handling Building and spent fuel pool structure have been evaluated for the increased loading from the spent fuel racks in accordance with the criteria previously evaluated by the NRC and found acceptable. Thus, the consequences of a seismic event are not significantly increased from previously evaluated events.

The consequences of a spent fuel cask drop (scenario 4) have been evaluated. The radiological consequences of the cask drop are well within the guidelines of 10 CFR 100 and the doses are not increased as compared to the doses analyzed for the presently installed racks. The cask drop analysis is based on administrative and Technical Specification controls which ensure that minimum requirements for decay of irradiated fuel assemblies in the entire spent fuel pool are met prior to movement of the cask into the cask area of the spent fuel pool. Analyses also demonstrate that k_{eff} will always be less than the NRC acceptance criterion. In addition[,] leakage from a cask drop will not exceed the makeup capabilities of the spent fuel pool. Thus, the consequences of a cask drop accident will not increase from previously evaluated accident [analyses].

The consequences of a construction accident (scenario 5) are enveloped by the spent fuel cask drop analysis previously performed by FPL. In addition, all movement of heavy loads handled during the rerack operation will comply with the NRC guidelines presented in NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." The consequences of a construction accident are not increased from previously evaluated accident [analyses].

Therefore, it is concluded that the proposed amendment to replace the spent fuel racks in the spent fuel pool will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

FPL has evaluated the proposed modification in accordance with the guidance of the NRC position paper entitled, "OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," appropriate NRC Regulatory Guides, appropriate NRC Standard Review Plans, and appropriate industry codes and standards. In addition, FPL has reviewed several previous NRC Safety Evaluation Reports for rerack applications similar to [its] proposal. As a result of this evaluation and these reviews, FPL finds that the proposed modification does not, in any way, create the possibility of a new or different kind of accident from any accident previously evaluated for the St. Lucie spent fuel storage facility.

(3) Involve a significant reduction in a margin of safety[.]

The NRC Staff Safety Evaluation review process has established that the issue of margin of safety, when applied to a reracking modification, should address the following areas:

1. Nuclear criticality considerations.
2. Thermal-hydraulic considerations.
3. Mechanical, material and structural considerations.

The established acceptance criterion for criticality is that the neutron multiplication factor in spent fuel pools shall be less than or equal to 0.95, including all uncertainties, under all conditions. This margin of safety has been adhered to in the criticality analysis methods for the new rack design.

The methods used in the criticality analysis conform with the applicable portions of the appropriate NRC guidance and industry codes, standards, and specifications. In meeting the acceptance criteria for criticality in the spent fuel pool, such that k_{eff} is always less than 0.95, including uncertainties at a 95%/95% probability confidence level, the proposed amendment to rerack the spent fuel pool does not involve a significant reduction in a margin of safety for nuclear criticality.

Conservative methods are used to calculate the maximum fuel temperature and the increase in temperature of the water in the spent fuel pool. The thermal-hydraulic evaluation uses the methods used for evaluations of the present spent fuel racks in demonstrating that temperature margins of safety are maintained. The proposed modification will increase the heat load in the spent fuel pool. The evaluation shows that the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 150.8° F. Thus a margin of safety exists such that the maximum allowable temperature of 217° F is not exceeded for the calculated increase in pool heat load. The evaluation also shows that maximum local water temperatures along the hottest fuel assembly are well below the nucleate boiling condition values. Thus, there is no significant reduction in the margin of safety for thermal-hydraulic or spent fuel cooling concerns.

The main safety function of the spent fuel pool and the racks is to maintain the spent fuel assemblies in a safe configuration through all normal or abnormal loadings, such as an earthquake, impact due to a spent fuel cask drop, drop of a spent fuel assembly, or drop of any other heavy object. The mechanical, material, and structural design of the new spent fuel racks is in accordance with applicable portions of the "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," dated April 14, 1978, as modified January 18, 1979; Standard Review Plan 3.8.4; and other applicable NRC guidance and industry codes. The rack materials used are compatible with the spent fuel pool and the spent fuel assemblies. The structural considerations of the new racks address margins of safety against tilting and deflection or movement, such that the racks are not damaged during impact. In addition the spent fuel assemblies remain intact and no criticality concerns exists. Thus, the margins of safety are not significantly reduced by the proposed rerack.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with their conclusions. However, the staff believes that the licensee's no significant hazards consideration (NSHC) analysis could have been more explicit in a number of areas. These areas are (1) pool water temperature under normal and abnormal conditions, (2) recent boraflex problems, and (3) construction accidents.

The licensee states in the NSHC analysis that the safety evaluation shows that the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 150.8° F, and that a margin of safety exists such that the maximum allowable temperature of 217° is not exceeded. This statement addresses the abnormal maximum heat load (full core unload) case; the staff's Standard Review Plan (SRP) for full core unload calls for the pool water temperature to be kept below boiling. Thus, the licensee's analysis and results for this case meet the SRP. The licensee did not address the maximum normal heat load case in the NSHC analysis. The staff's review of the licensee's associated safety evaluation concludes that the maximum normal heat load case was also evaluated. The licensee calculated a maximum pool water temperature of 133.3° F. The SRP states that the pool should be kept at or below 140° F in this case. Thus, the licensee's analysis and results for this case meet the SRP.

The licensee's NSHC analysis did not address the recent operational problems associated with boraflex, a neutron absorbing material that is utilized in many racks to maintain the k_{eff} of the pool less than or equal to 0.95. Although some shrinkage of the boraflex is assumed and accounted for, cracking of the boraflex and the forming of significant axial gaps has not been postulated to occur. It is believed that cracking occurred in some applications because of the rack design and fabrication process which did not allow the boraflex to shrink without cracking. The staff has reviewed the licensee's associated safety evaluation with particular focus on the method that the boraflex will be installed. In Region I, full-length strips of boraflex will be placed between the cell walls and a stainless steel coverplate. In Region 2, full-length boraflex strips will be placed between the adjacent cell walls.

The licensee's specification for the handling and installation of the boraflex requires that it will not be installed in a stretched condition. The specification precludes the use of adhesives in the attachment of the boraflex to the rack cell walls. FP&L will require that the manufacturing process avoid techniques which could pinch the boraflex. The design of the racks requires that additional lengths of boraflex, i.e., greater than the active length of a fuel assembly, be installed to account for anticipated shrinkage of the boraflex. Based upon the above, the staff does not envision that the proposed racks will experience the boraflex cracking problems experienced elsewhere. Thus, the k_{eff} of the pool will be maintained less than or equal to 0.95.

The most limiting construction accident postulated for the spent fuel pool by the licensee is a 25 ton cask drop accident. This is the most limiting accident postulated at this time and it will remain the most limited as a result of the proposed rerack. This appears reasonable because no existing rack or proposed rack weighs more than 25 tons. In practice, the technical specifications prohibit any load in excess of 2 tons to be carried over irradiated fuel in the storage pool and also prohibit the cask crane from picking up any load over 25 tons. Nevertheless, the licensee's updated safety analysis report for Unit No. 1 analyzed this postulated accident in section 9.1.4, entitled "Fuel Handling System." The licensee evaluated the radiological consequences of the postulated accident. The licensee determined that the radiological consequences were within 10 CFR Part 100 guidelines. The licensee reevaluated the postulated 25 ton cask drop accident in the safety evaluation supporting the amendment request. This was necessary because the proposed amendment allows more spent fuel to be placed in the spent fuel pool; the results are contained in Section 5.3.1.2. The results indicate that the radiological consequences remain within 10 CFR Part 100 guidelines. The licensee also states that the proposed spent fuel pool modifications do not increase the radiological consequences of the cask drop accident previously evaluated.

Since the licensee's request to expand the St. Lucie 1 spent fuel storage pool capacity satisfies the following conditions: (1) The storage expansion method consists of replacing existing

racks with a design that allows closer spacing between stored spent fuel assemblies; (2) the storage expansion method does not involve rod consolidation or double-tiering; (3) the k_{eff} of the pool is maintained less than or equal to 0.95; and (4) no new technology or unproven technology is utilized in either the construction process or the analytical techniques necessary to justify the expansion, the Commission concludes that the request does not involve a significant hazards consideration in that it: (1) does not involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) does not involve a significant reduction in a margin of safety.

Because the submittal and the above discussion by the licensee appear to demonstrate that the standards specified in 10 CFR 50.92 are met, and because reracking technology has been well-developed and demonstrated, the Commission proposes to determine that operation of the facility in accordance with the proposed amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 30, 1987 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene.

Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662, October 15, 1985) 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions). The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, subpart G apply.

Subject to the above requirements and any limitations in the order granting leave to intervene, those permitted to intervene become parties to the

proceeding and have the opportunity to participate fully in the conduct of any hearing which is held, including the opportunity to present evidence and cross-examine witnesses at such hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and to Harold F. Reis, Esq., Newman & Holtzinger, 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.74(d).

For further details with respect to this action, see the application for amendment dated June 12, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 25th day of August, 1987.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects-I/II.

[FR Doc. 87–19951 Filed 8–28–87; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket Nos. 50–321 and 50–366]

Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing; Georgia Power Co. et al.

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for amendments to Facility Operating Licenses Nos. DPR–57 and NPF–5, issued to the Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia and City of Dalton, Georgia (the license) for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (the facility) located in Appling County, Georgia.

The denied amendments, as proposed by the licensee, would modify the Unit 1 and Unit 2 Technical Specifications (TS) to extend from 2 to 24 hours, the time allowed to restore operability of one of two inoperable diesel generators; and would modify the Unit 2 TS to allow the diesel generator two hour overload test to be performed following the 22 hour continuous rating load test instead of before 22 hour test as currently required.

The licensee's application for the amendments was dated March 31, 1986. Notice of consideration of issuance of these amendments was published in the **Federal Register** on June 18, 1986 (51 FR 22237). Other changes requested in that letter were approved in license amendments 147 and 83 dated August 25, 1987, to Facility Operating Licenses DPR–57 and NPF–5.

The proposed change to extend from 2 hours to 24 hours the time within which one diesel generator must be returned to operable status when two diesel generators are inoperable was found to be unacceptable because it would leave the nuclear unit inadequately protected against a loss of offsite power for a 24-hour period, and it is not in accordance with the guidelines of Generic Letter 84–15 or the staff position on Generic Issue B–56.

The proposed change to perform the overload test prior to the 22 hour continuous rating load test was found to be unacceptable because it does not conform with Regulatory Position C.14 of Regulatory Guide 1.9 "Selection of Diesel Generator Set Capacity for Standby Power Supplies" and because it does not accomplish the purpose of the test which is to demonstrate the capability to immediately assume the full LOCA load and then carry the long-term load for the remainder of the 24-hour period.

Accordingly the requests were denied. The licensee was notified of the Commission's denial of this request by letter dated.

By September 30, 1987, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by the proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC. 20555 and to Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1986, and (2) the Commission's letter to Georgia Power Company dated August 25, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Bethesda, Maryland, this 25th day of August 1987.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Acting Director Project Directorate II-3I, Division of Reactor Projects, I/II.

[FR Doc. 87-79950 Filed 8-28-87; 8:45 am]

BILLING CODE 7590-0-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on September 10–12, 1987, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on August 17, 1987.

Thursday, September 10, 1987

8:30 A.M.–8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.–10:45 A.M.: Emergency Core Cooling (Open)—Review aspects of the proposed revision of 10 CFR 50.46 regarding use of "best-estimate" models in the evaluation of ECCS performance.

11:00 A.M.–12:00 Noon: Meeting with Director, NRR (Open)—Discuss items of mutual interest regarding NRR activities.

1:00 P.M.–3:00 P.M.: Management and Disposal of Nuclear Waste (Open)—Discuss proposed research activities related to the management and disposal of high- and low-level radioactive waste.

3:15 P.M.–5:15 P.M.: Auxiliary Feedwater System (Open)—Consider aspects of nuclear power plant auxiliary feedwater system design and operation that impact on system reliability.

5:15 P.M.–6:30 P.M.: ACRS Reports to NRC (Open)—Discuss proposed ACRS reports to the NRC regarding matters noted above.

Friday, September 11, 1987

8:30 A.M.–10:00 A.M.: Emergency Planning (Open)—Discuss proposed ACRS recommendations regarding emergency planning provisions in the vicinity of nuclear facilities.

10:15 A.M.–11:30 A.M.: Management Allocation of Resources for Technical Advice on Nuclear Waste Activities (Closed)—Discuss management alternatives for internal allocation of resources and personnel needed to provide technical advice related to the regulation of nuclear waste.

This session will be closed to discuss the internal personnel rules and practices of NRC and to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

11:30 A.M.–12:00 Noon: Future ACRS Activities (Open)—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

1:00 P.M.–2:00 P.M.: Storage of Spent Nuclear Power Plant Fuel (Open)—Consider proposed changes to 10 CFR Part 72, Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation (ISFSI) to define regulatory requirements for a monitored retrievable storage facility (MRS) for spent nuclear power plant fuel.

2:00 P.M.–3:00 P.M.: Trojan Nuclear Power Plant (Open)—Briefing regarding excessive pipe thinning in the main feedwater system.

3:00 P.M.–4:45 P.M.: Seismic Qualification of Equipment (Open)—Briefing regarding results of seismic walk-through of the Zion Nuclear Station.

4:45 P.M.–6:00 P.M.: Improved Safety Features for Future Light-Water Reactors (Open/Closed)—Discuss proposed ACRS comments regarding the cost effectiveness, feasibility, and benefit of safety-related systems and features noted in its report of January 15, 1987.

Portions of this session may be closed as required to discuss information provided in confidence by a foreign source.

Saturday, September 12, 1987

8:30 A.M.–11:00 A.M.: Preparation of ACRS Reports to the NRC (Open/Closed)—Discuss proposed reports to the NRC regarding items considered during this meeting.

Portions of this session may be closed as required to discuss information provided in confidence by a foreign source.

11:00 A.M.–12:00 Noon: ACRS Subcommittee Activities (Open/Closed)—Hear and discuss reports of designated ACRS subcommittees regarding safety related and regulatory matters including activities of NRC regional offices, and foreign regulatory policies and practices.

Portions of this session will be closed as necessary to discuss information provided in confidence by a foreign source.

1:00 P.M.–2:00 P.M.: Preparation of ACRS Reports to the NRC (Open/Closed)—Discuss proposed reports to the NRC regarding items considered during this meeting.

Portions of this session may be closed as required to discuss information provided in confidence by a foreign source.

2:00 P.M.–3:00 P.M.: Miscellaneous (Open)—Complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 20, 1986 (51 FR 37241). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d), Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), information related to the internal personnel rules and practices of

the agency (5 U.S.C. 552b(c)(2)), and information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Date: August 26, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–19948 Filed 8–28–87; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program; Proposed Amendments Regarding Umatilla Fish Hatchery; Hearings and Public Comment Period

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of proposed amendments, hearings and opportunity to comment.

SUMMARY: On November 15, 1982, the Pacific Northwest Electric Power and Conservation Planning Council (the Council) adopted a Columbia River Basin Fish and Wildlife Program (fish and wildlife program). The fish and wildlife program has been amended on several occasions since then. The Council is proposing again to amend the fish and wildlife program, to allow testing of oxygen supplementation at the Umatilla hatchery. The proposed amendment of the fish and wildlife program is being released for public review and comment and public hearings will be held. This notice describes the proposed amendments; provides information on how to obtain additional information, including copies of the draft amendment document; and outlines the process for submitting written comments and participating in the hearings.

DATES AND ADDRESSES: The public comment period regarding the proposed amendments closes at 5 p.m., September 30, 1987. Public hearings on the proposed amendments will be held:

- September 10, 1987 at 1:30 p.m., City Council Chambers, the Electric Building, 140 S. Capital, Idaho Falls, Idaho;
- September 15, 1987 at 9:00 a.m., Towne Plaza Motor Inn, Veranda Room, N. 7th Street and E. Yakima Avenue, Yakima, Washington;
- September 21, 1987 at 10:00 a.m., Northwest Power Planning Council, 1301 Lockey Street, First Floor, Helena, Montana; and
- September 25, 1987 at 9:00 a.m., Northwest Power Planning Council, Central Office, 850 SW. Broadway, Suite 1100, Portland, Oregon.

Instructions for Oral Comment at Hearings

1. Requests for time slots must be made at least five days prior to the hearings. Contact Ruth Curtis, information coordinator, at the Council's central office, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205 or (503) 222–5161 (toll free 1–800–222–3355 in Idaho, Montana and Washington or 1–800–452–2324 in Oregon).

2. Those who do not sign up for time slots will be permitted to testify as time permits.

3. Hearings should be used to summarize written comments. Comments should not be read. Comments should be limited to the draft amendment document.

4. If possible, ten copies of hearing testimony should be submitted to the Council recorder at the hearings. This person will be sitting at a table near the Council members. (See instructions for written comment.)

5. Those persons officially representing an organization will have 15 minutes to summarize their written testimony. (Organizations may have only one official representative.) All other individuals will be limited to five minutes. These time limits will be observed strictly in order to allow parties to testify.

6. The Council may ask questions for clarification. If so, this will be over and above the time limits imposed above.

7. A written record of each hearing will be made. Appearance at more than one hearing is unnecessary. Scheduling preference will be given to individuals and groups which have not testified at other hearings.

Instructions for Written Comment

1. Comments should be limited to the proposed amendment and must be received in the Council's central office, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205 by 5 p.m. on September 30, 1987. Comments received after that time will not be considered.

2. Written comments should be marked "Umatilla Hatchery Comments."

3. Comments should be specific and concise. Alternative language should be submitted if a change is being proposed.

4. All comments should be typed, if possible, and double spaced. It would also be helpful if a separate page were prepared for comments on each proposed amendment or rejection. Provide ten copies of all comments, if possible.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, director of public information and involvement, 850 SW. Broadway, Suite 1100, Portland, Oregon 97205 (toll-free 1–800–222–3355 in Idaho, Montana and Washington; toll-free 1–800–452–2324 in Oregon; or 503–222–5161).

SUPPLEMENTARY INFORMATION: On November 15, 1982, as required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 94 Stat. 2697, 16 U.S.C. 839 *et seq.* (the Act), the Council adopted a Columbia River Basin Fish and Wildlife Program. The Act allows the Council to amend its program from time to time.

In 1984, the Council called on Bonneville to fund the development of a hatchery at Umatilla, Oregon, to produce 200,000 summer steelhead (40,000 pounds). At its October 1986 meeting, the Council approved siting, feasibility and preliminary design of the hatchery, and directed that the design should allow for future expanded capacity up to 160,000 pounds. The Council noted that an amendment would be needed prior to expanded construction. At its February 1987 meeting, the Council approved such an amendment, and called for development of a facility master plan.

A hatchery master plan is being prepared, which will describe the production profile, smolt release sites, etc., and explain how the hatchery operations will respond to the program goal of doubling salmon and steelhead run sizes, and other Council policies (see Program Section 204). The Council expects the master plan to be submitted in October 1987, with Council action in December 1987, and construction beginning in mid-1988.

During the early phases of master plan development it became apparent that the Umatilla hatchery would be a good place to test a new method of fish production using supplemental oxygen. In the existing hatchery design, half of the ponds would use a standard double-pass water system, in which a given volume of water is used twice. Oxygen supplementation involves re-aerating oxygen-depleted water so that a given volume of water can be used three

times. Oxygen supplementation has been tested in the Great Lakes with trout and steelhead with good success. Evaluation of production releases for sea-run salmon and steelhead is necessary to validate oxygen use as a production strategy for the Columbia River Basin. The Umatilla hatchery is a good candidate for evaluating this technique because the hatchery would rely entirely on groundwater, and avoid potential disease probelms.

It successful, it appears that the supplemental oxygen technique could result in significantly increased smolt production, up to 290,000 pounds of salmon and steelhead smolts. The increased production would contribute to meeting fish agency and tribal objectives in the Umatilla basin and to meeting the Council's goal of doubling basinwide production in a biologically sound manner.

The estimate capital cost (design and construction) for the 160,000 pound capacity hatchery using standard techniques (without oxygen supplementation) is estimated at $7 million. The estimated capital cost for the 290,000 pound capacity hatchery using oxygen supplementation is about $8 million. Additional costs would be incurred for monitoring and evaluation. If oxygen supplementation is not successful, the hatchery can be operated using standard techniques and would still result in a capacity of 160,000 pounds. Preliminary estimates for operations and maintenance are $550,000 per year for the 160,000 pound capacity hatchery and $800,000 per year for the 290,000 pound capacity hatchery.

Increasing the capacity of the hatchery through use of supplemental oxygen could yield economies of scale. For example, the capital cost of producing a pound of fish is $43.75 for the 160,000 pound capacity hatchery, and $27.60 for the 290,000 pound capacity hatchery. The capital cost for the 290,000 capacity hatchery ($27.60 per pound in 1987 dollars) is low when compared to the average cost for hatcheries in the region of similar capacity ($38.00 per pound in 1987 dollars). The economies of scale for capital costs are partially offset by the larger annual costs for operation and maintenance when oxygen supplementation is used.

Text of Proposed Amendment

Amend Program Section 730(f)(1)(A) to read:

(f) Construction of Major Production Facilities. (1) Bonneville shall fund the Confederated Tribes of the Umatilla Reservation of Oregon to operate and maintain the Bonifer and Minthorn juvenile release and adult collection and holding facilities on the reservation. Bonneville also shall fund the construction of a facility to test the efficacy of oxygen supplementation hatchery techniques to produce up to 290,000 pounds of summer steelhead and chinook salmon smolts. These smolts shall be for release in the Umatilla juvenile release and adult collection holding facilities and for outplanting in the upper Umatilla River to enhance natural and hatchery production.

(A) Prior to construction of this facility, the Oregon Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Reservation of Oregon will develop a facility master plan for Council approval. The master plan will include for each species:

(i) Rearing schedule and release sites and schedules;

(ii) A detailed production profile that includes the brood stock source, numbers of fish to be released, and the expected annual adult returns;

(iii) A description of related harvest plans;

(iv) Proposed management policies and hatchery practices to ensure that hatchery releases protect genetic integrity of native stocks, are disease-free, and are coordinated with other fish and wildlife agencies and tribes in the Columbia River Basin;

(v) A proposal for biological monitoring and evaluation studies to assess the effectiveness of outplanting facilities in supplementing natural production in a biologically sound manner; to assess the effects of the outplanting on resident fish populations; and to assess the effectiveness of oxygen supplementation hatchery techniques; and

(vi) Evidence of coordination with system planning described in Section 205; System Planning.

Edward Sheets,

Executive Director.

[FR Doc. 87-19905 Filed 8-28-87; 8:45 am]

BILLING CODE 0000-00-M

Northwest Power Planning Council; Columbia River Basin Fish and Wildlife Program; Final Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of final amendments.

SUMMARY: On February 11, 1987, the Pacific Northwest Electric Power and Conservation Planning Council (the Council) amended its Columbia River Basin Fish and Wildlife Program (Fish and Wildlife Program). The amended Fish and Wildlife Program has been reprinted and is now ready for distribution.

FOR FURTHER INFORMATION CONTACT: Copies of the final Fish and Wildlife Program (including responses to comments) may be obtained by contacting Ms. Dulcy Mahar, Director of Public Information and Involvement, Suite 1100, 850 SW. Broadway, Portland, Oregon 97205 (Toll-free 1-800-222-452-3355 in Montana, Idaho, and Washington: Toll-free 1-800-452-2324 in Oregon; or 503-222-5161). Those who earlier received copies of the draft Fish and Wildlife Program amendments will automatically be sent a copy of the final amended version.

SUPPLEMENTARY INFORMATION: As required by the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501, 94 Stat. 2697, 16 U.S.C. 839 *et seq.* (the Act), the Council adopted a Fish and Wildlife Program and a Power Plan. The Act allows the Council to amend its Plan or Program from time to time, and requires the Council to review those documents at least once every five years.

Amended Fish and Wildlife Program

The final Fish and Wildlife Program amendments are the result of a process that began July 1, 1985, when the Council (as required by the Act) called for recommendations for amendments to the Program. Over 90 amendment applications were received by the February 18, 1986 deadline. A summary of the amendment applications and their complete text were made available to all interested parties. At its June and July, 1986 meetings, the Council reviewed selected amendment applications, and solicited public comments. Informal consultations regarding all amendment applications also were held with the groups and individuals submitting amendments or significantly affected by them. At its August, 1986 meeting, the Council voted to release proposed Fish and Wildlife Program amendments in the form of a Draft Amendment Document, for further public comment. Subsequently, the Council:

- Announced the proposed amendments, public hearings and public comment period through the **Federal Register**, the Council's mailing list, and the Council's newsletters;

• Held public hearings in Spokane, Washington (October 2); Portland, Oregon (October 8); Boise, Idaho (October 21); Kalispell, Montana (October 22); and Missoula, Montana (October 23);

• Accepted and reviewed written comments through December 15, 1986; and on selected issues (bypass, transportation and wildlife issues) in January, 1987;

• Consulted with state and federal fish and wildlife agencies, Indian tribes, Bonneville Power Administration, Bonneville customers, hydropower project operators and others, and;

• Compiled an extensive administrative record of public comments from groups and individuals.

At its February 11, 1987 meeting in Spokane, Washington, the Council adopted final amendments to its Fish and Wildlife Program. Among the highlights of the amendments are:

• The amendments set an interim goal of rebuilding the current run of 2.5 million to 5 million adult salmon and steelhead.

• Under a coordinated, systemwide planning approach, each subbasin in the Columbia system will be evaluated for its potential to produce salmon and steelhead in order to contribute to the goal for the overall system. The planning will emphasize the interaction of mainstem fish passage, harvest regulation and production. Emphasis will be put on areas above Bonneville dam, where the greatest losses have occurred.

• The Council endorsed a sliding scale approach to spill, which would provide higher fish protection in years when water is above a critically low level. The program continues to call for enough spill to guarantee 90 percent juvenile fish survival at mainstem dams in critical water years. An annual spill plan is to be worked out between the Corps of Engineers and the fish and wildlife agencies and tribes, with the Council facilitating consensus.

• New schedules have been set for the Corps of Engineers to complete mechanical bypass systems (such as submersible screens) for juvenile fish traveling downstream. The final date for a bypass installation is 1994.

• The program has been modified to encourage experimentation with an evaluation of alternatives for implementing the water budget. Water budget testing and analysis is to take place at least through 1988.

• New or expanded artificial production of salmon and steelhead has been authorized in the northeastern Oregon, Deschutes and Umatilla subbasins. Projects include: 1) a Northeast Oregon hatchery emphasizing low-cost, small-scale technologies; 2) partitioning the Pelton Dam fish ladder to create juvenile rearing ponds in the Deschutes River for use as a holding facility for young salmon from the Round Butte Hatchery; and 3) expansion of the planned Umatilla hatchery to allow about 160,000 pounds of steelhead and chinook salmon.

• Four priority salmon and steelhead research areas have been identified for Bonneville funding. The program calls for work groups to develop five-year research work plans. Two priority areas are identified for research conducted by the U.S. Army Corps of Engineers.

• Wildlife mitigation plans have been adopted for Hungry Horse and Libby dams in Montana. The action calls for Bonneville to fund projects that address the impacts on wildlife and wildlife habitat caused by the construction of the two dams. The plans address elk, mule and white-tailed deer, black and grizzly bears, waterfowl, Columbian sharp-tailed grouse, bighorn sheep and terrestrial furbearers.

• The program now includes a policy for substituting resident fish in those areas which are permanently blocked to anadromous (ocean migrating) fish. Six resident fish projects were approved above Chief Joseph Dam, and eight projects above Hells Canyon Dam.

The revised Program has particular significance for certain federal agencies. The Act requires the Bonneville Power Administration, in the U.S. Department of Energy, to use its funding and legal authorities to protect, mitigate and enhance fish and wildlife affected by hydropower projects in the Columbia River Basin in a manner consistent with the Program (16 U.S.C. 839b(h)(10)(A)). It also requires Bonneville and "other federal agencies responsible for managing, operating or regulating" Columbia River Basin hydropower facilities (i.e., the Bureau of Reclamation, U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission) to take the Program into account at each relevant stage of their decisionmaking processes to the fullest extent practicable (16 U.S.C. 839b(h)(11)(A)). Accordingly, various provisions of the revised Program call on those federal agencies to implement and/or fund specific fish and wildlife projects.

Edward Sheets,

Executive Director.

[FR Doc. 87-19906 Filed 8-28-87; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24836; File No. SRN-NYSE-87-24]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc. Relating to the Extension of the Effectiveness of NYSE Rule 103A From July 31, 1987 to September 30, 1987

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 29, 1987, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend the effectiveness of NYSE Rule 103A until September 30, 1987. The intent of Rule 103A is to encourage a high level of market quality and performance in Exchange listed securities. Rule 103A authorizes the Market Performance Committee of the NYSE to withdraw NYSE approval of a member's registration as specialist in one or more stock(s) if the specialist has consistently received evaluations by Floor brokers on the quarterly Specialist Performance Evaluation Questionnaire ("SPEQ") which are below a level of acceptable performance as specified in the Rule.The proposed rule change also concerns revisions to the Options "SPEQ" [1] to reflect editorial changes in the form used to administer Rule 103A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of

[1] In its filing, the NYSE included copies of its revised Options SPEQ. Copies of the revised options SPEQ are available from the Commission at the address noted in Section IV below and from the NYSE.

these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to extend the effectiveness of Rule 103A to September 30, 1987.

As described in more detail in File No. SR-NYSE-81-11, Rule 103A authorizes the Market Performance Committee of the NYSE to withdraw NYSE approval of a member's registration as specialist in one or more stocks if the specialist has consistently received evaluations by Floor brokers on the quarterly SPEQ which are below a level of acceptable performance as specified in the Rule.

As described in File No. SR-NYSE-85-14, and File No. SR-NYSE-86-19, the Exchange conducted a pilot program to test revisions to the current SPEQ and its associated processes.

The Market Performance Committee's Subcommittee on Performance Measures and Procedures (the "Subcommittee") has concluded its analysis of data produced by the revised SPEQ, and has developed additional measures and standards of specialist performance, such as DOT turnaround performance, to be incorporated into a revised Rule 103A. In a companion filing to this one, the Exchange requests Commission approval to commence a two year pilot program to test the revisions to Rule 103A developed by the Subcommittee.[2]

The Exchange is requesting this two-month extension of current Rule 103A so that the Rule may remain in effect while the Commission considers the proposed revisions to Rule 103A. The Exchange also requests this extension because it continues to review the current Rule as providing a basis for ongoing performance improvement initiatives, such as counseling of specialist units by the Market Performance Committee, which has proven to be effective in improving both individual and overall specialist performance on the Exchange. The Exchange intends that the market Performance Committee will continue its counseling procedures during the period of the Commission's consideration of the Exchange's filing requesting Commission approval to begin a pilot program to test the proposed revisions to Rule 103A.

In addition, the Exchange requests that the Commission continue the applicability of Rule 103A to the Options SPEQ. The questionnaire will be graded on the seven-point scoring and analysis method defined in existing Rule 103A.10. As a result, the current standards of acceptable performance described in the Rule will continue to be applicable to options specialists as determined by their SPEQ scores and will provide a basis for the Exchange to initiate reallocation proceedings against an option specialist unit under Rule 103A

Revisions to the Options "SPEQ" as submitted herein are editorial in nature, such as the listing and delisting of options classes, additional options specialist units and name changes to several options specialist units. The Exchange expects that, prior to September 30, 1987, it will file with the Commission a separate rule that will be applicable to options specialists.

(2) Basis Under the Act for Proposed Rule Change

The statutory basis for the proposed rule change in section 6(b)(5) of the Act as amended which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trades, to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

Since Rule 103A has proven to be an effective means of improving specialist performance, thereby adding to the overall quality of the NYSE market, the Exchange requests that the Commission find good cause to approve the proposed rule change on an accelerated basis, and in any event prior to July 31, 1987, the date on which Rule 103A expires.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal offices of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by September 21, 1987.

V. Conclusion

The Commission finds that the proposed rule change is consistent with requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the current pilot program expired on July 31, 1987. An extension of the effectiveness of Rule 103A until September 30, 1987 will allow the current pilot program to remain in effect while the Commission considers for approval the NYSE's proposal to substantially revise Rule 103A for a two year pilot period. The Commission, therefore, believes that accelerated effectiveness of the proposed rule change is appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

[2] *See* NYSE File No. SR-NYSE-87-25.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

Dated: August 21, 1987.

[FR Doc. 87-19979 Filed 8-28-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15949; (812-6644)]

L&N CMO Funding Corp. Application;

August 25, 1987.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: L&N CMO Funding Corporation (the "Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks a conditional order exempting it and certain trusts that it has formed or may form from all provisions of the 1940 Act in connection with the trusts' proposed issuance of collateralized mortgage obligations and the sale of beneficial ownership interests in such trusts.

Filing Date: The application was filed on March 9, 1987, and amended on June 26, 1987 and August 20, 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 September 18, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 2001 Bryan Tower, Suite 3600, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

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[3] 17 CFR 200.30-3.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Applicant is an indirect, wholly-owned limited purpose financing subsidiary of Lomas & Nettleton Financial Corporation.

2. The Applicant has formed and will form separate trusts ("Trusts") for the limited purpose of issuing one or more series ("Series") of collateralized mortgage obligations ("Bonds") and investing in certain Agency Certificates (described in Condition A.2. below) which will be used to collateralize such Bonds. The requested order will apply only to Trusts that have not issued any bonds as of the date of the order.

3. Each Trust has been or will be formed pursuant to a separate deposit trust agreement ("Agreement") between the Applicant, acting as depositor, and a bank or trust company or other fiduciary acting as owner-trustee ("Owner Trustee"). Each Trust will issue one or more Series of Bonds under the terms of an indenture ("Indenture") between the Owner Trustee and an independent trustee ("Indenture Trustee"), as supplemented by one or more series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

4. In the case of such Series of Bonds: (a) Each Trust will hold no substantial assets other than the Agency Certificates and cash; (b) the Bonds will be secured by Agency Certificates or cash having a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) distributions of principal and interest received on the Agency Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Agency Certificates will be assigned by the Owner Trustee to the Indenture Trustee and will be subject to the lien of the related Indenture. Applicant does not intend to deposit in any Trust Agency Certificates with a collateral value which exceeds 120% of the aggregate principal amount of the related Bonds.

5. The beneficial in each Trust will be initially held by the Applicant which may in turn sell or assign all or a portion of its beneficial interests in each Trust to a limited number, in no event more than one hundred, of sophisticated institutional investors ("Equity Investors").

6. Neither the Equity Investors of any of the Trusts, the Owner Trustee nor the Indenture Trustee will be able to impair the security afforded by the Agency Certificates to the holders of the Bonds. That is, without the consent of each Bondholder to be affected, neither the Equity Investors of any of the Trusts, the Owner Trustee nor the Indenture Trustee will be able to: (1) Change the stated maturity on any Bonds; (2) reduce the principal amount or the rate of interest (or the formula by which such rate is computed) on any Bonds; (3) change the priority of payment on any class of any Series of Bonds; (4) impair or adversely affect the Agency Certificates securing a Series of Bonds; (5) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture with respect to the Agency Certificates; or (6) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

7. The sale of the beneficial interests in each Trust will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to the Indenture to support payments of principal and interest on the Bonds.

8. The interest of the Bondholders will not be compromised or impaired by the ability of the Applicant to sell beneficial interests in each Trust, and there will not be a conflict of interest between the Bondholders and the holders of the beneficial interests.

Applicant's Legal Conclusions

The requested order is necessary and appropriate in the public interest because: (a) The Trusts should not be deemed to be entities to which the provisions of the 1940 Act were intended to be applied; (b) the Trusts may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Trusts' activities are intended to serve a recognized and critical public need; (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933 (the "1933 Act") and thereafter by the Indenture Trustee representing their interests under the

Indenture; and (e) the beneficial interests in the Trusts will be held entirely by the Applicant or offered only to a limited number of sophisticated institutional investors through private placements.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following:

A. Conditions Relating to the Bonds

1. Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) thereof.

2. The Bonds will be "mortgage-related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. In addition, the mortgage collateral underlying the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates ("Agency Certificates").

3. If new Agency Certificates are substituted, the substitute certificates will: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new collateral may not be substituted for more than 40% of the aggregate face amount of the Agency Certificates initially pledged as collateral. In no event may any new Agency Certificate collateral be substituted for any substitute Agency Certificate collateral.

4. All Agency Certificates, funds, accounts or other collateral securing a Series of Bonds will be held by an Indenture Trustee, or on behalf of the Indenture Trustee by an independent custodian. Neither the Indenture Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Indenture Trustee will be provided with a first priority perfected security or lien interest in and to all bond collateral.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. No less often than annually, an independent public accountant will audit the books and records of the Trust and, in addition, will report on whether the anticipated payments of principal and interest on the Agency Certificate Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Indenture Trustee.

B. Additional Conditions Relating To Variable-Rate Bonds

1. The interest rate for each class of variable-rate bonds will be subject to maximum interest rates ("Interest rate caps") which may vary from period to period, and always will be specified in the related prospectus supplement for a Series of Bonds.

2. The Bonds will be structured so that the collateral deposited with the Indenture Trustee will at all time be sufficient to support all payments of principal and interest on the Bond of such Series under the assumption that the interest rate on each such class is the maximum rate for each specified period.[1]

[1] In the case of a Series of Bonds that contains a class or classes of adjustable or floating rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or floating rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable or floating rate Bonds; (ii) "inverse" floating rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" floating rate Bonds); (iii) floating rate collateral (such as adjustable rate GNMA Certificates) to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount) and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of Investment Management (the "Staff") notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

3. No Agency Certificates may be released from the lien of the Indenture prior to retirement in full of all Bonds of any Series except to the extent permitted by the limited right to substitute collateral as described herein.

C. Conditions Relating to the Sale of Equity Interests

1. Applicant may sell or assign its beneficial interests in each Trust to a limited number, in no event more than one hundred, of sophisticated institutional, investors in transactions exempt from the registration requirements of the 1933 Act under section 4(2) thereof. Such institutional investors may include one or more banks, savings and loan associations, insurance companies, and pension plans or other investors that would have prior experience in making investments in mortgage related securities or real estate.

2. Each Equity Investor will be required to represent that it is purchasing such beneficial interests for investment purposes and not for distribution and that it will hold such beneficial interests in its own name and not as nominee for undisclosed investors. In addition, the Deposit Trust Agreement relating to each Trust will further prohibit the transfer of any certificates for such beneficial interests if there would be more than one hundred Equity Investors at any time.

3. No holder of a controlling interest in a Trust (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either the custodian or any nationally recognized statistical rating agency rating the Bonds. At the time of its purchase of an equity certification, none of the Equity Investors of the Trust will be affiliated with the Indenture Trustee.

D. Condition Relating to REMICs

The election by any Trust to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by any such Trust. Any Trust that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Trust will be paid or provided for as set forth in the application, in a manner satisfactory to the agency or agencies rating the Bonds. Each Trust will ensure that the anticipated level of fees and expenses will be more than adequately provided for, regardless of the method which is selected by such Trust to provide for the payment of such fees and expenses.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-19978 Filed 8-28-87; 8:45 am]

BILLING CODE 8010-01-W

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review Enhancement Program Rotorcraft Subcommittee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Rotorcraft Subcommittee of the National Airspace Review Enhancement Advisory Committee. The agenda for this meeting is as follows:

Opening Remarks
Review of Priority Rotorcraft Issues
Selection of Study Areas
Appointment of Work Group(s)
Summary

DATE: September 15, to convene at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave. SW., Room 1010, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Department of Transportation, Federal Aviation Administration, National Airspace Review Enhancement Program, 400 7th St. SW., Room 5103, ATO-20, Washington, DC 20590, (202) 366-1300. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Program Manager, National Airspace Review Enhancement Program, at the above address by September 8. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, DC on August 14, 1987.

Brooks C. Goldman,

Executive Director, NAREAC.

[FR Doc. 87-19939 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review Enhancement Program Weather Subcommittee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Airspace Review Enhancement Program Weather Subcommittee. The agenda for this meeting is as follows:

Opening Remarks
Review of Priority Weather Issues
Selection of Study Areas
Appointment of Work Group(s)
Summary

DATE: September 18, to convene at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Ave. SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Department of Transportation, Federal Aviation Administration, National Airspace Review Program Management Staff, 400 7th St., SW., Room 5103a, ATO-20, Washington, DC 20590, (202) 366-4172. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Program Manager, National Airspace Review Program, at the above address by September 8. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, DC on August 14, 1987.

Brooks C. Goldman,

Executive Director, NAREAC.

[FR Doc. 87-19940 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP 97-05; Notice 02]

BMW of North America; Grant of Petition for Determination of Inconsequential Noncompliance

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

SUMMARY: This notice grants the petition by BMW of North America, Inc. of Montvale, New Jersey, 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 571.108, Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the grant is that the noncompliance is inconsequental as it relates to motor vehicle safety.

Notice of the petition was published on May 14, 1987, and an opportunity afforded for comment (52 FR 18317).

Paragraphs S4.1.1.36(f)(4)(ii) and S4.1.1.38(c) of Standard No. 108 require that the lens of each upper beam headlamp with a replaceable light source (other than an HB1 used alone) be permanently marked with the letter "U" and bear the Type Designation(s) for its light sources. BMW of North America manufactured 1,400 735i passenger cars from January 10, 1987 to February 17, 1987, that did not comply with the above paragraphs. The lens of each upper beam headlamp was not permanently marked "U" and "HB3" as required.

BMW considered these noncompliances to be inconsequential as they related to motor vehicle safety because:

1. Mechanics will always be able to determine and obtain the correct replacement bulbs and headlamps, and will install them correctly.

2. BMW replaceable bulb headlamps are vehicle-specific and left/right-specific. These provisions make incorrect positioning of the upper and lower beam headlamps physically impossible.

3. The HB3 bulbs only fit HB3 connectors and only HB3 bulbs fit into BMW upper beam headlamps. Also, the wires to the upper beam bulb are to short to reach to lower beam headlamp.

One comment was received in response to the Notice; General Motors supported the petition. In its opinion, the lack of interchangeability between replaceable light sources and the location of the upper beam headlamp are sufficient to prevent a mistaken use of an HB4 light source.

The agency has decided to grant BMW's petition. It has found especially convincing the argument that HB3 light sources fit only connectors designed for them, and are the only light sources that will fit into the BMW upper beam headlamps. The fact that the headlamps are intended only for BMW cars also reduce the likelihood of improper bulb or headlamp replacement. Accordingly, in consideration of the foregoing, it is hereby found that the petitioner has met its burden of persuasion that the noncompliance herein described in inconsequential as it relates to motor

vehicle safety, and its petition is 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: August 25, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–19900 Filed 8–28–87; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 26, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8621
Type of Review: Resubmission
Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund

Description: Form 8621 is used by shareholders of foreign investment companies. Shareholders of passive investment companies use Form 8621 to report distributions from the fund, and a deferred tax amount when an excess distribution is made. Shareholders of qualified electing funds are taxed on current income from the fund. The IRS uses Form 8621 to verify that shareholders have included the correct amount of income from these entities.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Burden: 8,173 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Department Reports Management Officer.

[FR Doc. 87–19946 Filed 8–28–87; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 26, 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.

Departmental Offices

OMB Number: 1505–0001
Form Number: Treasury International Capital Form S
Type of Review: Extension
Title: Purchases and Sales of "Long-Term" Securities by "Foreigners"

Description: This form is filed by banks, other depository institutions, brokers and dealers, and other firms or intermediaries in the U.S., who deal directly with foreign residents (or their U.S. nominees) in transacting foreigners' purchases and sales of long-term U.S. or foreign securities.

Respondents: Businesses or other for-profit.

Estimated Burden: 16,200 hours.

Clearance Officer: Dale A. Morgan (202) 343–0263, Department of the Treasury, Room 2224, 15th & Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

U.S. Customs Service

OMB Number: 1515–0075
Form Number: 7512–C and 7512–D
Type of Review: Reinstatement
Title: Transportation Entry and Manifest of Goods, In-Bond Control Report

Description: Customs Forms 7512–C and D are control cards used by importers, customshouse brokers, and carriers to show proof of delivery of merchandise entering the United States and being transported in-bond to another port of destination in the United States.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 8,340 hours.

Clearance Officer: B. J. Simpson (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Internal Revenue Service

OMB Number: New
Form Number: 8453–S
Type of Review: New Collection
Title: S Corporation Declaration for Magnetic Media/Electronic Filing

Description: This form will be used to secure the corporate officer's signature and declaration in conjunction with the Magnetic Media/Electronic Filing Pilot. This form, together with the magnetic media/electronic transmission, will comprise the S corporation tax return.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 150 hours.

OMB Number: 1545–0014
Form Number: 637
Type of Review: Revision
Title: Registration for Tax-Free Transactions Under Chapters 31, 32, and 38 of the Internal Revenue Code

Description: Certain manufacturers, refiners, importers, and purchasers are exempt from excise tax on taxable articles including gasoline if they use this form to register with IRS for tax-free transactions. The data is used to determine if the applicant qualified for the exemption.

Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Burden: 11,886 hours.

OMB Number: 1545–0935
Form Number: 1120–FSC and Schedule P
Type of Review: Revision
Title: U.S. Income Tax Return of a Foreign Sales Corporation and Related Schedules. Schedule P—Computation of Transfer Price or Commission

Description: Form 1120–FSC is filed by foreign corporations that have elected to be Foreign Sales Corporations (FSCs) or small FSCs. The FSC uses Form 1120–FSC to report income and expenses and to figure its tax liability. IRS uses Form 1120–FSC, and Schedule P (Form 1120–FSC) to determine whether the FSC has correctly reported its

income and expenses and figured its tax liability correctly.

Respondents: Businesses or other for-profit.

Estimated Burden: 52,491 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 87–19947 Filed 8–28–87; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 87–98]

Reimbursable Service; Excess Cost of Preclearance Operation

Date: August 5, 1987.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 30, 1987.

Installation	Bi-weekly excess cost
Montreal, Canada	$20,531
Toronto, Canada	33,223
Kindley Field, Bermuda	13,541
Nassau, Bahama Islands	23,428
Vancouver, Canada	14,671
Winnipeg, Canada	3,096
Freeport, Bahama Islands	14,737
Calgary, Canada	8,779
Edmonton, Canada	5,465

William F. Riley,

Acting Comptroller.

[FR Doc. 87–19962 Filed 8–28–87; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

1988–89 Fulbright Teacher Exchange Program

The United States Information Agency announces the 1988–89 Fulbright Teacher Exchange Program. Applications are invited from elementary and secondary school teachers and administrators and college faculty to teach in schools or colleges, or to attend seminars abroad under the Mutual Educational and Cultural Exchange (Fulbright) Act of 1961. Not all categories of applicants are eligible for exchange or seminar positions with all countries.

Eligibility requirements include: (1) U.S. citizenship; (2) bachelor's degree; (3) three years of full-time teaching experience for teaching positions; two years full-time teaching experience for seminar positions; (4) current full-time employment in appropriate subject areas and at appropriate teaching level for which application is made; and, (5) fluency in foreign languages for certain non-English speaking countries. Participating countries are announced on a tentative basis: Argentina; Australia; Belgium/Luxembourg; Brazil; Canada; Chile; Colombia; Cyprus; Denmark; Federal Republic of Germany; Finland; France; Hungary; Iceland; Italy; Mexico; the Netherlands; Norway; Panama; the Philippines; South Africa; Switzerland, and the United Kingdom.

Usually, U.S. and foreign teachers exchange teaching positions for one academic year. U.S. and foreign teachers continue to receive salaries from their home institutions.

A limited number of one-way teaching assignments are also available. In addition, seminars are presently planned in Italy and the Netherlands.

Participants in seminars may be provided with transportation, room, board, and/or tutition, depending upon the program. Applications for the 1988–89 competition must be submitted by October 15, 1987. The application packet is disseminated in August and September. Further information should be requested from the: Fulbright Teacher Exchange Program E/ASX, United States Information Agency, 301 Fourth Street SW., Washington, DC 20547, (202) 485–2555.

Dated: August 21, 1987.

Jeanne J. Smoot,

Director, Office of Academic Programs.

[FR Doc. 87–19877 Filed 8–28–87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 168
Monday, August 31, 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 MINE SAFETY AND HEALTH REVIEW COMMISSION

August 26, 1987.

TIME AND DATE: 10:00 a.m., Thursday, August 27, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10).

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

5. *Rushton Mining Company*, Docket Nos. PENN 85-253-R, and PENN 86-1. (Issues include consideration of Rushton's petition for discretionary review.)

It was determined by a unanimous vote of Commissioners that this item be included on the agenda, and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-20026 Filed 8-27-87; 12:57 p.m.]

BILLING CODE 6735-01-M

POSTAL SERVICE BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 32094, August 25, 1987.

PREVIOUSLY ANNOUNCED DATE: September 1, 1987.

CHANGES IN THE MEETING: Addition of the following agenda item:

Officer Compensation.

CONTACT PERSON FOR MORE INFORMATION: Mr. David F. Harris, Secretary of the Board, (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 87-20043 Filed 8-27-87; 3:23 pm]

BILLING CODE 7710-12-M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 2:30 p.m., Wednesday, September 2, 1987.

PLACE: Eighth Floor, 1120 Vernont Avenue, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED. Adjudication of cases with issues of jurisdiction and questions of the timeliness of the petitions for appeal and petitions for review.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Shannon McCarthy, Deputy Clerk of the Board, (202) 653-7200.

Date: August 27, 1987.

Shannon McCarthy,

Deputy Clerk of the Board.

[FR Doc. 87-20065 Filed 8-27-87; 3:56 pm]

BILING CODE 7400-01-M

Corrections

Federal Register
Vol. 52, No. 168
Monday, August 31, 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 EDUCATION

34 CFR Part 668

Student Assistance, Postsecondary Education; Appeal Procedures for Audit Determinations and Program Review Determinations

Correction

In rule document 87-18352 beginning on page 30114 in the issue of Wednesday, August 12, 1987, make the following corrections:

§ 668.93 [Corrected]

1. On page 30115, in the third column, in § 668.93(a), in the second line, "ficial" should read "official".

§ 668.95 [Corrected]

2. On page 30116, in the first column, in § 668.95(e)(1)(v), in the fourth line, "3" should read "30".

BILLING CODE 1505-01-D

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Methods of Withdrawing Funds From the Thrift Savings Plan

Correction

In rule document 87-19552 beginning on page 32280 in the issue of Wednesday, August 26, 1987, make the following correction:

On page 32280, in the first column, under **DATES**, the first line should read "Interim rules effective August 26, 1987;".

BILLING CODE 1505-01-D

federal register

Monday
August 31, 1987

Part II

Small Business Administration

13 CFR Part 121

Small Business Size Standards; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration today proposes regulations governing the procedural rules relative to SBA's size determination program. Revision to these rules has been under review for more than one year. The proposed rule would improve the conceptual framework of small business size standards by reorganizing the current rules to obtain a more logical progression, by clarifying existing ambiguities in the current rules, by conforming these rules to present SBA policies and precedents, and by providing slight substantive modifications where necessary. The reorganized rules would be easier to utilize and should make more sense to the public. The proposed rule would specifically identify how a business entity can be considered small for each of SBA's programs and would separate the size eligibility requirements for each program into separate sections for ease of use. The proposed rule would incorporate several changes made to the Small Business Act by the Continuing Resolution for Fiscal Year 1987, Pub. L. 99–591, and the National Defense Authorization Act for Fiscal Year 1987, Pub. L. 99–661, and would make the procedures for small business size protests and size appeals more understandable. This proposal would not, however, change the specific size standards which apply to particular industries and Standard Industrial Classification Codes. SBA published a complete revision to the substantive size standards themselves on February 9, 1984, 49 FR 5024, and a rule which conformed the size standards to the newly revised SIC system on January 8, 1987, 52 FR 397.

DATE: Written comments must be submitted on or before October 30, 1987.

ADDRESS: Written comments should be addressed to David R. Kohler, Associate General Counsel for General Law, Small Business Administration, 1441 L Street, NW., Room 706, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John W. Klein, Attorney Advisor, Office of General Law, (202) 653–6377.

SUPPLEMENTARY INFORMATION: Pursuant to subsection 3(a) of the Small Business Act, 15 U.S.C. 632(a), the Small Business Administration is charged with the responsibility of setting size standards by which a business entity may be judged to be small. This proposed rule would not change the substantive (numerical) size standards which are applicable to particular industries or Standard Industrial Classification (SIC) Codes. Comments concerning individual size standards should not be made in response to this proposed rule. SBA published a major revision to its substantive size standards in the **Federal Register** on February 9, 1984, 49 FR 5024. That revision indicated that SBA planned to revise the regulatory language of the procedural rules relative to the size standards in Part 121 of Title 13 of the Code of Federal Regulations for purposes of clarity. Since 1984, SBA has made, and will continue to make, changes in individual industry size standards on a case-by-case basis. In addition, on January 8, 1987, SBA modified its size standards to conform with the newly revised SIC system developed by the Office of Management and Budget, 52 FR 397. This proposed rule would reorganize the current procedural size rules to obtain a more logical progression, clarify existing ambiguities in the current rules, conform these rules to present SBA policies and precedents, and provide slight substantive modifications where necessary. The current regulations combine multiple rules and concepts in a single section. The proposed rule would provide separate regulatory sections for each rule, for ease in citation and finding.

The proposed rule would also provide a new numbering system for SBA's size regulations. The new numbering system is designed to: (1) Provide greater ease in locating rules; (2) provide a more accurate system for citation and reference to specific provisions; (3) rearrange substantive provisions in a more logical sequence; (4) eliminate single regulatory sections containing a multiplicity of rules; (5) eliminate large paragraph provisions in which significant rules run consecutively, making citation and location of such rules difficult; and (6) provide a numbering system that is more adaptable to future expansion and amendments.

Section 121.1 of the current size regulations includes only the introductory statutory reference to the size function (section 2(a) of the Small Business Act, 15 U.S.C. 631(a)). For completeness, Subpart 121.100 of the proposed rule would include all size related provisions of the Small Business Act.

Proposed § 121.201 would state the purpose of the SBA size program. It is derived from §§ 121.1(a) and 121.1(e) of the current regulations and has been clarified for easier use. The concept of "cradle to the grave" in the current regulation has been removed from this proposed rule to avoid the inference that trying to remain small is something illicit.

Proposed § 121.202 is a new section setting forth a general outline of SBA's size program and is designed to provide a better understanding of the size program for the general public.

The requirement in proposed § 121.203 that a concern which has received a negative size determination, and has already self certified as a small business for pending small business assistance, must notify contracting officers/other officials of such adverse determination would be expanded to include all assistance programs. The current rules confine this requirement to procurement and sales/lease programs. Since it would now apply uniformly in all programs, it is deleted from the procurement and sales/lease sections and placed in the general section.

Proposed § 121.204 would specify the effect of an adverse size determination and would make a cross reference to proposed § 121.1607, which would set forth the procedures by which a firm could be recertified to be small. The recertification and effect of an adverse size determination provisions are currently contained within the section relating to size determinations (current § 121.8(d)). For continuity and ease of use, this general provision concerning the effect of an adverse size determination would be repeated within the proposed provisions relating to formal size determinations (proposed § 121.1606(h), "Results of an SBA Size Determination").

Proposed Subpart 121.300 would set forth the functions and responsibilities of SBA offices as they relate to the size program. The current regulation combines the functions of many offices into § 121.10. Separate sections would exist in the proposed rule for the Office of Size Standards Staff, Office of General Counsel, the Size Policy Board, the Office of Hearings and Appeals (OHA), and the SBA Regional Offices for ease in citation and finding. The proposed provisions would more fully explain the functions of the Office of General Counsel in the size process. The proposed provisions would also specify the membership of the Size Policy Board in the regulations. A description of the functions and responsibilities of the SBA Regional Offices would be added to the regulations in proposed § 121.305. This proposal would consolidate into one

provision the references to Regional Office functions scattered throughout the current regulations. The proposed rule would also clarify to which Regional Office a size protest should be made, and would permit the SBA Regional Administrator to request a size determination whenever appropriate.

Proposed Subpart 121.400 would contain definitions of various terms used throughout the size regulations. Within these definitions would be included substantive provisions of size eligibility. Definitions of the following terms would be included in this Subpart: Affiliation; annual receipts; business concern or concern; employees; key employees; not dominant in field of operations; number of employees; and revenue. Proposed § 121.401(a)(1) is a new introductory provision to the detailed rules on affiliation in § 121.401. The proposed rule would separate out different rules and concepts into individual subsections. The current regulation combines rules and concepts in a single paragraph. The basic concept of affiliation arising out of "control" in the current regulations would be expanded in § 121.401(a)(2) of the proposed rule to add affiliation arising out of an "identity of interest" resulting in presumptive affiliation. This reflects Agency administrative size decisions and clarifies the conceptual basis of the rule. The exclusions from the affiliation rule would be broken out from the general paragraph in the current regulations (§ 121.3(a)) and made a separate § 121.401(b) in the proposed rule. The exclusion relating to Small Business Investment Companies (SBICs) is identical to the current regulation and is based on 13 CFR 107.801(a)–(d) which prohibit SBICs from controlling the small businesses which they help finance. The limitation in the current exclusionary rule to "state" development companies is deleted. Proposed § 121.401(b) would include both state and local development companies within the exclusion because there is no substantive reason to limit the exclusion to state development companies only. In addition, concerns owned by Indian tribes or Alaska Regional or Village Corporations would be added to the exclusion in the proposed rule. This is consistent with the statutory preferences accorded Indian tribes.

The rule concerning Nature of Control would be repeated in the proposed rule from §§ 121.3(a)(i) and 121.3(a)(iii)(C) of the current regulations, with clarifying language. The concept in § 121.3(b) of the current regulations would be revised in § 121.401(d) of the proposed rule to emphasize "Identity of Interest" as a basis of "control" and "affiliation." Subsection 121.401(e) of the proposed rule would make the current rule concerning affiliation through stock ownership a "presumption." This should assist in the legal interpretation and application of the rule by the Agency and interested parties. In addition, the proposed rule would break the two rules relating to affiliation through stock ownership in the current regulations (§ 121.3(a)(iii)) into separate paragraphs for ease in citation and finding. Pursuant to proposed § 121.401(e)(2), a person would be presumed to control or have the power to control a concern if the block of stock he/she owns or controls is large as compared with any other outstanding block of stock. For example, where a concern's stock is widely distributed and stockholder "X" owns 10% of the outstanding shares of the concern, "X" would be presumed to have the power to control the concern if the 10% holding by "X" is the largest single block of stock and such holding is large as compared with any other outstanding block of stock. Where the next largest block of stock is small in comparison to "X's" holding (e.g., 2–3%), "X" would be presumed to have the power to control the concern; however, where the next largest block of stock is relatively comparable with "X's" holding, say 8–9%, then "X" would not be presumed to control the concern absent other indications of control.

The concept of the current rule would also be revised by requiring minority interest holders owning holdings which are large as compared with any other stock holding to have an "identity of interest" in order to presume that each has the power to control the concern. This would make the rule more workable and would better reflect Agency case decisions in this area.

Proposed § 121.401(f) would add agreements in principle to merge as a basis for affiliation to the current regulation (§ 121.3(a)(iv)). In addition, a provision would be added so that stock options and convertible debentures could not be used by a concern so as to appear to terminate control over another concern. The proposed rule clarifies affiliation under voting trusts. The current regulation (§ 121.3(a)(v)) relates to whether the "purpose" of a voting trust is to meet Part 121 size standards and business reasons are not otherwise persuasively established. It is unclear whether this provision would exclude the use of any voting trusts whenever they had a tangential effect of allowing the concern to meet size standards. The proposed revision would limit the proscription of voting trusts only where the "primary" purpose is to avoid Part 121 size standards. In addition, the current rules concerning affiliation through common management, through common facilities, and with a newly organized concern (§ 121.3(a)(vi)) would be separated into distinct subsections, with minor technical changes, in the proposed rule. Proposed § 121.401(k) (affiliation through contractual relationships) is a new provision which would be added to reflect issues that have arisen in prior agency size cases.

The provision concerning affiliation under joint venture arrangements in the current regulations (§ 121.3(a)(vii)) would be expanded for better understanding of the issue. The proposed rule would delete reference to a joint venture as an association of "persons" and would confine the concept of "joint venture" to an association of "concerns." The purpose of this change is to eliminate the possibility that some members of the joint venture could be "persons" which could not individually qualify as an eligible entity for small business assistance; for example, a foreign national or foreign corporation. The definition of "concern" in proposed § 121.403 would limit membership in eligible joint ventures to entities which are at least 51% owned and controlled by citizens of the United States, lawfully admitted permanent resident aliens, or by other domestic business entities.

Proposed § 121.401(m) would combine the rules pertaining to affiliation under franchise and license agreements into a single section from what are essentially the same provisions in two separate sections of the current regulations (§§ 121.3(a) and 121.3(a)(vii)(E)).

Proposed § 121.402 would amend the definition of "annual receipts" from that contained in § 121.2(c)(1) of the current regulations to make it easier to understand and use. Annual receipts of a concern which has been in business for 3 or more completed fiscal years would be the arithmetic average annual revenue of the concern over its last 3 completed fiscal years. Annual receipts of a concern which has been in business for less than 3 fiscal years would be the arithmetic annual average revenue of the concern over the time period the concern has been in business. The rule would indicate how to calculate the annual receipts of a concern which has been in business for either more than or less than 3 fiscal years in easily understandable terms. The term "revenue" would be substituted for the term "gross revenue" in the proposed rule. The definition of revenue would be

clarifed to exclude receipts collected as an agent for another, such as gross bookings on which a commission is earned (e.g., only the commission earned by a travel agent would constitute revenue and not the value of gross bookings). In addition, revenue shown on the regular books of account or the Federal Income Tax return of a concern on a basis other than accrual would be required to be restated to show revenue on an accrual basis.

Proposed § 121.402(e) would add new provisions dealing with affiliates acquired or divested during the period of computing annual receipts. Such provisions were previously included in the size regulations and, presumably, their deletion in a subsequent revision was inadvertent. The provisions are consistent with similar provisions in the current "number of employees" rules (current § 121.2(b)).

The proposed revision to the definition of the term "concern" (proposed § 121.403) would eliminate eligibility for profit-making subsidiaries of nonprofit parents, recognizing that regular profit-making concerns are at a significant competitive disadvantage to such concerns. The proposed rule would expand the restrictions in the current regulations (§ 121.3(b)) so that the entity in question must not only contribute to the U.S. economy, but must also be at least 51% owned and controlled by U.S. citizens, lawfully admitted permanent resident aliens in the United States, or other domestic business entities. To be eligible as a small business for a Governmemt contract, a business entity would also have to incur more than 50% of the direct material, direct labor, and applied overhead of the contract in the United States, unless the procuring activity requires otherwise. For example, construction on a military base overseas could be performed overseas since that is required by the procuring activity, but more than 49% of the manufacture of a widget needed by a Federal agency could not be performed outside the United States where the agency does not specify that the foreign manufacture is required.

The term "employees" would be defined in § 121.404 of the proposed rule. This definition would be separated from the definition of "number of employees" where it appears in the current regulations (§ 121.2(b)). The term employees means all individuals employed on a full-time, part-time, temporary, or other basis. The proposed rule would specify that such "other basis" may exist where individuals are provided by an independent employment contractor in an apparent effort to circumvent the size regulations. The interpretation given to the term "other basis" by SBA's Statement of General Policy, SBA Size Policy Statement No. 1, published in the **Federal Register** on February 20, 1986, 51 FR 6101, would remain in effect and would not be altered by the proposed rule. Individuals supplied by an independent contractor to a concern whose size is at issue would not necessarily be considered "individuals employed [by the concern whose size is at issue] on [an] other basis." The totality of the circumstances would have to be considered in every case to determine whether the concern attempted to circumvent the size regulations and/or the spirit of the Small Business Act. Under the Small Business Act, 15 U.S.C. 631, contracts are intended to be provided to firms which are genuinely small—or small in fact—and not merely small on paper. SBA's regulations are intended to determine the size of a concern, with reference to number of employees, based on the effective workforce available to the concern by counting those individuals whose labors are available to and utilized by the business in carrying out its day-to-day activities. Proposed § 121.405 would define the term "key employee" for the first time.

Pursuant to proposed § 121.406, a business concern falling within SBA's size standards would be deemed to be "not dominant in its field of operation." The provision in the current regulations (§ 121.3(c)) which attempts to define what the term "not dominant in its field of operation" means has been deleted from the proposed rule. The size standards themselves would be used to gauge whether a business entity is considered dominant in its field of operation for purposes of small business assistance.

The four rules concerning size eligibility based on "number of employees" contained in § 121.2(b) of the current regulations would be revised into separate subsections in § 121.407 of the proposed rule. In computing average employment, part-time and temporary employees would be counted as full-time employees for each applicable pay period.

Size standards are established following the Standard Industrial Classification (SIC) System devised and maintained by the Office of Management and Budget. Specific size standards correspond to specific SIC Codes so that a concern which performs contracts under several SIC Codes may be subject to varying size standards depending on the contract to be performed. In fact, it is possible for a particular concern to be considered small for contracts with one SIC Code and other than small for contracts with a different SIC Code. Size standards follow the SIC System for two reasons; it is a uniform and widely accepted classification scheme, and economic data for industries are collected on this basis. The Office of Management and Budget published a revision to the SIC System in the **Federal Register** on October 1, 1986, 51 FR 35170, that took effect January 1, 1987. On January 8, 1987, SBA modified its size standards to conform with this newly revised SIC system, 52 FR 397, by adding a Table of Size Standards corresponding to the new SIC Codes in addition to the Table of 1972 SIC Codes and corresponding size standards which already appeared in the regulations. The industry data used in researching size standards are collected by various organizations, including the Census Bureau, the Internal Revenue Service, Dun & Bradstreet, and others. (*See* proposed § 121.503). SBA uses both published and specially prepared compilations of economic data from these sources, as well as other available sources.

Proposed § 121.501 would require the SBA to describe the factors considered, including the weights given to the various factors, when publishing a proposal to change a specific size standard. SBA would also identify, where possible, the number of businesses affected by the proposed change.

Proposed § 121.502 would specify how size standards for the following four industry categories are to be set: (1) Construction; (2) architectural and engineering services (including surveying and mapping services); (3) ship building and ship repair; and (4) refuse systems and related services. The specific SIC Codes which would be affected by this provision are spelled out in the proposed rule. The special treatment in the setting of size standards for these four industry categories was statutorily mandated by both the Continuing Resolution for Fiscal Year 1987, Pub. L. 99–591, and the National Defense Authorization Act for Fiscal Year 1987, Pub. L. 99–661. After reviewing the Federal procurement statistics of the four enumerated industry categories, the Administrator would determine whether the combined number of small business set aside contracts and section 8(a) awards exceeds 30 percent of the dollar value of the total Federal contract awards for any such industry category. Where the 30 percent level is exceeded, the

Administrator would be required to adjust the size standard(s) corresponding to the SIC Code(s) to a size that would likely reduce the combined number of such set aside contracts and section 8(a) awards to approximately 30 percent of the total value of Federal contracts awarded for that industry category.

Proposed Subpart 121.600 contains the actual size standards by SIC industry. The proposed rule would not change any of the standards from the current regulations. The introductory language to this section of the proposed rule is taken from § 121.2(a) of the current regulations. The table of size standards by SIC industry will follow this introductory language exactly as it appears in the current regulations.

Proposed Subpart 121.700 would set forth the procedures to petition for a review of size standard adjustments which were made pursuant to § 121.502 in order to reduce the percentage of small business set-aside contracts awarded under a given SIC Code to approximately 30 percent of the dollar value of the total Federal contract awards for that SIC Code. A petitioner would be required to submit credible evidence that the adjustment to the size standard is not likely to so reduce the percentage of small business set-asides under the SIC Code corresponding to such size standard and that the adjustment has caused the petitioner to suffer a severe financial loss. The procedures for petitioning for a review of an industry category designation (SIC Code) for the purpose of dividing that designation into several sub-designations (or adding additional designations) with corresponding differing size standards would also be set forth in proposed § 121.700. The petitioner would be required to show that the segmentation or the addition of an industry category designation was required due to (1) special capital equipment needs, (2) special labor needs, (3) special geographic requirements, or (4) to recognize a new industry. The petitioner would be required to submit credible evidence that the current industry category designation is not likely to assure that a fair proportion of the total purchases and contracts for property or services for the Government in that industry category are placed with small business concerns and that the current designation has caused the petitioner to suffer a severe financial loss. These procedures were added to the Small Business Act by section 921(f) of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. 99-661, and by section 921(f) of the Continuing Resolution for Fiscal Year 1987, Pub. L. 99-591.

Proposed Subparts 121.800 through 121.1500 would set forth the size eligibility requirements for the various small business assistance programs. Each program would have its own subpart covering the size eligibility requirements of that program. SBA believes that having all of the size eligibility requirements for a particular program in one place would facilitate the use of the size regulations and would make them easier to understand for the public. The same format would be followed in the rules for each program. Each subpart of the proposed revision would be introduced by a section explaining what is covered in the subpart. The current regulations are inconsistent in this respect. For example, the financial assistance section of the current regulation has such an introductory provision (current § 121.4(a)), whereas the procurement assistance section (current § 121.5) does not. Each subpart would also describe the establishment of a size standard for the programs covered and the time at which size is determined for that program. All programs except SBA's financial assistance programs and programs of other agencies would also have a self-certification procedure section.

Proposed Subpart 121.800 would specify the size eligibility requirements for SBA's financial assistance programs. The specification of programs covered would be removed from the broad "all-purpose" provision in current regulations (§ 121.4(a)) and made a separate section for ease in understanding and citation. The reference to SBA's section 8(a) program in the current regulations would be removed from the proposed rule. Size eligibility for the section 8(a) program would be made a separate subpart 121.1100 in this revision. SBA believes that the section 8(a) program is a program that in some respects deserves differentiation from the traditional financial assistance programs, and is sufficiently different from SBA's procurement programs to warrant its own size provisions.

Proposed § 121.802 would explain the establishment of the size standard for SBA's financial assistance programs. The specific rule would be removed from the "all purpose" provision in the current regulations and made a separate section for ease in understanding and citation. A dual size standard (must meet the size standard for the primary business of the applicant concern including its affiliates *and* for the applicant concern alone) would be substituted for the current rule (must meet the size standard only for the applicant, including affiliates). SBA is concerned with the inequity which arises under the current regulation where a concern, without affiliates, would not qualify for assistance under its primary business size standard, whereas another applicant, in the same industry category, would qualify for the assistance because it has affiliates which place it in a different primary business category with a higher size standard. Proposed § 121.802(a)(2) sets forth the alternate size standard for Small Business Investment and Development Companies that is in § 121.4(f) of the current regulations. The Pollution Control Guaranty Program is part of this alternate size standard provision in the current regulation. It would be removed from the alternate size standard provision in the proposed rule and placed in the single size standard provision (§ 121.802(a)(1)). The alternate size standard provision is intended for situations where private organizations (e.g. SBIC's) make the original size determination and added flexibility is needed. The administration of the Pollution Guaranty program is primarily with SBA and thus this flexibility is not needed. Thus, the simpler single primary business rule would be more appropriate for the Pollution Control Guaranty Program. Proposed § 121.802(a)(3) would substitute a single size standard of $3.5 million in annual receipts for the current triparte standard in the Surety Bond program (current § 121.4(h)). The current more complex standard is unnecessary.

Proposed § 121.802(b) removes the specific provision explaining how to determine the primary industry of a concern applying for financial assistance from the "all purpose" provision in the current regulation for ease in understanding and citation. The rule would also be repositioned in the proposed revision for more logical order. Proposed § 121.802(c) would be a new provision that would clarify issues that have arisen in size appeal cases. Specifically, the number of employees or annual receipts of all operations of the applicant concern must be aggregated in determining its size, not just the operations of its primary business. Proposed § 121.802(d) repeats the labor surplus area and redevelopment area differentials found in § 121.4(e) of the current regulations, with minor technical changes.

Proposed § 121.803 would set the time at which size is determined for financial

assistance programs at the date of the application for financial assistance. The rule would be removed from a broader provision in the current regulation (current § 121.4(d)) and made a separate provision for ease in understanding and citation. A provision would be added requiring agreements to merge, stock options, and convertible securities to be considered executed as of the date of the application. This provision would be added to the proposed regulations in response to recent situations in which concerns literally qualified as small at the time of the self certification, although a merger or similar action, carrying the concern well over the size standard, was pending. Although there is a similar provision in the Definitions section of the current regulations (and of the proposed rule), it is often overlooked when the issue presented related to the time for determining size. Proposed § 121.803(c) would be added to specify the time size is determined for applicable disaster loan assistance. This provision would be consistent with current § 123.41(b)(1) of the Disaster Loan regulations.

Pursuant to proposed § 121.804, an applicant for SBA financial assistance would be deemed to assert that it is small as part of its application. The processing official would then make a program size eligibility determination (separate and distinct from a formal size determination made by an SBA Regional Office pursuant to § 121.1600). The SBA program official in the District Office with authority to take final action on the assistance requested could request that a formal size determination be performed if he or she deems it appropriate. In addition, an applicant which has been denied assistance because the SBA program official has found it to be other than small would be able to request a formal size determination. No change is proposed in § 121.805 concerning business loans to refinance an existing loan from the current regulation (§ 121.4(c)).

Proposed Subpart 121.900 would specify the rules concerning size eligibility for Government procurement programs, including the small business set aside program, SBA's Certificate of Competency program, and the Small Business Subcontracting Program authorized under section 8(d) of the Small Business Act, 15 U.S.C. 637(d). These rules are basically the same as those contained in § 121.5 of the current regulations, with clarifying language. The specific rules would be separated from the multipurpose provisions of the current regulations and made independent sections for ease in finding and citation. The rules would also be repositioned to reflect a more orderly regulatory sequence.

Proposed §§ 121.902(b) and 121.908 would clarify the apparent inconsistency between §§ 121.5(b)(1) and 121.5(c) of the current regulations. The apparent conflict stems from the wording in current § 121.5(b)(1) which considers "the relative value of items in the procurement" as a factor in determining the appropriate SIC Code for a procurement, whereas current § 121.5(c) makes the "size standard for the item accounting for the greatest percentage of the contract value" in a multiple item procurement the appropriate size standard. In one instance, value is merely one of several factors to consider, while in the second it is the only factor.

Proposed § 121.908 (derived from current § 121.5(c)) would clarify that it applies only where there is more than one end item being procured (e.g., military shirts and military boots). It would have no application where the Government requires only one specific end item, which may or may not be comprised of more than one component. In a situation where only one end item is being procured (e.g., the procurement of a specific type of defense weapon made up of many parts, the construction of a building, or even 1000 military coats), proposed § 121.902(b) (derived from current § 121.5(b)(1)) would apply. In each of the examples, one end item is being procured (i.e., a specific weapon in the first example, a finished building in the second, and coats as specified in the third). The purpose of proposed § 121.902(b) is to characterize or classify the nature of the procurement as either being one for services, supplies, or construction. The contracting officer must have the flexibility to consider the "principal nature of the procurement" and what the Government is really purchasing in determining the proper SIC Code for such a procurement. SBA did not intend contracting officers to use the rigid "greatest percentage of contract value" requirement of current § 121.5(c), by looking only at the value of various components comprising a given end item, in selecting a SIC Code for single end item procurements. Thus, while the value of the components is an important factor in determining the "principal nature" of a single end item procurement, it is not the controlling factor in all cases. However, the contracting officer must have a good reason to classify a single end item procurement in a way that is inconsistent with the item accounting for the greatest percentage of the contract value.

Thus, proposed § 121.908 would not apply to true service contracts or construction contracts since the Government is really only purchasing one end item in such instances. The same clarifying language of proposed §§ 121.902(b) and 121.908 has also been added to proposed §§ 121.1102(b) and 121.1107, respectively, for application to section 8(a) awards.

Proposed § 121.902(d) would permit SBA, in connection with a formal size determination or size appeal, to not only clarify or complete an unclear or incomplete SIC Code designation (as permitted under current § 121.5(d)), but to also supply a missing SIC Code designation and to correct an incorrect designation in such context. Before SBA could correct an incorrect SIC Code designation, the contracting officer would be given an opportunity to submit information relating to the designation to be "corrected." In the context of determining whether a concern is small, SBA should have the right to change a SIC Code designation that is inappropriate for the particular procurement so that its size determination has meaning. Proposed § 121.903 would clarify the time at which size is determined for Government procurement programs. Size would still be determined as of the date of the concern's written self-certification as a small business, but the concern would be required to certify that it is small for a particular contract at the time that it submits its initial offer including price to the procuring activity for that contract. As in the financial assistance Subpart noted above, a provision would be added requiring agreements to merge, stock options, and convertible securities to be considered executed as of the date of the concern's certification unless the effect would be to render a large concern small. The same rationale for its inclusion in the financial assistance Subpart applies here also. Proposed § 121.905 would clarify the self-certification provision contained in the current regulation (§ 121.5(e)) and separate it into its own section for ease in citation and finding. The proposed rule would modify the language concerning protests by expressly connecting the protest procedure to the self-certification procedure; thus, each step in the size procedure would be connected to its preceding and subsequent steps, resulting in a more cohesive and easily implemented process.

Proposed § 121.906 would set forth limitations on subcontracting by

requiring a firm to perform a certain percentage of a set-aside contract with its own employees in order to qualify as a small business for that set-aside contract. These limitations were added to the Small Business Act by section 921(c) of both the Continuing Resolution for Fiscal Year 1987 and the National Defense Authorization Act for Fiscal Year 1987. The provisions relating to contracts for services (except construction) and contracts for supplies or products are repeated directly from this authorization. SBA is authorized to deviate from the 50 percent requirement for service and supply contracts where it is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. SBA invites comments concerning specific industry practices that would support any deviation. At the direction of this authority, SBA has added limitations on subcontracting for general and specialty construction contracts. The proposed rule would require both general and specialty construction contractors to perform at least 50% of the cost of the contract, excluding the cost of materials, with their own labor force. The SBA invites comments concerning the praticality of the 50% requirement on construction contractors.

Proposed § 121.907 would amend the provisions relating to manufactured products under small business set-aside procurements. The proposed rule would remove the provision from the current multi-purpose section and make it a separate section for ease in finding and citation. The format of the current "non-manufacturer" rule would be significantly revised for clarity and better understanding. For example, the negative format of the current rule (i.e., the bidder as a "non-manufacturer"—§ 121.5(b)(2)) would be replaced in the proposed rule by a positive format (i.e., the procurement of manufactured products). The proposed rule would specify that in order to qualify as a small business for the procurement of manufactured products, an offeror must first be a "manufacturer" or a "regular dealer" within the meaning of the Walsh-Healey Act. Once a concern qualifies under the Walsh-Healey Act for a Government procurement, it would also have to be the manufacturer of the end item being procured, or provide products manufactured by other concerns which would meet the size standard of the product acquired. This clarification concerning the Walsh-Healey Act was added to clear up the confusion that was caused by § 121.5(b)(2) of the current regulations. The current provision provides: "Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination need not be consistent with whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act." This provision intended that a concern would not automatically qualify as a small business manufacturer simply because it qualified as a manufacturer under the Walsh-Healey Act. The concern would have to meet the requirements of SBA's size regulations in addition to the Walsh-Healey Act. However, the "need not be consistent * * * with the Walsh-Healey Act" language was interpreted by some concerns to override the Walsh-Healey Act. That was never, and could never be, SBA's intention. The proposed rule would correct this misinterpretation.

The proposed rule would add a limited exception to the requirement of the current regulations that a nonmanufacturer must supply the products of a small business manufacturer in order for the nonmanufacturer itself to qualify as a small business concern for a small business set aside contract. Pursuant to proposed § 121.907(a)(iii), a nonmanufacturer need not provide the product of a small business manufacturer where it is determined that there are fewer than two small manufacturers of the specific end product being procured. This same exception would be added to proposed § 121.1106(a)(iii) for application to section 8(a) awards. In order to ensure consistency in the application of this exception across SBA regional office lines and between the small business set-aside program and the section 8(a) program, the determination as to which product(s) is(are) not manufactured by at least two small business concerns would be made by SBA's Administrator, and not by the respective program heads.

Proposed § 121.907(c) would add clarifying language to the definition of the term "manufacturer." SBA invites comments on suggested improvements concerning this definition. Two factors would be evaluated in determining whether a concern is a manufacturer or is performing only minimal operations for the procurement under the proposed definition: (1) The proportion of total monetary value in the end product added by the efforts of the concern, excluding costs of overhead, testing, quality control, and profit; and (2) the importance of the elements added by the concern to the function of the end product, regardless of their relative monetary value. In either case, the costs added by a concern due to overhead, testing, quality control, and profit would not assist a firm in qualifying as a manufacturer because such functions do not add any value or importance to the end product being procured. Neither of the factors listed in the proposed rule would necessarily have more weight than the other. The circumstances of each case would dictate which factor is more important in that particular instance. For example, a solicitation requires a widget with a safety switch, large manufacturer A makes the widget without such a switch, and small concern B puts the switch on the widget. The end product is the widget with a safety switch. Even though the value added by concern B to the end product may be a very small proportion of its total value, concern B may still be considered the "manufacturer" of the end product (i.e., widget with safety switch) because the safety switch is so important to the function of the end product.

Proposed § 121.907(d) would add clarifying language to the rule concerning the acquisition of kits. Where the Government has specified an item for a kit which is not produced by small business concerns, then the proposed rule would not count this item in the determination of total value under the subsection (i.e., more than 50% of the total value of the contents of the kit must be manufactured by small businesses—brand items or items produced only by large businesses would be excluded from the total value determination and would not count against the 50% requirement).

Proposed § 121.908 would apply to determine the correct size standard to use for a procurement where the procurement requires that more than one end item be supplied to the Government. (See the discussion above relating to proposed § 121.902(b).) Where an offeror is required to submit an offer on all end items in a multiple item Procurement, the offeror would qualify as a small business under proposed § 121.908 if it meets the size standard of the end items having the numerical standard which accounts for the greatest percentage of the total contract value (e.g., two end items each having a size standard of 500 employees together account for the greatest percentage of the total contract value).

Proposed § 121.909 would add a provision that would relate only to SBA's Certificate of Competency program. This proposed section would

not make any substantive changes in the size procedures affecting the COC program, but would, for the first time, specifically spell them out in the size regulations. Proposed section 121.910 would add clarifying language to the provision concerning manufactured products in an unrestricted procurement for COC purposes (current § 121.5(b)(2)(iv)), and would place it in its own section for ease in citation and use.

The proposed rule would also place the rules relating to size standards and size procedures under SBA's section 8(d) subcontracting program (current § 121.5(g)) into two separate sections (proposed §§ 121.911 and 121.912).

Proposed Subpart 121.1000 would set forth the size eligibility requirements for the sale or lease of Government property, including the Timber Sales Program, the Special Salvage Timber Sales Program, and the sale of Government petroleum, coal and uranium. The proposed rule would not make any substantive changes from the present regulations (§ 121.6). It would conform the current substance to the new format, with clarifying changes.

Proposed Subpart 121.1100 would describe the size eligibility requirements for SBA's section 8(a) Program. The rules governing size eligibility for the section 8(a) Program would be placed into a separate subpart. Currently, such rules are located within the size eligibility rules governing SBA's financial assistance programs (current § 121.4(g)) because funding for both the section 8(a) and the financial assistance programs comes from the same budgetary account. SBA believes that the section 8(a) Program is a unique program which should be separate from SBA's financial assistance programs. The proposed rule would keep the dual size determination of § 121.4(g) of the current regulations (i.e., an initial determination at the time of admission to the program based upon the primary business of the applicant, and a second determination for the award of each section 8(a) contract). The rules pertaining to size eligibility for the award of section 8(a) contracts would be as similar to the rules relating to size eligibility for SBA's procurement assistance programs (proposed § 121.900) as possible. The proposed rules covering the proper SIC Code designation for the goods or services being procured and the clarification, completion, supply, or correction of unclear, incomplete, missing, or incorrect SIC Code designations (proposed §§ 121.1102 (b)(2), (c) and (d)) would be identical to those rules in the procurement assistance subpart (proposed §§ 121.902 (b), (c) and (d)). The rules governing the time at which size is determined for individual section 8(a) contracts and the self-certification and verification procedures for the section 8(a) program would be the same as those first enunciated as an interim final rule published by SBA in the **Federal Register** on April 7, 1986, 51 FR 11705. These procedures appeared as a final rule in the **Federal Register** on December 17, 1986, 51 FR 45102.

Where the selected section 8(a) concern has merged with or been acquired by another business concern between the date of its certification and the date of the section 8(a) award, proposed § 121.1104(b)(2) would require the concern to recertify its size before award can occur. This provision has been included in the section 8(a) size eligibility subpart, but in no other program's size eligibility rules. The provision was included in the size eligibility rules for SBA's financial assistance programs in the interim final rule, noted above. The reason for such inclusion was to make the size rules for all financial assistance programs (the section 8(a) Program was considered a financial assistance program for size eligibility purposes) the same. Since the intent of the interim final rule was to apply this rule to the section 8(a) program and because the section 8(a) Program would now be separated from the financial assistance programs in the proposed rule, this provision would be removed from the financial assistance subpart in the proposed rule. The section 8(a) Program is a program designed to enhance the business development of section 8(a) participants. Restricting the acquisition by or merger with another business concern of the section 8(a) concern would be entirely consistent with that developmental purpose. SBA is contemplating the implementation of such a provision in all of its programs (in procurement assistance as well as financial assistance programs) and specifically requests comments relating to the extension of this rule.

Proposed § 121.1105 would set forth limitations on subcontracting, by requiring a firm to perform a certain percentage of a section 8(a) award with its own employees, in order to qualify as a small business for that section 8(a) award. These limitations were added to the Small Business Act by section 921(c) of both the Continuing Resolution for Fiscal Year 1987 and the National Defense Authorization Act for Fiscal Year 1987 and are the same as those added to proposed § 121.906 for the small business set aside program. The percentage of a contract which a concern would be required to perform with its own work force for general and special trade construction would be the same as those specified in § 124.302 of SBA's section 8(a) program regulations (i.e., 15% of the cost of the contract for general construction, and 25% of the cost of the contract for specialty construction). The 50 percent requirement for service contracts is a size eligibility requirement and would be separate from the subcontracting limitations imposed on service contracts as a section 8(a) contract requirement by § 124.302 of the section 8(a) program regulations. SBA is authorized to deviate from this 50 percent requirement where it is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. SBA invites comments concerning specific industry practices that would support any deviation.

The language contained in proposed §§ 121.1106 and 121.1107 regarding manufactured products (the non-manufacturer rule) and multiple item procurements would be similar to that contained in the procurement assistance subpart (proposed §§ 121.907 and 121.908).

Proposed § 121.1108, "Eligibility of section 8(a) Concern For Other SBA Assistance," would be a new provision. This proposed provision would confer automatic eligibility for other SBA assistance (e.g., business loans) to an section 8(a) concern which qualifies as a small business for a particular procurement where the assistance directly and primarily relates to the performance of the section 8(a) contract. This provision would be added to the section 8(a) size eligibility rules because it supports one of the primary purposes of the section 8(a) Program (i.e., business development). SBA also believes that an section 8(a) contractor should be given the tools necessary to effect proper contract performance.

Proposed Subpart 121.1200 would set forth the size eligibility requirements for SBA's Small Business Innovation Research (SBIR) Program. The order and language of the current regulations (current § 121.7) are altered somewhat for clarity and conformance to the new proposed format. Proposed § 121.1204 would codify the time of size policy of the SBIR Program. The SBIR Policy Directive, published in the **Federal Register** on January 8, 1985, 50 FR 917, specifies that the size of a concern for the purpose of a funding agreement

under Phase I and Phase II of the SBIR Program is determined as of the date of the award. The reason for the departure from the time of self-certification (with the offer) applicable to other programs is the concern that potential SBIR offerors often are affiliated with large concerns or non-profit institutions (e.g., universities) at the time of their initial proposal and, thus, would be precluded from the SBIR Program by a "time of offer" rule. These offerors typically leave their position with the affiliated entity upon approval of their proposal and prior to award. However, the current size regulations were never updated to take this policy into account. The proposed rule would make the date of award the time at which size is determined for both Phase I and Phase II. A concern having more than 500 employees at the date of award would be ineligible for award. Proposed § 121.1205 would incorporate the self-certification and protest procedures into the SBIR Program.

Proposed Subpart 121.1300 would set forth the size eligibility requirements for paying reduced patent fees. The order and language of the current regulation (current § 121.12) would be changed for clarity and conformance to the new proposed format. The rules pertaining to binding size determinations, time of size, and self certification would be added to make this subpart comparable to similar proposed rules for other programs. The self certification procedure would be adapted to the unique circumstances of the patent fee program. In addition, the definitions of "affiliates" and "number of employees" in the current regulation would be omitted in the proposed rule. The extensive rules dealing with both these concepts would be set forth in proposed § 121.400 and should be used for all size determinations. To repeat part of these definitions in connection with patent size cases would only result in ambiguity. Moreover, there is no statutory or other apparent reason why the definition of "number of employees" in the current rule should be different than the rule for other size determinations.

Proposed Subpart 121.1400 would set forth the size eligibility requirements for financial institutions for purposes of sections 8(d) and 15(g) of the Small Business Act. The proposed rule would make minor changes to the current regulations (current § 121.13) for added clarity. The size standard would be changed from $100 million "for the preceding fiscal year" to $100 million "at the end of its preceding completed fiscal year" to resolve a possible ambiguity. The proposed rule would conform the size eligibility rules for these programs to the format of the proposed rules of other programs by adding comparable provisions regarding binding size determinations, time at which size is determined, and self-certification.

Proposed Subpart 121.1500 would set forth the size eligibility requirements for compliance with programs of other agencies. The proposed rules would clarify that size determinations for other agencies are made under SBA standards, rules and procedures (except where noted otherwise) and that the binding effect of such determinations depends upon the rules of the other agencies. Proposed § 121.1503 would state that the size standards for the SBA programs which are most comparable to the programs of the other agencies would be applicable. Proposed § 121.1504 would permit the requesting agency to select the time at which size is determined for a particular program.

Proposed Subpart 121.1600 would set forth the procedures for formal size determinations. These procedures would be the same regardless of the program for which the size determination would be made (i.e., once a protest or a request for a formal size determination is made, be it in the section 8(a) Program or SBA's financial assistance programs, Subpart 121.1600 would describe how the appropriate SBA Regional Office would determine the size of the relevant concern).

Proposed § 121.1601 would specify who may initiate (either by protest or request) a formal size determination for all small business assistance programs. This section would tie each of the program assistance subparts into this procedural subpart dealing with size determinations. SBA would be given express authority to protest or request formal size determinations in each small business assistance program (except paying reduced patent fees and programs of other Government agencies).

Proposed § 121.1602 would identify the SBA Regional Office which would make the size determination for a protest or a request for a formal size determination. For protests, the appropriate Regional Office would be the one serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates. In cases of a request for a formal size determination, the appropriate Regional Office would be the one in which the principal office of the applicant for assistance or potential recipient of the Government program benefits involved, excluding parent companies and affiliates, is located.

Proposed § 121.1603 would separate the protest procedures into subsections concerning filing a protest, timeliness of a protest, and referral by a contracting officer to the appropriate SBA Regional Office. The language and order of the current regulations (current § 121.9) would be revised for clarity. A provision would be added to proposed § 121.1603(a) that would treat SBA in the same manner as the contracting officer where SBA protests the size of a concern in connection with a Government procurement or sale (i.e., there would be no time limitation for such protest—a protest by SBA would always be timely and would apply to the procurement or sale in question). In addition, a provision would be added to proposed paragraph 121.1603(b)(5) that would treat any protest filed before bid opening or notification of intended award as premature. Such premature protests would be automatically dismissed.

Proposed § 121.1604 would indicate the required form for a protest. A provision would be added which would explicitly authorize SBA to dismiss protests which do not contain sufficient specificity concerning the basis of the protest. For example, the mere allegation that a concern exceeds the applicable size standard would not be sufficient (need more than rumor in the industry); a protestor would be required to set forth the basis for such belief. Six examples of what is and what is not sufficient specificity in a protest (three showing sufficient specificity, three lacking it) would be added to the proposed rule by this section. Protests could not be supplemented if not specific in the first instance. If not specific, they would be dismissed. However, a protestor would be able to appeal a dismissal of a protest for lack of specificity to SBA's Office of Hearings and Appeals pursuant to § 121.1700 of these proposed regulations.

Proposed § 121.1605 would make the procedures relating to notification of the contracting officer, the protestor, and the protested concern and the filing of SBA Form 355 separate subsections for ease of citation and use. The language of the current regulations (current § 121.9(b)) would also be slightly clarified.

The details of the size determination procedures (current §§ 121.8 (a), (b) and (c)) would be separated into individual subsections in proposed § 121.1606 and would be clarified and made more precise for better understanding. Once the protest or request is found to be

sufficiently specific, a formal size determination could be based on other grounds or information not raised in the protest/request. Even if the allegation in a protest is found to be false, a concern would still be determined to be other than small if SBA learns that the concern was not in fact small. For example, concern A would be found to be other than small in the following situation even though the basis raised in the protest was in error: (a) A protest alleges that concern A is affiliated with concern B because concern A was listed as an asset of concern B in magazine Y; (b) in fact, concern A had been sold by concern B two years earlier; but (c) SBA's review of concern A's financial reports indicates that concern A had annual receipts in excess of the applicable size standard.

Proposed § 121.1607 would set forth the procedures by which a concern may be recertified as small after a determination has been made finding the concern to be other than small. The substance of the procedures is basically the same as that specified in § 121.8(d) of the current regulations, with minor technical changes. The provision permitting the Office of Hearings and Appeals to make original decisions relating to recertification if good cause is shown in extraordinary circumstances has been deleted from the proposed rule. SBA believes that all applications for recertification should be decided in the first instance by the SBA Regional Office which made the initial adverse size determination.

Proposed Subpart 121.1700 would set forth the procedures for size and SIC Code appeals. As under the current regulations (current § 121.11), SBA's Office of Hearings and Appeals would have jurisdiction over appeals of formal size determinations and SIC Code designations and make decisions affirming, reversing or modifying such determinations and designations. In addition, the language of the current regulations would be reordered and clarified where necessary to make the appeals procedures easier to use.

The term "participant" (defined at § 121.11(b)(2) of the current regulations) would no longer be specifically defined in the proposed rule. Proposed § 121.1702(b) would make SBA a party to a size appeal as of right in section 8(a) size appeals (where only the selected section 8(a) concern which was determined to be other than small could appeal) and in other size appeals in which there is initially no other adverse party to the concern whose size is at issue (e.g., a size appeal by a concern which applied for financial assistance). The word "initially" would be added to this provision so that SBA would not automatically be a party in situations where a protestor appeals a formal size determination to the Office of Hearings and Appeals and then withdraws from the appeal.

Proposed § 121.1705 would clarify the time limits for appeals (current § 121.11(e)) by replacing the word "filed" within a specific time with "sent by certified mail, return receipt requested," within the same specified time. The date of mailing would be determined by the postmark indicated on the envelope of the appeal. Notwithstanding this certified mail requirement, a Notice of Appeal could be personally delivered to the Office of Hearings and Appeals within the same time period specified for the mailing. Proposed § 121.1706 would repeat, with clarifying language, the current "Initiation of Appeal" and "Notification of Filing of Appeal" procedures (current §§ 121.11 (f) and (g)). An appellant would be required to send a copy of the Notice of Appeal to SBA's Office of General Counsel. This would permit SBA program officials to be informed of important policy questions raised by a Notice of Appeal which might warrant the intervention of SBA to properly resolve. Proposed § 121.1707 would repeat the "Scope of Appeal and Burden of Proof" provision of the current regulations (current § 121.11(h)). The proposed provision would clarify that the appellant's burden of proof is by a preponderance of the evidence.

Proposed § 121.1708, "Response to Notice of Appeal," would be a revision to current § 121.11(i), "Statements of Interested Persons." This would be the provision by which interested persons would file responses to a Notice of Appeal. The time limit for such a response would be clarified from that in the current regulation. The proposed rule would require a Response to a Notice of Appeal to be received by the Office of Hearings and Appeals within 15 calendar days after such Office's issuance of the notification of the filing of an Appeal. The proposal would permit the Presiding Judge to set an alternative date where he or she deems it appropriate. For example, if there is no procurement pending the outcome of the appeal or if there are highly complex issues, the Presiding Judge could extend the 15-day period, as appropriate. The current provision requires a filing to be made no later than 5 days, exclusive of Saturdays, Sundays and holidays, after the receipt of a copy of the Notice of Appeal. The proposed rule would also permit the appellant, in the discretion of the Presiding Judge, to reply to any such response submitted.

Proposed § 121.1709 would be a new provision which would specifically authorize SBA and interested persons to move to intervene in a size appeal before the Office of Hearings and Appeals. This right was presumed under the current regulations, but has not heretofore been explicitly set forth.

Proposed § 121.1710 would combine the provisions of current §§ 121.11(k), "Docket File," and (1), "Public Access to Docket File," into a single section. The proposed rule would clarify the information not subject to public inspection or copying. Current § 121.11(1)(2)(i)—"information subject to a protective order"—would be replaced by "information subject to an *in camera* order." (A new § 121.1717 dealing with *in camera* orders would be added by the proposed rule.) In addition, a provision would be added which would prohibit disclosure of information which cannot be disclosed according to law (e.g., according to the Freedom of Information Act or the Privacy Act).

Proposed §§ 121.1711 and 121.1712 would repeat the current provisions relating to the assignment of a three judge panel (current § 121.11(m)) and the filing and service of pleadings (current § 121.11(n)). The provision of the current regulations concerning enforcement and extensions of time limitations (current § 121.11(j)) would be made part of the proposed section relating to the filing and service of pleadings. The proposed rule would permit the time limitations for the filing of a Notice of Appeal to be waived in extraordinary circumstances. For example, where a procurement is cancelled at or about the same time as the formal size determination, the 30-day period to appeal passes, and the procurement is then reinstated, a concern would be able to file a Notice of Appeal, in the discretion of the Presiding Judge. A provision would be added to proposed § 121.1712(c) that would require a party to petition for an *in camera* order to withhold proprietary information from the public and from other parties if such information is offered into evidence.

Proposed § 121.1713 would clarify the language of the provisions relating to the authority and functions of a Presiding Judge in a size appeal (current § 121.11(o)). Proposed § 121.1613(d) would explicitly authorize the Presiding Judge to permit discovery upon motion. This provision would expand current § 121.11(o)(6) (which authorizes the Presiding Judge to take or cause depositions to be taken) by explicitly allowing discovery other than

depositions. Proposed § 121.1613(e) would authorize the Presiding Judge to issue protective orders in the context of discovery (e.g., to limit the harassment of one party by another party). This deviates from current § 121.11(o)(2) which authorizes protective orders without any guidance. Proposed § 121.1713(g) would authorize the Presiding Judge to issue *in camera* orders, pursuant to § 121.1717, to protect documents or oral testimony offered in evidence from general disclosure. Proposed § 121.1713(j) would amend current § 121.11(o)(8) by expressly authorizing oral argument in all size appeals proceedings.

Proposed § 121.1714 would specify the rules that apply to oral hearings and telephone conferences. These rules are currently set forth in § 121.11(p). Size appeals will generally be decided by the Presiding Judge based on the written record, without an oral hearing. As under the current regulations, oral hearings will only be authorized where there is a genuine dispute as to a material fact which cannot be resolved except by confrontation of witnesses. Proposed § 121.1715 would repeat the prohibition against *ex parte* communications currently contained in § 121.11(q).

Proposed § 121.1716 would set forth the rules relating to subpoenas. These rules are, for the most part, the same as those contained in current § 121.11(w). The proposed rule would clarify that only parties to the proceeding may request that a subpoena be issued. Current § 121.11(w)(1) authorizes the use of subpoenas only with respect to oral hearings. The proposed rule would not contain this limitation on the use of subpoenas. In addition, this section of the proposed rule would limit the use of protective orders in the context of subpoenas to protect against harassment, undue expense or breach of confidentiality (the same limitations currently contained in § 121.11(w)(15)).

Upon motion and a showing of good cause, proposed § 121.1717 would give the Presiding Judge the authority to order documents or oral testimony to be received *in camera*. Any person seeking disclosure of *in camera* documents or access to testimony could make a written request to the Presiding Judge who issued the *in camera* order. The Presiding Judge could grant or deny the request in whole or in part. Where a request for disclosure has been denied in whole or in part, an appeal could be taken to the Assistant Administrator for the Office of Hearings and Appeals. An appeal could also be taken to the Assistant Administrator for the Office of Hearings and Appeals where the original motion for an *in camera* order was denied in whole or in part. *In camera* materials would be segregated from the docket file and protected from public disclosure until the termination of the *in camera* treatment, either by expiration of the order or a successful appeal seeking disclosure of the *in camera* materials.

Proposed § 121.1718 would set forth the rules applicable to the record compiled in a size appeal. These rules are basically the same as those contained in current § 121.11(r). The date that the record is closed when no oral hearing is held would be changed by the proposed rule to 20 calendar days after the Office of Hearings and Appeal's issuance of the notification of the filing of an appeal. The Presiding Judge would be able to amend the date that the record is closed upon notice to all parties to the proceeding. This change would provide greater certainty than the language of § 121.11(r)(2) of the current regulation. The post-hearing procedures of proposed § 121.1719, specifying the rules which apply to proposed findings and conclusions, are the same as those contained in current § 121.11(s).

Proposed § 121.1720 would combine the provisions of current § 121.11(t) ("Decision") and (u) ("Notice of Decision") into one section. The decision of the Office of Hearings and Appeals is the final decision of SBA concerning the concern's size. It is effective immediately and binds all parties to a proceeding. Since the term "party" is defined by § 121.1702(b) of the proposed rule (as well as by § 121.11(b)(3) of the current regulations) to include all alleged affiliates of the concern whose size is at issue that participate in or are specifically afforded the opportunity to participate in the proceeding by the Presiding Judge, a decision finding concern X to be large because it is affiliated with concern Y and together their annual receipts exceeds the applicable size standard would bind concern Y if the Presiding Judge asked concern Y to participate even if concern Y declined (i.e., concern Y would necessarily be large because of such decision).

Proposed § 121.1721 would set forth the procedures by which a decision by the Office of Hearings and Appeals could be reconsidered. Upon notice to all parties to the proceeding, the three-judge panel could reopen the proceeding on its own initiative at any time after a written decision has been issued and enter a new decision. This proposed section would replace current § 121.11(v), "Termination of Jurisdiction." In order to be able to reopen a proceeding on its own initiative, the authority of the three-judge panel could not cease upon the issuance of a decision (as per the current regulations). The proposed rule would permit a party to file a petition for reconsideration of the decision in lieu of a motion to reopen the proceeding. The sole ground upon which a petition for reconsideration could be based would be new questions raised by the decision concerning which the petitioner had no previous opportunity to present evidence or argument. In addition, in cases where SBA has not previously appeared, and was not so asked to appear by the Presiding Judge, SBA could file a petition for reconsideration where the decision allegedly presents significant issues of precedential importance. In order for SBA to file such a petition, the decision would have to have a significant impact on the program area involved. A decision which affects only the concerns involved in the appeal, without impacting upon the program area under which the appeal was brought, would not warrant SBA to file a petition for reconsideration. Regardless of who files a petition for reconsideration, the Office of Hearings and Appeals could grant or deny the petition in its discretion. The proposed rule would permit any party to oppose a petition for reconsideration. The filing of a petition for reconsideration would not stay the immediate effect of a decision by the Office of Hearings and Appeals, unless explicitly ordered by the panel.

Proposed § 121.1722 would repeat the provision of current § 121.11(x) concerning the delegation of authority to another Judge in the Office of Hearings and Appeals to participate in rendering a final decision where a Judge on the three-judge panel is unavailable. The proposed rule would make a slight clarification in the language of this provision from the current regulations.

This proposed rule, if promulgated in final form, could be considered a major rule within the meaning of Executive Order 12291 because it contains several substantive provisions which determine whether a concern in any industry may be considered small for purposes of Federal assistance. In addition, this rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Consequently, SBA offers the following regulatory impact analysis and initial regulatory flexibility analysis for the purpose of compliance with the

pertinent requirements of those two measures:

(1) *Description of potential benefits of the rule:* This revision taken as a whole would provide SBA, other Federal agencies, and concerns seeking Federal assistance as small businesses with size procedures which are easier to use and understand. The restructured Part 121 would clearly identify all the applicable size rules for each specific small business assistance program. Confusion as to whether a general rule applies to a specific program will be eliminated. The revision would also provide clearer guidance concerning the procedures by which a concern may protest the size of another concern and appeal the decision in a formal size determination. The rule would clarify how the size procedures, established over time, will be applied. It is our belief that SBA would benefit by the revision since its purpose is to clarify the regulatory framework governing the size program and thus provide for more efficient administration.

(2) *Description of potential costs of the rule:* There should be no costs inherent in the revision which are not presently involved in the administration of the size program. The procedures contained in the proposed rule are basically the same rules currently contained in Part 121 of SBA's regulations. The proposed rule would be, for the most part, a reorganization of the current rules into a format which is easier to use and understand. The rule would not impose monetary or other types of costs upon SBA, other Federal agencies, or those entities seeking small business status. The rule would not change the specific size standards which apply to particular industries and SIC Codes and, thus, would not determine who is and who is not eligible for specific assistance programs.

(3) *Descripition of the net benefits of the rule:* This revision, taken as a whole, should clarify existing ambiguities in and provide a more logical progression to SBA's size regulations.

(4) *Description of reasons why this action is being considered and objectives of the rule:* The reasons why this rule is being proposed and its objectives are contained above in the Supplementary Information to this proposed rule.

(5) *Legal basis for proposed rule:* The legal basis of this proposed rule is sections 3(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 634(b)(6).

(6) *Description of entities to which the rule would apply:* The proposed rule would clarify the methodology of establishing size standards, clarify the procedures by which a concern may protest the size of another concern to or request that a formal size determination be performed by SBA, and amend certain provisions having substantive effect on whether a concern is considered small. Any entity wishing to be considered small or to so protest or request a formal size determination would be affected by the rule.

(7) *Federal rules:* There are no Federal rules which duplicate, overlap or conflict with the proposed rule. SBA has statutorily been given exclusive jurisdiction in establishing size standards. These procedures are part of that exclusive jurisdiction.

(8) *Significant alternatives to the proposed rule:* The changes set forth in these proposed regulations from the current size regulations would clarify existing ambiguities and conform the size regulations to SBA policies and precedents. Thus, there are no significant alternatives which would accomplish the stated objectives of this proposed rule.

SBA certifies that this proposed rule would not add any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Ch 35. SBA form 355, appearing in §§ 121.1605 and 121.1607 of this proposed rule, has been approved by the Office of Management and Budget under number 3245–0101. SBA Form 723, appearing in § 121.1006(d) of this proposed rule, has been approved by the Office of Management and Budget under number 0596–0021.

List of Subjects in 13 CFR Part 121

Small businesses, Standard Industrial Classification Codes.

Accordingly, pursuant to the authority set forth in sections 3(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 634(b)(6), SBA hereby proposes to amend Title 13 of the Code of Federal Regulations by redesignating the table in § 121.2 into a new § 121.600 and revising the table heading, and revising the remainder of Part 121 to read as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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Authority: Sections 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6)).

§ 121.100 Statutory provisions.

§ 121.101 Congressional policy.

Section 2(a)of the Small Business Act, 15 U.S.C. 631(a), sets forth the Congressional policy that the Government should ensure that a fair proportion of the Government's procurement needs be placed with small business enterprises.

§ 121.102 Authority to set size standards.

Sections 3(a) and 8(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 637(b)(6), authorize the Small Business Administration (SBA) to determine which business enterprises are to be designated "small business concerns" within any industry.

§ 121.200 General provisions.

§ 121.201 Purpose of the SBA size program.

(a) To implement statutory policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve specified socio-economic goals. Generally, eligibility for assistance under SBA programs requires that a firm be "small." In addition, other Federal agencies may implement programs for which a "small" size is an eligibility criterion. Both the actual setting of size standards (i.e., the size specification of "small") and the determination of which concerns fall within these standards and accordingly qualify as "small" are powers delegated to the Administrator of the SBA.

(b) Federal assistance should not be regarded as permanent nor as the primary source of a firm's receipts. It should be used to assist a firm to compete in the regular business world, without becoming dependent on continuing Government aid. Small businesses should plan for the day when they can compete without assistance.

§ 121.202 General outline of SBA's size program.

The basic operation of SBA's Size Program is as follows: (a) SBA establishes the appropriate size standards applicable to particular standard industrial classification codes (see § 121.600 of this part).

(b) SBA determines which concerns qualify as "small" under the appropriate size standard. This process often includes a self-certification procedure by which a concern certifies its size eligibility and may involve a protest or request for a formal size determination (see § 121.1600 of this part for the procedures concerning size protests and requests for formal size determinations). This process is separately explained for each assistance program (see §§ 121.800 through 121.1500 of this part).

(c) An adversely affected concern or other interested parties may obtain a review of the size determination by SBA's Office of Hearings and Appeals (see § 121.1700 of this part).

§ 121.203 Notification by concern of adverse size determination.

If a concern has been determined by SBA to be ineligible as a small business under a particular size standard, and it has already certified itself to be a small business on a pending Government procurement or on another assistance application, subject to the same or a lower size standard, it shall immediately notify the contracting officer or the appropriate Government official of such adverse size determination. (See § 121.1607 of these regulations for the Recertification Procedure.)

§ 121.204 Effect of adverse size determination and recertification.

If SBA has made a formal size determination that a particular concern is not small, the concern will be deemed ineligible within such applicable size standard for any assistance under the Small Business Act, the Small Business Investment Act of 1958 or other applicable law, unless it is thereafter recertified by SBA as a small business. A change in circumstances may provide a basis for an application for recertification. (See §§ 121.1606(h) and 121.1607 of this part for specific provisions as to the effect of and procedures for recertification.)

§ 121.300 Functions and responsibilities of SBA offices.

§ 121.301 Office of size standards staff.

(a) SBA's Office of Size Standards Staff shall: (1) Develop and recommend small business size standards;

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards;

(3) Conduct industry hearings pertaining to size standards, when necessary;

(4) Conduct reviews of industry size standards, pursuant to § 121.700 of these regulations, where credible evidence is submitted by a petitioner that such a review is warranted;

(5) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing or establish new size standards should be addressed to the Director, Size Standards Staff, 1441 L Street NW., Washington DC 20416. These requests should include information relative to the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. Any request to change an existing size standard should provide information concerning the effect such a change would have on the Federal procurement process.

(c) If no size standard for an industry has been established in this part, then SBA, upon request, may issue a temporary size standard for the industry in question by publishing an interim emergency rule in the **Federal Register** with an opportunity for public comment in accordance with the Administrative Procedure Act.

§ 121.302 Office of General Counsel.

The Office of General Counsel shall:

(a) Develop, coordinate, and recommend regulations and procedures to assist in implementing the size standards;

(b) Upon motion or other appropriate pleadings, represent the agency in proceedings before the Office of Hearings and Appeals in order to present the position of the SBA;

(c) Represent the agency in connection with any matter arising out of this Part 121 before the Comptroller General, other agencies and the courts.

§ 121.303 The Size Policy Board.

(a) The SBA Size Policy Board considers and makes recommendations relating to improvements in SBA regulations, procedures and directives concerning size matters, including size standards.

(b) The members of the SBA Size Policy Board are: (1) The Associate Administrator for Procurement (Chairperson);

(2) The Associate Administrator for Finance and Investment;

(3) The Associate Administrator for Minority Small Business/Capital Ownership Development;

(4) The Assistant Administrator for Innovation, Research & Technology;

(5) The Director of the Size Standards Staff;

(6) The Chief Counsel for Advocacy;

(7) One Regional Administrator, designated by the Administrator;

(8) The General Counsel (non-voting, advisory member);

(9) The Assistant Administrator for Hearings and Appeals (non-voting, advisory member);

§ 121.304 The Office of Hearings & Appeals.

Pursuant to the provisions of § 121.1700 of this Part, SBA's Office of Hearings and Appeals will review appeals and make final decisions affirming, reversing or modifying:

(a) Determinations by the SBA Regional Offices, made pursuant to § 121.1600 of this part, as to a concern's small business size status (size status determinations);

(b) Designations by contracting officers, protested to SBA pursuant to § 121.1600 of this Part or changed by SBA pursuant to § 121.902(d) or § 121.1102(d) of this Part, as to the Standard Industrial Classification (SIC) Code into which the product or service is classified and/or as to the Small Business Administration size standard applicable thereto (product or service classifications).

§ 121.305 Regional offices.

(a) The Regional Offices of SBA shall make: (1) Formal size determinations pursuant to a protest (under § 121.1600 of this part) against the self-certification of a concern in connection with eligibility for government set asides (§ 121.900 of this part), eligibility for sales or leases of government property (§ 121.1000 of this part), or eligibility for SBA's Small Business Innovation and Research Program (§ 121.1200 of this part).

(2) Where necessary in connection with a size determination or size appeal, product or service classifications and/or size standard designations where an unclear, incomplete, incorrect or missing classification/designation has been made by the contracting officer.

(3) Formal size determinations (under § 121.1600 of this part) pursuant to a request by a section 8(a) participant whose status as a small business is not verified by SBA in connection with a particular section 8(a) procurement (§ 121.1100 of this part). Formal determinations shall also be made by the Regional Offices in connection with such applications for section 8(a) assistance upon request by an SBA official.

(4) Formal size determinations (under § 121.1600 of this part) pursuant to a request therefore by an applicant for any assistance program of SBA not otherwise provided for, adversely affected by a size status finding made by an official of SBA, or by a size status finding made by a participating financial institution or a small business investment company in connection with an application for financial assistance (§ 121.800 of this part). Formal size determinations shall also be made by the Regional Office in connection with applications for program assistance upon request by the appropriate program official of SBA, a participating financial institution or a small business investment company.

(b) Except for SBA's small business set aside program and SBA's Small Business Innovation and Research program, formal size determinations shall be made by the SBA Regional Office serving the geographical area in which the principal office of the protested concern or applicant concern, excluding its affiliates, is located. Formal size determinations in the small business set aside program and SBA's Small Business Innovation Research program shall be made by the SBA Regional Office serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates.

(c) The Regional Administrator may request a formal size determination whenever he/she deems it appropriate.

§ 121.400 Definitions.

§ 121.401 Affiliation.

(a) *General rule.* (1) Except as otherwise noted, size determinations shall include the applicant concern and all its domestic and foreign affiliates. Moreover, all affiliates, regardless of whether organized for profit, must be included.

(2) Except as otherwise provided in this section, concerns are affiliates of each other when either directly or indirectly

(i) One concern controls or has the power to control the other, or

(ii) A third party or parties controls or has the power to control both, or

(iii) Such an "identity of interest" between or among parties exists so that affiliation may be presumed.

(3) In determining whether affiliation exists, consideration shall be given to all appropriate factors, including common

ownership, common management, and contractual relationships.

(b) *Exclusion from affiliation coverage.* Portfolio or client concerns owned in whole or substantial part by investment companies licensed, or development companies qualifying under the Small Business Investment Act of 1958, as amended, or by Investment Companies registered under the Investment Company Act of 1940, as amended, concerns wholly owned by Indian Tribes and incorporated as economic instrumentalities of such tribes, or concerns wholly owned by Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*) are not considered affiliates of such investment companies, development companies, tribes or Alaska Regional or Village Corporations.

(c) *Nature of control in determining affiliation.* (1) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party with the power to control.

(2) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors.

(3) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(d) *Identity of interest between and among persons as an affiliation determinant.* Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(e) *Affiliation through stock ownership.* (1) A person is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(2) A person is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(3) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, the persons have an "identity of interest" (see paragraph (d) of this section); and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each such person controls or has the power to control the concern.

(f) *Affiliation arising under stock options, convertible debentures, and agreements to merge.* Stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1. If company "A" holds an option to purchase a controlling interest in company "B," the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B." The employees or annual receipts, as the case may be, of both concerns must be taken into account in determining size.

Example 2. If large company "A" holds 70% (70 of 100 outstanding shares) of the voting stock of company "B" and gives a third party an option to purchase 25 shares of concern "B", company "B" will be deemed to be an affiliate of company "A" until the third party actually exercises its option to purchase such shares. In order to prevent large company "A" from circumventing the intent of the regulation which gives present effect to stock options, the option is not considered to have present effect in this case.

Example 3. If company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger has taken place.

(g) *Affiliation under voting trusts.* If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulations, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction. However, if a voting trust is primarily entered into for a legitimate purpose other than that described above, and it is recognized within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination.

(h) *Affiliation through common management.* Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another concern.

(i) *Affiliation through common facilities.* Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated.

(j) *Affiliation with a newly organized concern.* Affiliation generally arises where former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and the one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, bid or performance bond indemnification, and/or other facilities, whether for a fee or otherwise.

(k) *Affiliation through contractual relationships.* Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that its economic viability would be in jeopardy without such contracts/business.

(l) *Affiliation under joint venture arrangements.* (1) A joint venture for size determination purposes is an association of concerns, with interests

in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/ losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(2) For the purpose of financial assistance to a joint venture, the parties thereto are considered to be affiliated with each other. Where the financial assistance, however, is to a concern for its own use, outside the joint venture, an affiliation determination shall not automatically arise from the existence of the joint venture arrangement. In this latter situation, the existence of affiliation shall be determined under these regulations.

(3) Concerns bidding on a particular procurement or property sale as joint venturers are affiliated with each other with regard to performance of the contract. This determination of affiliation does not extend to other contracts or business outside the joint venture arrangement.

(4) An ostensible subcontractor which performs or is to perform primary or vital requirements of a contract may have such a controlling role that it must be considered a joint venturer affiliated on the contract with the prime contractor. In determining whether subcontracting rises to the level of affiliation as a joint venture, SBA considers whether the prime contractor has unusual reliance on the subcontractor.

(5) Even though a concern might not be an affiliate of its joint venturers for the purpose of operations apart from the joint venture, it nevertheless must include its proportionate share of the joint venture receipts in determining its eligibility under the size standards.

(m) *Affiliation under franchise and license agreements.* In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints, relating to standardized quality, advertising, accounting format and other provisions, imposed on a franchisee by its franchise agreement shall generally not be considered, provided that the franchisee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee may not be controlled by the franchisor by virtue of such provisions in the franchise agreement, control and, thus, affiliation could arise through other means, such as common ownership, common management or excessive restrictions upon the sale of the franchise interest.

§ 121.402 Annual receipts.

(a) In size determinations where the standard is "annual receipts," size eligibility requires that the concern may not exceed the "annual receipts" in that standard.

(b) *Definitions.* For the purpose of determining annual receipts of a concern:

(1) "Accrual basis" means a method of accounting in which accounts and notes receivable are recorded in the regular books of account for the period in which the firm first has a claim of right to them. "Claim of right" has the meaning attributed to it by the U.S. Internal Revenue Service (IRS).

(2) "Receipts" is defined to include all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term "receipts" excludes proceeds from sales of capital assets and investments, proceeds from transactions between a concern and its domestic and foreign affiliates, proceeds from payments of notes receivable and accounts receivable, and amounts collected as an agent for another, such as gross bookings on which a commission is earned (in which case only the commission earned would constitute revenue) or such as taxes collected for remittance to a taxing authority.

(3) "Regular books of account" means the general ledger or other book of final entry and, if used, the journals or other books of original entry.

(4) "Completed fiscal year" means a taxable year not including any short period. "Taxable year" and "short period" have the meaning attributed to them by the IRS.

(5) Unless otherwise defined in this section, all terms shall have the meaning attributed to them by the IRS.

(c) *Period of measurement.* "Annual Receipts" of a concern which has been in business for 3 or more completed fiscal years means the arithmetic annual average revenue of the concern over its last 3 completed fiscal years (total revenue compiled over the entire 3-year period would be divided by three). "Annual Receipts" of a concern which has been in business for less than 3 fiscal years means the arithmetic annual average revenue over the time period the concern has been in business. (Total revenues compiled over the period the concern has been in business, divided by the number of weeks, including fractions of a week, the concern has been in business, multiplied by 52).

(d) *Method of determining annual receipts.* (1) Revenue may be taken from the regular books of account of the concern. If the concern so elects, or has not kept regular books of account, or the IRS has found such records to be inadequate and has reconstructed income of the concern, then revenue as shown on the Federal Income Tax return of the concern may be used in determining annual receipts, *Provided;* that subject to the exception in paragraph (d)(2) of this section, revenue shown on the regular books of account or the Federal Income Tax return on a basis other than accrual must be restated to show revenue on an accrual basis. Further, where the completed contract method of determining income has been used, revenue must be restated to a percentage of completion method prior to determining annual receipts.

(2) Where the Federal Income tax return of a concern, restated if necessary pursuant to paragraph (d)(1) of this section to reflect the percentage of completion method, shows its annual receipts to be less than 75% of the applicable size standard, the concern need not restate its revenue to an accrual basis prior to determining annual receipts.

(e) *Annual receipts of affiliates.* (1) If a concern has acquired an affiliate or been acquired as an affiliate during the applicable averaging period, the "annual receipts" in determining size status include the receipts of both the applicant and the affiliate. Furthermore, this aggregation of the receipts of both the applicant and its affiliate applies during the entire period used in computing size (usually the preceding three complete fiscal years) rather than only for the period after the affiliation arose.

(2) The "annual receipts" of a concern which had been an affiliate of the applicant during part of the period used in determining size (usually the preceding three completed fiscal years), but was not an affiliate at the time of self-certification for the assistance in question, are not included within the computation of "annual receipts" in making size determinations. This exclusion of "annual receipts" of a former affiliate applies during the entire

period used in computing size, rather than only for the period after which the affiliation ceased.

§ 121.403 Business concern or concern.

A business concern eligible for assistance as a small business is a business entity, including its affiliates, organized for profit, with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, materials and/or labor. Such business entity must be at least 51 percent owned and controlled by an individual(s) who is(are) citizens of or lawfully admitted permanent resident aliens in the United States, or by another business entity (or entities) eligible for assistance under this section.

(a) To be eligible as a small business for a Government procurement, a business entity must incur more than 50 percent of the direct material, direct labor, and applied overhead of the contract in the United States, unless the procuring activity requires otherwise.

(b) Such business entity may be in the legal form of an individual proprietorship, partnership, corporation, joint venture, association, trust or a cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.

§ 121.404 Employees.

The term "employees" means all individuals employed on a full-time, part-time, temporary, or other basis. Such other basis may exist, for example, where individuals are provided by an independent employment contractor in an apparent effort to circumvent these regulations.

§ 121.405 Key employee.

A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

§ 121.406 Not dominant in field of operation.

A business concern falling within SBA's size standards (set forth in § 121.600 of this Part) is deemed not dominant in its industry or field of operation.

§ 121.407 Number of employees.

In size determinations where the standard is "number of employees," size eligibility requires that the concern may not exceed the number of employees in that standard.

(a) "Number of employees" means the average employment of the concern, including the employees of its domestic and foreign affiliates, based upon employment during each of the pay periods for the preceding completed 12 calendar months.

(b) In computing average employment, part-time and temporary employees are counted as full time employees for each applicable pay period.

(c) If a concern has not been in business for 12 months, "number of employees" means the average employment of the concern, including its affiliates, during each of the pay periods during which it has been in business.

(d) If a concern has acquired an affiliate or has been acquired as an affiliate during the applicable averaging period, the "number of employees" in determining size status includes both the employees of the applicant and the affiliate. Furthermore, this aggregation of the employees of both the applicant and its affiliate applies during the entire period used in computing size (usually, the preceding 12 months) rather than only for the period after the affiliation arose.

(e) The employees of a concern which had been an affiliate of the applicant during part of the period used in determining size (usually the preceding 12 months), but was no longer an affiliate at the time of self-certification for the assistance in question, are not included within the computation of "number of employees" in making size determinations. This exclusion of employees of a former affiliate applies during the entire period used in computing size.

§ 121.500 Changes in size standards.

§ 121.501 General.

Any proposed size standard change will be published in the **Federal Register** and will include a description of the various factors considered in devising the size standard. Such proposal will also identify the number of small businesses which would be affected by the change in the size standard.

§ 121.502 Methodology for enumerated industries.

(a) Where the Administrator determines that, for any of the four industry categories specified below, the combined number of small business set aside contracts and section 8(a) awards exceeds an average of 30 percent of the dollar value of the total Federal contract awards for that industry category for the most recently completed three Federal fiscal years, the Administrator shall adjust the size standard(s) corresponding to the SIC Code(s) for such industry category to a size that will likely reduce the combined number of such set aside contracts and section 8(a) awards to approximately 30 percent of the total value of Federal contracts to be awarded for that industry category. This section applies only to the size standards for the following industry categories:

(1) Construction (All SIC Codes in Major Groups 15, 16 and 17 of the SIC System);

(2) Architectural and engineering services, including surveying and mapping services (SIC Codes 8711, 8712 and 8713);

(3) Ship building and ship repair (SIC Code 3731); and

(4) Refuse systems and related services (SIC Code 4953).

(b) Any adjustment made to a size standard pursuant to this subsection may be petitioned as set forth in § 121.700 of these regulations.

§ 121.503 Sources of data.

The basic sources of data used in establishing size standards include: *The Standard Industrial Classification Manual,* which is used as a guide in defining industries; U.S. Bureau of the Census, Economic Censuses including *Concentration Ratios in Manufacturing* and *Enterprise Statistics;* special tabulations of the *Enterprise Statistics* (prepared for SBA by the U.S. Bureau of the Census); *Annual Survey of Manufactures:* U.S. Department of Commerce, *U.S. Industrial Outlook, Survey of Current Business,* and *County Business Patterns;* Internal Revenue Service, *Statistics of Income;* Dun and Bradstreet, *DMI Market Profile;* and SBA's small business data base (USEEM tabulations); *Federal Procurement Data System* statistics; SBA's own extensive files of articles and correspondence; information provided by trade associations; and other appropriate sources.

§ 121.600 Standard Industrial Classification Codes and size standards.

The following industry size standards apply to all SBA programs except the sales of Government property (§ 121.1000); physical disaster loans (no size standards); non-physical disaster loans, Small Business Investment Companies, Development Companies, and Pollution Control Bonds (see § 121.800). The Standard Industrial Classification (SIC) Codes and corresponding industry size standards are set forth in the table following this section. Their relationship to the various SBA programs is set forth in §§ 121.800, 121.900, 121.1100, 121.1200 and 121.1400 of these regulations. The table column labeled "SIC" follows the standard

industrial classification codes as published by the U.S. Government respectively in the current version of the *Standard Industrial Classification Manual,* Office of Management and Budget, Executive Office of the President. The *Standard Industrial Classification Manual* is intended to cover the entire field of economic activities. It classifies and defines activities by industry categories and is the source used by SBA as a guide in defining industries for size standards. (It is available for sale from the U.S. Government Printing Office [1] and is in the reference room of most libraries.) The number of employees or annual receipts indicates the maximum allowed for a concern (including its affiliates) to be considered small.

Size Standards by SIC Industry

* * * * *

[Size Standard Table is redesignated from old § 121.2].

§ 121.700 Petitions for review of size standard adjustments and industry category designations.

(a) Any person may petition the Administrator at any time to review an adjustment to a size standard which was made pursuant to § 121.502 of these regulations in order to reduce the percentage of small business set-aside contracts awarded under the SIC Code corresponding to such size standard to approximately 30 percent of the dollar value of the total Federal contract awards for that SIC Code if the petitioner presents evidence that the adjustment to the size standard:

(1) Is not likely to achieve that purpose, and

(2) Has caused the petitioner to suffer severe financial loss.

(b) Any person may petition the Administrator at any time to review any designation of an industry category for the purpose of possible further segmentation of such designation due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry if the petitioner presents evidence that the designation:

(1) Is not likely to assure that a fair proportion of the total purchases and contracts for property or services for the Government in that industry category are placed with small business concerns, and

(2) Has caused the petitioner to suffer severe financial loss.

(c) Within 30 days of receipt of the petition, the Administrator shall render a final determination as to whether credible evidence has been presented to require SBA to conduct an in-depth review of the size standard adjustment or industry category designation in question.

(d) Where a review of the adjustment or designation is warranted, SBA will perform an in-depth examination of the entire industry relating to the size standard adjustment or industry category designation in question. SBA will publish its findings concerning the review in the **Federal Register** at the completion of the review. Any proposed change in a size standard or segmentation of an industry category designation will follow the normal notice and public comment rule-making procedures.

§ 121.800 Small business eligibility for SBA financial assistance.

§ 121.801 Programs covered.

These sections apply to small size determinations for the purpose of SBA financial assistance, including assistance under the Business Loan Programs, the Disaster Loan Programs (except physical disaster assistance), the Small Business Investment Company Program, the Development Company Programs, the Surety Bond Guaranty Program and the Pollution Guaranty Program.

§ 121.802 Establishment of the size standard.

(a)(1) An applicant concern for an SBA Business Loan, Disaster Loan (other than physical disaster loans), and Pollution Control Guaranty assistance must meet a two-fold size standard. It must meet the size standard designated for the industry/classification in which the applicant, including its affiliates, is primarily engaged *and* the size standard that the applicant concern, not including its affiliates, is primarily engaged. These size standards are set forth in § 121.600 of this regulation.

(2) For financial and/or management/technical assistance under the Small Business Investment Company program and the Development Company programs, an applicant concern must meet one of the following standards:

(i) Together with its affiliates, it does not have net worth in excess of $6 million, and does not have average net income after Federal income taxes (excluding any carry-over losses) for the preceding 2 completed fiscal years in excess of $2 million; or

(ii) Together with its affiliates, it meets the size standard for the industry/classification in which it is primarily engaged and, excluding its affiliates, meets the size standard for the industry/classification in which it is primarily engaged. These size standards are set forth in § 121.600 of these regulations.

(3) An applicant, including its affiliates, for Surety Bond Guaranty assistance must not have average annual receipts for its preceding three completed fiscal years in excess of $3.5 million.

(b) In determining what is the primary industry in which a concern applying for financial assistance is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industries in which a concern is operating for the most recently completed fiscal year of the concern. Other factors (e.g., patents, contract awards, assets) may be considered.

(c) Where the size standard relates to the applicant and its affiliates, the determination of the appropriate primary business and accordingly, the appropriate size standard of the applicant, must include the aggregates for the concern and its affiliates. Furthermore, the application of size criteria (i.e. number of employees or annual receipts) to the size standard is not confined to the operations of the primary business of the concern, but must measure all operations of the concern.

(d) Labor Surplus Area & Redevelopment Area Differentials: The applicable size standards for the purpose of all SBA financial programs, excluding the Surety Bond Guarantee Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area." "Redevelopment area" is defined in the Public Works Economic Development Act of 1965 (Pub. L. 89–136, 79 Stat. 570, 42 U.S.C. 3211), "Labor surplus areas" are listed monthly in the Department of Labor publication "Area Trends."

§ 121.803 Time at which size is determined.

(a) Except in the case of Disaster Loan assistance, the size of an applicant for SBA financial assistance is determined as of the date of its application for such financial assistance. Subsequent changes in size between the date of application and the extension of SBA financial assistance will not affect a firm's size status.

(b) Agreements to merge, including agreements in principle, stock options, or convertible securities and other business arrangements affecting possible future affiliation of the concern with another concern or change of control of the concern are considered as

[1] Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

executed as of the date of the application.

(c) In the case of applicable disaster loan assistance (i.e., disaster assistance other than physical disaster loans), the size status and the relevant size standards are determined as of the time the disaster commenced, as set forth in the Disaster Declaration.

§ 121.804 Procedures prior to a formal size determination.

(a) An applicant for SBA financial assistance shall be deemed to assert as part of its application that it is small under the applicable SBA size standard.

(b) In processing such application, SBA shall consider the size of the applicant in determining eligibility. Where applications with accompanying materials contain credible information indicating that the applicant may not be small, the processing official shall cause a determination to be made as to program size eligibility based on information supplied in the application and any other information requested.

(c) In the absence of credible information indicating otherwise, a participating financial institution, a small business investment company, a development company, a surety bond company, or a pollution control guaranty issuing authority may accept at face value the information provided by the applicant for the particular financial assistance involved.

(d) The SBA program official with authority to take final action on the assistance requested has the authority to make a program size eligibility determination, except that such a determination is not a formal size determination as described in § 121.1600 of these regulations. Where he or she deems it appropriate, such a formal size determination may be requested prior to a determination to deny eligibility for such assistance on the grounds of size.

(e) When an applicant has been denied assistance for size ineligibility because the SBA program official has found it to be other than small, the applicant may request a formal size determination (pursuant to § 121.1600 of these regulations) with the SBA Regional Office serving the geographical area in which the SBA office denying the assistance is located.

(f) When requested pursuant to paragraph (d) or (e) of this section, the SBA Regional Office shall make a formal size determination in accordance with the procedures set forth in § 121.1600 of these regulations, except that the time limitations shall not apply and notification of the request and the formal size determination shall be provided to requesting officials and/or SBA program officials interested in the matter.

§ 121.805 Business loan to refinance existing loan.

A concern which applies for an SBA loan or guarantee to refinance an existing SBA loan or guarantee but which, since the date of the original financing, has by natural growth (as distinguished from e.g., merger or acquisition) grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing, if SBA determines administratively that refinancing is necessary to protect the Government's financial interest.

§ 121.900 Size eligibility for government procurement.

§ 121.901 Programs covered.

These sections apply to size for the purpose of government procurement programs, including government procurement reserved for small business (i.e. the small business set aside program), SBA's Certificate of Competency Program and the Small Business Subcontracting Program authorized under section 8(d) of the Small Business Act. The contracting aspects of SBA's Minority Enterprise Program (The section 8(a) Program) are separately covered under § 121.1100 of this Part.

§ 121.902 Establishment of the size standard.

(a) Except as provided in § 121.912(a) of these regulations, a concern which submits an offer on a Government procurement must meet the size standard determined by reference to the SIC Code as specified in the solicitation or as clarified, completed, supplied or corrected by SBA pursuant to paragraph (d) of this section. These standards are set forth in § 121.600 of these regulations.

(b) The proper SIC Code designation for the goods or services being procured is that which best describes the nature of the procurement, giving primary consideration to the industry descriptions in the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of each of the components in the procurement (if in fact there is more than one component which makes up the end item being procured) and the function of the goods or services being purchased. Consideration may also be given to previous Government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act.

(c) The determination of the appropriate SIC Code designation shall be made by the contracting officer of the procuring agency or his authorized representative. Both the SIC Code designation and the applicable size standard (i.e., number of employees or annual receipts) shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed to SBA's Office of Hearings and Appeals in the manner provided in § 121.1700 of this Part or changed by SBA pursuant to paragraph (d) of this section.

(d) An unclear, incomplete or missing SIC Code designation and/or size standard by the contracting officer or his representative in the solicitation may be clarified, completed or supplied by SBA, if necessary, in connection with a formal size determination or size appeal. As part of a formal size determination or size appeal, SBA may also correct an incorrect SIC Code designation and/or size standard designation made by the contracting officer in the solicitation, after giving the contracting officer an opportunity to comment on or submit information relating to such designation to SBA.

(e) Any offeror or other interested party adversely affected by a SIC Code designation and/or size standard designation by the contracting officer or the appropriate SBA official may appeal such designation to SBA's Office of Hearings and Appeals under the procedures set forth in § 121.1700.

§ 121.903 Binding size determinations.

Size and SIC Code determinations are formal actions by the appropriate SBA officials, pursuant to §§ 121.1600 and 121.1700 of this part, based upon a specific Government procurement and are binding upon the parties. Opinions provided by SBA to contracting officers or others, not relating to a specific government procurement and not given pursuant to §§ 121.1600 or 121.1700 of this part, are advisory in nature and not binding size determinations under these sections, and are not appealable.

§ 121.904 Time at which size is determined.

(a) The size status of a concern (including its affiliates) is determined as of the date of its written self-certification as a small business. The concern shall certify that it is a small business for the purpose of performing a particular contract at the time it submits

its initial offer including price to the procuring agency for that contract.

(b) Agreements to merge, including agreements in principle, stock options, convertible securities and other business arrangements affecting possible future affiliation of the concern with another concern or change of control of the concern are considered executed as of the date of the certification.

(c) Where a solicitation is modified so that initial offers are no longer responsive to the solicitation, the concern must recertify that it is a small business at the time it submits a responsive offer to the modified solicitation.

§ 121.905 Self-certification.

(a) A concern must self-certify itself to be small under the appropriate size standard as specified in the solicitation or as clarified, completed, supplied or corrected by SBA pursuant to § 121.902(d) of these regulations (i.e., number of employees or average annual receipts) in the submission of its initial offer including price relating to a Government procurement.

(b) In the absence of a written protest by other offerors or other credible information which would cause a contracting officer or SBA to question the veracity of the self-certification, a contracting officer may accept the self-certification at face value for the particular procurement involved.

(c) Protests against the self-certification of an offeror by another offeror, the contracting officer, SBA, or other interested parties shall be made under the procedures set forth in § 121.1600 of this part.

§ 121.906 Limitation on subcontracting.

A concern may not be awarded a contract for a Government procurement as a small business concern under this subpart unless the concern agrees that—

(a) In the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees;

(b) In the case of a contract for supplies or products (other than procurement from a regular dealer in such supplies or products), the concern will perform at least 50 percent of the cost of the manufacturing the supplies or products (not including the cost of materials);

(c) In the case of a contract for general construction, the concern will perform at least 50 percent of the cost of the contract, not including the cost of materials, with its own employees; and

(d) In the case of a contract for construction by special trade contractors, the concern will perform at least 50 percent of the cost of the contract, not including the cost of materials, with its own employees.

§ 121.907 Manufactured products under small business set aside procurements.

(a) In order to qualify as a small concern in Government contracts reserved for small business (i.e., small business set asides) for the procurement of manufactured products, an offeror must be a "manufacturer" or a "regular dealer" within the meaning of the Walsh-Healey Act, and must:

(1) Be the manufacturer of the end item being produced; or

(2) Except as noted in paragraphs (d) and (e) of this section, provide products manufactured by other concerns which would qualify as small concerns under the procurement (i.e., meet the size standard for the product acquired).

(i) The applicable size standard for such small business nonmanufacturer is that of the wholesale industry of the item being procured.

(ii) Any nonmanufacturer must also furnish, in the performance of the contract, the end product of a small business manufacturer or producer that was manufactured or produced in the United States.

(iii) Where it is determined by SBA's Administrator that there are fewer than two small manufacturers of the specific end product being procured, a nonmanufacturer need not provide the product of a small business manufacturer.

(b) For size determination purposes, there can be only one manufacturer of the end item being acquired.

(c) The manufacturer for the purposes of this provision is the concern which, with its own facilities, performs the primary activities in transforming inorganic or organic substances, including the assembly of parts and components, into the end item being acquired. The product of a manufacturer possesses characteristics which, as a result of mechanical, chemical, or human action, it did not possess before the original substances, parts, or components were acquired by the concern. The product of a manufacturer may be finished in the sense that it is ready for utilization or consumption, or it may be semifinished to become a raw material for a concern engaged in further manufacturing. Firms which perform only minimal operations upon the item being procured do not qualify as manufacturers. The following factors are evaluated in determining whether a concern is a manufacturer or is performing only minimal operations for the procurement:

(1) The proportion of total value in the end product added by the efforts of the concern, excluding costs of overhead, testing, quality control, and profit;

(2) The importance of the elements added by the concern to the function of the end product, regardless of their relative value.

(d) Where the manufactured item being acquired is a kit of supplies or other goods, provided by the offeror for a special purpose, the offeror is an eligible small business for the purposes of this section if it meets the size standard for the SIC Code of the product acquired and if more than 50% of the total value of the contents of the kit was manufactured by concerns which would also qualify as small businesses under the size standard for this procurement. Under this provision, the offeror need not itself be the manufacturer of any of the items acquired. Where the Government has specified an item (or items) for the kit which is (are) not produced by small business concerns, then such item(s) shall be excluded from the determination of total value for the purposes of this subsection.

(e) Where the procurement of a manufactured item is processed under Small Purchase Procedures, as defined in the Federal Acquisition Regulations (FAR), the offeror is an eligible small business, regardless of the size status of the manufacturers of the end product so long as the products acquired are domestically manufactured and the offeror meets the size standard for the wholesale industry of the item being procured. Under this provision, the offeror need not itself be the manufacturer of any of the items acquired.

§ 121.908 Multiple item procurements.

If a procurement calls for two or more specific end items with different size standards and the offeror may submit an offer on any or all end items, the offeror must meet the size standard for each end item for which it submits an offer. If the procurement calls for more than one specific end item and an offeror is required to submit an offer on all end items, the offeror may qualify as a small business for such procurement if it meets the size standard of the end item(s) having the same numerical standard which account(s) for the greatest percentage of the total contract value.

Example. A solicitation requires an item costing $2 million with a SIC Code of 3613 (750 employee size standard), an item costing $4 million with a SIC Code of 3621 (1,000

employee size standard), and an item costing $3 million with a SIC Code of 3622 (750 employee size standard). In order to qualify as a small business for the procurement, an offeror must meet the 750 employee size standard because the greatest percentage of the total contract value has a 750 employee size standard ($5 million out of the $9 million contract), despite the fact that the largest single item has a 1,000 employee size standard.

§ 121.909 Size procedures under SBA's certificate of competency program.

(a) Upon receipt of a referral for a Certificate of Competency (COC) from a procuring agency contracting officer, SBA shall initiate a formal size determination at the time it supplies the COC application materials to the concern for which the COC referral was made.

(b) If such concern applies for a COC, a formal size determination shall be made in accordance with the procedures set forth in § 121.1600 of these regulations. Such formal size determination must be made prior to the issuance of a COC.

(c) Pursuant to § 121.904(a) of these regulations, the size of such concern is determined as of the date of its written certification that it is a small business for the purpose of performing a particular contract. Size is not determined as of the date of such concern's application for a COC.

§ 121.910 Manufactured products in an unrestricted procurement for certificate of competency purposes.

In the case of a Certificate of Competency in an unrestricted procurement for a manufactured product, a concern is a qualified small business if it meets the size standard for the SIC Code designated for the wholesale industry of the product being acquired, regardless of the size status of the manufacturer thereof. Under this provision the offeror need not be the manufacturer of any of the items acquired.

§ 121.911 Size standards under SBA's section 8(d) subcontracting program.

For subcontracting purposes pursuant to section 8(d) of the Small Business Act, a concern is small:

(a) In connection with subcontracts of $10,000 or less which relate to Government procurements, if its number of employees (including its affiliates) does not exceed 500 persons; and

(b) In connection with subcontracts exceeding $10,000 which relate to Government procurements, if its number of employees or average annual receipts, (including its affiliates), does not exceed the size standard for the product or service it is providing on the subcontract as set forth in § 121.600 of these regulations.

(Subcontracting for financial services under section 8(d) of the Small Business Act is covered by § 121.1400 of these regulations).

§ 121.912 Size procedures under SBA's section 8(d) subcontracting program.

(a) A concern must self-certify its small size as a section 8(d) subcontractor. The basis for such self-certification is set forth in § 121.905(a) of these regulations.

(b) The self-certification of a concern proposing to subcontract or subcontracting under section 8(d) of the Small Business Act may be protested pursuant to § 121.1600 of this part by the contracting officer, the prime contractor, the appropriate SBA official or any other interested party.

§ 121.1000 Size eligibility for sales or lease of Government property.

§ 121.1001 Programs covered.

These provisions apply to size status for the purpose of the sale or lease of Government property. This includes the Timber Sales Program, the Special Salvage Timber Sales Program and the sale of Government petroleum, coal and uranium.

§ 121.1002 Establishment of the size standard.

(a) Size status for the purposes of Government sales and leases under these sections is determined by reference to the primary industry of the applicant business concern: Except, (1) for the lease of Government land for the purpose of coal mining or uranium prospecting and mining where the nature of the sales contract is controlling (See §§ 121.1008 and 121.1009). (2) In the case of sales of Government timber, in addition to the business characteristics of the applicant business concern, there are further conditions relating to the implementation of the executed contract that must be met (See §§ 121.1006 and 121.1007).

(b) In determining what is the primary industry in which a concern applying for financial assistance is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industries in which a concern is operating for the most recently completed fiscal year of the concern. All other relevant factors (e.g., patents, contract awards, assets) will be considered.

§ 121.1003 Binding size determinations.

Size determinations for the purpose of Government sales and leases are formal actions by the appropriate SBA officials pursuant to §§ 121.1600 and 121.1700 of these regulations, based upon a specific Government sales or lease and are binding upon the parties thereto, as provided by law. Opinions provided by SBA to contracting officers or others not relating to a specific sale or lease and not given pursuant to § 121.1600 or § 121.1700 are advisory in nature and not binding size determinations under these sections, and are not appealable.

§ 121.1004 Time at which size is determined.

(a) The size status of a concern, including its affiliates, is determined as of the date of its written self-certification as a small business as part of the concern's submission of an offer.

(b) Agreements to merge, including agreements in principle, stock options, convertible securities and other business arrangements affecting possible future affiliation of the concern with another concern or change of control of the concern are considered executed as of the date of the self-certification.

§ 121.1005 Self-certification.

(a) A concern shall, as and when required by the sale solicitation, self-certify itself to be small in the submission of an offer to purchase or lease Government property, based upon its reasonable, good faith application of the size criteria set forth in these sections and the absence of a previous, still outstanding determination by SBA that the concern is ineligible under the same or a lower size standard. This self-certification includes both the measurement criteria (i.e., number of employees or average annual receipts) and acceptance of the restrictions upon the resale or exchange of the property purchased, as contained in these regulations.

(b) In absence of a written protest by other offerors or other credible information which would cause a contracting officer to question the veracity of a concern's self-certification as a small business, a contracting officer may accept the self-certification at face value.

(c) Protests against the self-certification of an offeror as a small business by another offeror, by the contracting officer or by SBA shall be made under the procedures set forth in § 121.1600 of these regulations. In addition, requests for formal size determinations may be made (pursuant

to § 121.1600 of these regulations) by SBA or another Federal agency, in accordance with § 121.1500 of these regulations, for the purpose of the administration of a Federal property sales program.

§ 121.1006 Sales of Government owned timber other than special salvage timber sales (SSTS).

(a) A concern which submits an offer as a small business for the purchase of Government owned timber, other than SSTS timber, qualifies as small when it:

(1) Is primarily engaged in the logging or forest products industry. "Forest Products Industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw materials; and

(2) Together with its affiliates, does not have over 500 employees.

(The rules for determining number of employees are set forth in § 121.407 of these regulations.)

(b) In addition to the requirements of paragraph (a) of this section, where the sale of the Government timber is pursuant to a small business set-aside and the offeror does not intend at the time of the offer to resell the timber, a concern qualifies as small when:

(1) It agrees that, in manufacturing sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (a) of this section as a small business. Manufacture of logs means, at a minimum, a breakdown of the log into a rough cut of the finished product; and

(2) It agrees, if standing timber or sawlogs acquired in good faith from the small business set-aside sale is to be resold, not to sell more than 30% of the advertised sawtimber volume, whether in the form of standing timber or sawlogs, therefrom, to other concerns which do not qualify as small business under paragraph (a) of this section (The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis, with or without monetary adjustment, and an indirect transfer, such as the sale of the assets of a concern after it has been awarded one or more set-aside sales of timber); and,

(3) It agrees that if, after award of a set-aside sale(s), the small business concern sells out to, becomes controlled by, or merges with a large business, the resulting entity shall sell an amount of sawtimber volume from each of the set-aside sales to one or more small businesses to comply with the (30%) volume distribution rule. Any agreement for return, directly or indirectly, of logs from small to large concerns which exceeds the distribution rule shall constitute noncompliance. The sawtimber volume distribution restriction shall not apply to the manufacture of preferential timber by a small business concern that purchases the set-aside sale, and at a later date exceeds the applicable small business size standard due to internal growth. Internal growth includes an internal increase in number of employees without change of control. Also, the distribution restriction shall not apply to a concern which certified itself to be a small business at the time of sale award, but was later determined to be other than small. This applies, provided that a large business did not purchase, assume control of, or merge with the small business after sale award date.

(c) In addition to the requirements of paragraph (a) of this section, where the sale of the Government timber is pursuant to a small business set-aside and the offeror intends to resell the timber, a concern qualifies as small when:

(1) It agrees that it will not sell to a concern which is not a small business within the meaning of paragraph (a) of this section more than 30 percent (50 percent in Alaska) of such timber. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer, such as the sale of the assets of a concern after it has been awarded one or more set-aside sales of timber; and

(2) It agrees that if, after award of a set-aside sale(s), the small business concern sells out to, becomes controlled by, or merges with a large business, the resulting entity shall sell an amount of sawtimber volume from each of the set-aside sales to one or more small businesses to comply with the (30%) volume distribution rule. Any agreement for return, directly or indirectly, of logs from small to large concerns which exceeds the distribution rule shall constitute noncompliance.

(d) In order to monitor compliance with the resale restrictions of this section, the offeror must maintain, for a period of 3 years, the name, address, and size status of each concern to which the timber or sawlogs were sold and the log species, grades and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timber by a concern other than the offeror, the offeror must maintain records to show the name, address, and the size of the concern manufacturing the sawlogs into lumber or timber.

§ 121.1007 Special salvage timber sales (SSTS).

(a) A concern which submits an offer as a small concern for the purchase of Government owned special salvage timber from the United States Forest Service or the Bureau of Land Management qualifies as small when it:

(1) Is primarily engaged in the logging or forest product industry (See § 121.1006(a) for definition of "Forest Product Industry"); and

(2) Together with its affiliates, does not have over 25 employees during any pay period for the last 12 months.

(b) In addition to the requirements of paragraph (a) of this section, where the sale of the special salvage timber is pursuant to a small business set aside and the offeror does not intend at the time of the offer to resell the timber, a concern qualifies as small when:

(1) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at the minimum, a breakdown of the log into the rough cut of the finished product; and

(2) It further agrees that, it will accomplish the logging of SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS. Logging means felling and bucking, yarding, loading.

(c) In addition to the requirements of paragraph (a) of this section, where the sale of the special salvage timber is pursuant to a small business set aside and the offeror intends to resell the timber, a concern qualifies as small when it agrees that it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following elements: Felling and bucking, yarding, loading. It further agrees that such SSTS logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS.

§ 121.1008 Leasing Government land for coal mining.

A concern which submits an offer as a small business for the lease of Government land for the purpose of mining coal qualifies as small when it:

(a) Together with its affiliates, does not have over 250 employees (number of employees is defined in § 121.407 of these regulations); and

(b) Maintains management and control of the actual mining operations at the tract; and

(c) Agrees that any transfer of the lease from the holder of the original set aside must be to another small business within the meaning of this subpart.

§ 121.1009 Leasing of Government land for uranium mining.

A concern which submits an offer as a small concern for the lease of Government land for the purpose of prospecting for or mining uranium qualifies as small when it, together with its affiliates, does not have over 100 employees (number of employees is defined in § 121.407 of these regulations).

§ 121.1010 Sales of Government owned petroleum.

A concern which submits an offer as a small business for the purchase of Government owned petroleum qualifies as small when it:

(a) Together with its affiliates, does not have over 1,500 employees (number of employees is defined in § 121.407 of these regulations);

(b) Is primarily engaged in petroleum refining (SIC Industry 2911); and

(c) Does not have more than 50,000 barrels per day crude oil or bona fide feed stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an agreement such as, but not limited to, an exchange agreement (except one on a refined-product-for-refined-product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

§ 121.1011 Stockpile purchases.

Any concern primarily engaged in the purchase of materials which are not domestic products is small if its average annual receipts for its preceding three fiscal years do not exceed $42 million.

§ 121.1012 Sales or lease of Government property other than property subject to § 121.1006 thru § 121.1011.

A concern which submits an offer as a small business for the purchase or lease of Government property other than property subject to § 121.1006 thru § 121.1010 of this subpart qualifies as small when it:

(a) Together with its affiliates, does not have over 500 employees (rules for determining "number of employees" are set forth in § 121.407 of these regulations), if it is primarily engaged in manufacturing;

(b) Together with its affiliates, have average annual receipts for its preceding three completed fiscal years not exceeding $2 million (rules for determining "annual receipts" are set forth in § 121.402 of these regulations), if it is primarily engaged in an industry other than manufacturing.

§ 121.1100 Size eligibility for the Minority Small Business and Capital Ownership Development (Section 8(a)) Program.

§ 121.1101 Programs covered.

These sections apply to small size status for the purpose of contract assistance pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and management/technical assistance available to section 8(a) concerns pursuant to section 7(j) of the Small Business Act (15 U.S.C. 636(j)).

§ 121.1102 Establishment of the size standard.

(a) For purposes of the Minority Small Business and Capital Ownership Development Assistance (section 8(a)) program:

(1) In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.600 of these rules. The particular size standard to be applied will be based on the primary industry classification of the applicant concern.

(2) In order to obtain section 8(a) contracts once a concern is admitted to the section 8(a) program, the concern must certify to SBA that it is a small business for the purpose of performing each individual contract. SBA, in turn, must verify each such certification.

(b) (1) In determining what is the primary industry in which an applicant, including its affiliates, is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industry areas in which a concern is operating for the most recently completed fiscal year of the concern. Other factors (e.g., patents, contract awards, assets) may be considered.

(2) The proper SIC Code designation for the goods or services being procured is that which best describes the nature of the procurement, giving primary consideration to the industry descriptions in the SIC Manual, the product or service description in the solicitation and attachments thereto, the relative value of each of the components in the procurement (if in fact there is more than one component which makes up the end item being procured), and the function of the goods or services being purchased. Consideration may also be given to previous government procurement classifications of the same or similar products or services, additional information on the industries and on the product or service procured, and to evaluations on which industry classification would best serve the purposes of the Small Business Act.

(c) The determination of the appropriate SIC Code designation for the product or service being procured under a section 8(a) contract shall initially be made by the procuring agency contracting officer. Such designation shall be final unless appealed to SBA's Office of Hearings and Appeals in the manner provided in § 121.1700 of this part or changed by SBA pursuant to paragraph (d) of this section.

(d) An unclear, incomplete or missing SIC Code designation and/or size standard by the contracting officer or his representative may be clarified, completed or supplied by SBA, if necessary, in connection with a formal size determination or size appeal. As part of a formal size determination or size appeal, SBA may also correct an incorrect SIC Code designation and/or size standard designation made by the contracting officer, after giving the contracting officer an opportunity to comment on or submit information relating to such designation to SBA.

§ 121.1103 Time at which size is determined.

The size of a concern, including its affiliates, for section 8(a) and section 7(j) assistance is determined:

(a) As of the date of the application for program eligibility for the purposes of general program eligibility. (This determination will not confer subsequent size eligibility for the award of section 8(a) contracts or of section 7(j) assistance);

(b) As of the date of the concern's written self-certification as a small business as part of its initial offer including price to the procuring agency for a particular section 8(a) contract.

(c) As of the date of application for section 7(j) management or technical assistance. (Such a section 7(j) application may be in the form of a letter to the appropriate SBA officer or

as otherwise directed by the proper SBA official.)

§ 121.1104 Section 8(a) self-certification.

(a) After SBA has notified a procuring agency in writing that it has accepted a procurement for the section 8(a) program in support of the approved business plan of a particular section 8(a) concern, the section 8(a) concern shall certify that it is a small business for the purpose of performing that particular contract (by certifying that it is small for a particular SIC Code or Codes) at the time it submits its initial offer including price to the procuring agency for that contract. A copy of the section 8(a) concern's offer, including its self-certification as to size, shall be provided to the appropriate SBA district office upon submission to the procuring agency.

(b) The SBA district office involved with the procurement shall verify, within 30 days of its receipt of the selected section 8(a) concern's self-certification of size, if possible, that the selected concern is small.

(1) In verifying the selected section 8(a) concern's size, SBA will review the annual financial statements and other relevant material regarding the number of employees submitted by the concern to SBA pursuant to Part 124 of these regulations. Such financial statements and materials should be present in the section 8(a) concern's business plan file. Verification cannot occur unless these financial statements and materials are available to and reviewed by SBA.

(2) Where SBA verifies that the selected section 8(a) concern is small for a particular procurement, subsequent changes in size up to the date of award, except those due to merger with or acquisition by another business concern, will not affect the firm's size status as it relates to that procurement.

(i) Where the selected section 8(a) concern has merged with or been acquired by another business concern between the date of its certification and the date of award, the concern must recertify its size status, and SBA must verify that new certification, before award can occur.

(ii) An award of a section 8(a) contract will be voidable where the selected section 8(a) concern does not so recertify its size status.

(c) SBA may, in its discretion, request a formal size determination (pursuant to § 121.1600 of this part) with the SBA regional office serving the geographical area in which the principal office of the selected section 8(a) concern is located.

(d) Where SBA cannot verify that the selected section 8(a) concern is small for a particular procurement, the concern will be ineligible for that procurement, unless a formal size determination is made in favor of the section 8(a) concern.

(e) The selected section 8(a) concern may request a formal size determination (pursuant to § 121.1600 of this part) with the SBA regional office serving the geographical area in which the principal office of the section 8(a) concern is located within 5 working days of its receipt of SBA's denial of verification.

(f) Where the selected section 8(a) concern does not timely request a formal size determination, SBA may accept the procurement in support of another section 8(a) concern, or may return the procurement from the section 8(a) program, as appropriate.

§ 121.1105 Limitation on subcontracting.

A concern may not be awarded a contract for a Government procurement as a small business concern under this subpart unless the concern agrees that—

(a) In the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees;

(b) In the case of a contract for supplies or products (other than procurement from a regular dealer in such supplies or products), the concern will perform at least 50 percent of the cost of the manufacturing the supplies or products (not including the cost of materials);

(c) In the case of a contract for general construction, the concern will perform at least 50 percent of the cost of the contract, not including the cost of materials, with its own employees; and

(d) In the case of a contract for construction by special trade contractors, the concern will perform at least 50 percent of the cost of the contract, not including the cost of materials, with its own employees.

§ 121.1106 Manufactured products under Section 8(a) contracts.

(a) In section 8(a) contracts for the procurement of manufactured products, in order to qualify as a small concern, the section 8(a) concern must be a "manufacturer" or a "regular dealer" within the meaning of the Walsh-Healey Act, and must:

(1) Be the manufacturer of the end item being procured; or

(2) Except as noted in paragraph (d) of this section, provide products manufactured by other concerns which would qualify as small businesses under this procurement (i.e., meet the size standard for the product acquired).

(i) The applicable size standard for such small business nonmanufacturer is that of the wholesale industry of the item being procured.

(ii) Any nonmanufacturer must also furnish, in the performance of the contract, the end product of a small business manufacturer or producer that was manufactured or produced in the United States.

(iii) Where it is determined by SBA's Administrator that there are fewer than two small manufacturers of the specific end product being procured, a nonmanufacturer need not provide the product of a small business manufacturer.

(b) For size determination purposes, there can be only one manufacturer of the end item being acquired.

(c) The manufacturer for the purposes of this provision is the concern which, with its own facilities, performs the primary activities in transforming inorganic or organic substances, including the assembly of parts and components, into the end item being acquired. The product of a manufacturer possesses characteristics which, as a result of mechanical, chemical or human labor, it did not possess before the original substances, parts, or components were acquired by the concern. The product of a manufacturer may be finished in the sense that it is ready for utilization or consumption, or it may be semifinished to become a raw material for a concern engaged in further manufacturing. Firms which perform only minimal operations upon the item being procured do not qualify as manufacturers. The following factors are evaluated in determining whether a concern is a manufacturer or is performing only minimal operations for the procurement:

(1) The proportion of total value in the end product added by the efforts of the concern, excluding costs of overhead, testing, quality control, and profit;

(2) The importance of the elements added by the concern to the function of the end product, regardless of their relative value.

(d) Where the manufactured item being acquired is a kit of supplies or other goods, provided by the section 8(a) concern for a special purpose, the section 8(a) concern is an eligible small business for the purposes of this section, if it meets the size standard for the SIC Code of the product acquired and if more than 50 percent of the total value of the contents of the kit was manufactured by concerns which would also qualify as small businesses under the size standard for this procurement. Under this provision, the offeror need not itself be the manufacturer of any of the items acquired. Where the

Government has specified an item (or items) for the kit which is (are) not produced by small business concerns, then such item(s) shall be excluded from the determination of total value for the purposes of this paragraph.

§ 121.1107 Multiple item procurements.

If a procurement calls for two or more specific end items with different size standards and the section 8(a) concern may submit an offer on any or all end items, the section 8(a) concern must meet the size standard for each end item for which it contracts with SBA. If a procurement, calling for two or more specific end items with different size standards, requires performance by a single contractor, the section 8(a) concern qualifies as a small business if it meets the size standard of the end item(s) having the same numerical standard which account(s) for the greatest percentage of total contract value.

§ 121.1108 Eligibility of Section 8(a) concern for other SBA assistance.

A concern which is eligible under these size regulations for the award of a section 8(a) contract, shall be deemed eligible under the size regulations for assistance, as described in § 121.800, § 121.1000, and § 121.1300 of these regulations, where the latter assistance directly and primarily relates to the performance of the section 8(a) contract in question.

§ 121.1200 Size eligibility for the Small Business Innovation Research Program.

§ 121.1201 Program covered.

(a) These sections apply to size status for the purpose of award of a "funding agreement" pursuant to the Small Business Innovation Development Act of 1982 , (Pub. L. 97–219, 15 U.S.C. 638 (e) thru (k)).

(b) The term "funding agreement officer" for purposes of this subpart 121.1200 is defined to include a contracting officer, a grants officer, or a cooperative agreement officer.

§ 121.1202 Establishment of the size standard.

(a) To be eligible to compete for award of funding agreements in SBA's Small Business Innovation and Research (SBIR) program, a business concern, including affiliates, may not have more than 500 employees. The rules for determining "number of employees" are set forth in § 121.407 of these regulations.

(b) A "funding agreement" is any contract, grant or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such work is defined in the SBIR legislation as any ". . . activity which is (1) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied; (2) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (3) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements"—15 U.S.C. 638, as amended by 96 Stat. 218 section 4(e)(5).

§ 121.1203 Binding size determinations.

Size determinations are formal actions by SBA officials, pursuant to § 121.1600 and § 121.1700 of these regulations, based upon a specific "funding agreement", as described herein, and are binding upon the parties thereto. Opinions provided by SBA to funding agreement officers or others not relating to a specific "funding agreement" and not given pursuant to § 121.1600 or § 121.1700 are advisory in nature and not binding size determinations under these sections, and are not appealable.

§ 121.1204 Time at which size is determined.

The size status of a concern for the purpose of a "funding agreement" under the SBIR program is determined as of the date of the award for both Phase I and Phase II SBIR awards. A concern having more than 500 employees at the date of award (as determined pursuant to § 121.407 of these regulations) is ineligible for award.

§ 121.1205 Self-certification.

(a) A firm submitting a proposal for award of an SBIR funding agreement must certify itself to be a small business as part of its proposal.

(b) In the absence of a written protest by other offerors or other credible information which would cause the funding agreement officer or SBA to question the veracity of the self-certification, the funding agreement officer may accept the self-certification at face value for the "funding agreement" in question.

(c) Protests against the self-certification of an offeror by another offeror or prospective offeror, by the funding agreement officer or by SBA shall be made under the procedures set forth in § 121.1600 of these regulations.

§ 121.1300 Size eligibility for paying reduced patent fees.

§ 121.1301 Program covered.

These sections apply to size status for the purpose of paying reduced patent fees pursuant to Pub. L. 97–247. This statute provides for the payment of reduced patent fees "by independent inventors and nonprofit organizations as defined in regulations established by the Commissioner of Patents and Trademarks, and by small business concerns as defined in section 3 of the Small Business Act and by regulations established by the Small Business Administration." These regulations deal with eligibility for the latter category, that is, small business concerns. Eligibility for the former categories, that is, independent inventors and nonprofit organizations, is set forth in the regulations of Patent and Trademark Office, Department of Commerce, 37 CFR 1.9, 1.27, 1.28.

§ 121.1302 Establishment of the size standard.

A concern eligible for reduced patent fees is one (a) Whose number of employees, including those of its affiliates, does not exceed 500 persons (the rules for determining "number of employees" are set forth in § 121.406 of these regulations); and

(b) Which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor, if that person had made the invention, or to any concern which would not qualify as a non-profit organization or as a small business concern under this section.

§ 121.1303 Binding size determinations.

Size determinations are formal actions by SBA officials pursuant to § 121.1600 and § 121.1700 of these regulations, based upon a specific patent application pursuant to the rules of the Patent and Trademark Office, Department of Commerce, and are binding upon the parties thereto. Opinions provided by SBA to patent applicants or others not relating to a specific patent application and not given pursuant to § 121.1600 or § 121.1700 are advisory in nature and not binding size determinations under this section, and are not appealable.

§ 121.1304 Time at which size is determined.

The size status of a concern, including its affiliates, for the purpose of reduced patent fees is determined as of the date of the written verification as a small

business as part of the patent application pursuant to 37 CFR 1.27 of the regulations of the Patent and Trademark Office of the Department of Commerce.

§ 121.1305 Self-certification.

(a) A concern may verify its small size in the submission of a patent application to the Patent and Trademark Office pursuant to 37 CFR 1.27 of the regulations of that office.

(b) Any attempt to improperly establish small size status—fraudulently, through gross negligence or otherwise—could result in remedial action by the Patent and Trademark Office. (*See* 37 CFR 1.28, 1.56(d) and 1.555 of the regulations of that office).

(c) In the absence of credible information indicating otherwise, the Patent & Trademark Office may accept the verification by the concern as a small business at face value for the patent application in question.

(d) Questions concerning the verification by a concern as a small business in connection with a patent application shall be resolved, in the first instance, by the Patent and Trademark Office. In the event that the Patent and Trademark Office does not verify that the applicant is small, the applicant for the patent may request a formal SBA size determination pursuant to § 121.1600 of this part.

§ 121.1400 Size eligibility of financial institutions for purposes of Sections 8(d) and 15(g) of the Small Business Act.

§ 121.1401 Programs covered.

The statutory directives of section 8(d) and 15(g) of the Small Business Act, 15 U.S.C. 637(d) and 644(g), include subcontracting opportunities in connection with Government Procurements for "small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals." These sections of this regulation apply to size status for the purpose of subcontracting requirements for financial services to commercial banks and savings and loan associations.

§ 121.1402 Establishment of the size standard.

(a) For the purposes of financial services subcontracting under sections 8(d) and 15(g) of the Small Business Act, a small business, including its affiliates, is a commercial bank or savings and loan association, the assets of which, at the end of its preceding completed fiscal year, do not exceed $100 million.

(b) "Assets" for the purposes of this regulation means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

§ 121.1403 Binding size determinations.

Size determinations are formal actions by SBA officials, pursuant to § 121.1600 and § 121.1700 of these regulations based upon specific subcontracts and are binding upon the parties thereto. Opinions provided by SBA to prime contractors, contracting officers or others, not relating to a specific subcontract and not given pursuant to § 121.1600 or § 121.1700, are advisory in nature and not binding size determinations under these sections, and are not appealable.

§ 121.1404 Time at which size is determined.

The size status of a concern for the purpose of financial services subcontracting is determined as of the date of the written self-certification as a small business as part of the subcontractor's initial offer including price.

§ 121.1405 Self-Certification.

(a) The financial services subcontractor will self-certify its small size status in the submission of its offer to the prime contractor.

(b) In the absence of a written protest by offerors for the prime contract or for the subcontract or other credible information which would cause the prime contractor, the government contracting officer or SBA to question the veracity of the self-certification, the prime contractor and the government contracting officer may accept the self-certification at face value for the subcontract in question.

(c) Protests against the self-certification of a subcontractor or an offeror or other interested parties for a subcontract by other offerors for the prime contract or the subcontract, by the prime contractor, by the government contracting officer or by SBA shall be made under the procedures set forth in § 121.1600 of this Part.

§ 121.1500 Size eligibility for compliance with programs of other agencies.

§ 121.1501 Programs covered.

SBA will provide size determinations, under its rules, standards and procedures, for the purpose of compliance with small business requirements of statutes, regulations or programs of other government agencies. These size determinations are provided upon request by the other agencies and have binding effect to the extent determined by the relevant statute, regulation or program of such other agencies. SBA size determinations under these regulations are solely findings regarding the size status of a concern and do not affect other regulatory, compliance, contractual or administrative matters.

§ 121.1502 Size standards of other agencies.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. However, SBA size standards sometimes may not be appropriate for the particular regulation involved. In such cases where a Federal agency decides the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is more appropriate to the activities of the agency.

§ 121.1503 Establishment of the size standard.

For purposes of size determinations made pursuant to this section, the size standards for compliance with programs of other agencies are those set forth in these regulations for SBA programs which are most comparable to the programs of such other agencies, unless otherwise agreed by the agency and SBA.

§ 121.1504 Time at which size is determined.

SBA will make size determinations for the purpose of compliance with programs of other agencies as of a definite time set forth in the request of such other agency.

§ 121.1505 Procedures for SBA size determinations.

SBA size determinations for other Government agencies will be made under the procedures set forth in § 121.1600 of this Part. Appeals from these SBA determinations, pursuant to § 121.1700 of this part, are available to the concern whose size is in issue, the Government agency requesting the size determination or other interested parties only upon the request of the other Government agency.

§ 121.1600 Procedures for formal size determinations.

§ 121.1601 Who may initiate.

(a) *Protests of small business status.* Entities may protest the size of a concern with respect to designated SBA programs as identified below.

(1) With respect to SBA's Small Business Set Aside Program, to include the Property Sales Program, the following entities may protest:
(i) Any offeror;
(ii) The contracting officer;
(iii) The SBA Regional Administrator in the region serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates, or the Associate Administrator for Procurement Assistance;
(iv) Other interested parties.
(2) With respect to SBA's Subcontracting Program (including the Minority Bank Subcontracting Program), the following entities may protest:
(i) The prime contractor;
(ii) The contracting officer;
(iii) Other potential subcontractors;
(iv) The SBA Regional Administrator of the region serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates, or the Associate Administrator for Procurement Assistance;
(v) Other interested parties.
(3) With respect to SBA's Small Business Innovation and Research Program, the following entities may Protest:
(i) A prospective offeror;
(ii) The funding agreement officer;
(iii) The SBA Regional Administrator in the region serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates, or the Assistant Administrator for Innovation, Research and Technology;
(iv) Other interested parties.
(b) *Requests for size determinations.* Entities may request a formal size determination for a concern with respect to designated SBA programs as identified below. In making a formal size determination, the procedures of §§ 121.1602, 121.1605, and 121.1606 of these regulations shall apply.
(1) With respect to SBA's Financial Assistance Programs, the following entities may request a formal size determination:
(i) The applicant for assistance;
(ii) The SBA program official in the relevant SBA District Office with authority to take final action on the assistance requested;
(iii) The SBA Regional Administrator of the region serving the geographical area in which the principal office of the applicant concern, excluding parent companies and affiliates, is located, or the Associate Administrator for Finance and Investment.
(2) With respect to SBA's section 8(a) Program, for purposes of individual contract awards, the following entities may request a formal size determination:
(i) The section 8(a) concern nominated by SBA for the particular procurement;
(ii) The SBA program official in the relevant SBA District Office with authority to take final action on the award of the section 8(a) contract;
(iii) The SBA Regional Administrator of the region serving the geographical area in which the principal office of the offeror, excluding parent companies and affiliates, is located, or the Associate Administrator for Minority Small Business and Capital Ownership Development.
(3) With respect to SBA's Certificate of Competency Program, the following entities may request a formal size determination:
(i) The offeror who has applied for a Certificate of Competency;
(ii) The SBA Regional Administrator in the region serving the geographical area in which the principal office of the offeror, excluding parent companies and affiliates, is located, or the Associate Administrator for Procurement Assistance.
(4) With respect to SBA's sale or lease of government property, the following entities may request a formal size determination:
(i) The SBA Regional Administrator in the region serving the geographical area in which the principal office of the offeror, excluding parent companies and affiliates, is located, or the Associate Administrator for Procurement Assistance;
(ii) Other Federal agencies for the purpose of administration of a property sales program.
(5) With respect to eligibility for paying reduced patent fees, the following entities may request a formal size determination:
(i) The applicant for the reduced patent fees;
(ii) The Patent and Trademark Office.
(6) Additionally, SBA will make a formal size determination when requested by another Government agency for purposes of eligibility for a non-SBA program.

§ 121.1602 Who makes formal size determinations.

(a) In response to either a protest or a request for a formal size determination, the Regional Administrator or his or her delegatee shall make all formal size determinations under this Part. (Size determinations for purposes of section 8(a) Program eligibility, as distinct from size determinations in connection with a particular procurement, shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to Part 124 of these regulations.)
(b) For protest purposes, the appropriate Regional Administrator shall be the one in the SBA region serving the geographical area of the headquarters of the offeror, regardless of the location of parent companies or affiliates.
(c) In cases of a request for a formal size determination, the Regional Administrator determining size shall be the one in the SBA region serving the geographical area in which the principal office of the applicant for assistance or potential recipient of the Government program benefits involved, excluding parent companies and affiliates, is located.

§ 121.1603 Protest procedures.

(a) *Filing.* (1) A protest in connection with a government procurement or sale shall be directed to the contracting officer responsible for the particular procurement or sale involved. Except as provided below with respect to contracting officers or SBA, in order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening.
(2) With respect to negotiated procurements, a protest must be filed within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt from the contracting officer of notification of the identity of the prospective awardee being protested, except as provided below with respect to protests made by contracting officers or SBA.
(3) Such protest must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted; However, a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted and the contracting officer thereafter receives a confirming letter either within such 5-day period or postmarked no later than one day after the date of such telephone protest.
(4) At any time after bid opening a contracting officer may question the size of any offeror for the purpose of a particular procurement or sale by filing a protest with the SBA Regional Office serving the area in which the headquarters of the offeror is located, regardless of the location of parent companies or affiliates.
(b) *Timeliness of protest.* (1) A protest received after the time limits set forth above shall not apply to the

procurement or sale in question. A concern determined other than small as a result of such late protest, however, shall be precluded from self-certifying in any other procurement or sale in which the size standard is the same or lower than the standard in the procurement or sale in question.

(2) A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award.

(3) A protest by SBA shall be timely for the purpose of the procurement or sale in question whether filed before or after award. SBA protests, like other protests, must initially be filed with the contracting officer.

(4) On a multiple award schedule procurement set aside for small business, protests will be deemed timely if received by SBA at any time prior to the expiration of the contract period (including renewals).

(5) Protests filed by any person before bid opening or notification of intended award shall be considered premature and shall be dismissed.

(c) *Referral to regional office.* (1) Any contracting officer who receives a protest shall promptly forward such protest to the Regional Office serving the geographical area in which the headquarters of the offeror is located, regardless of the location of parent companies or affiliates.

(2) When a contracting officer receives a protest and refers it to the SBA, such referral shall contain the following:

(i) The protest and any accompanying materials;

(ii) A copy of the self-certification as to size;

(iii) Identification of the applicable size standard;

(iv) A copy of the solicitation;

(v) Identification of the date of bid opening; and

(vi) The date on which the protest was received.

§ 121.1604 Form of protest.

(a) *Required specificity.* No specific form is required for a protest. However, a protest must be sufficiently specific to provide reasonable notice as to the grounds upon which the protested concern's size is questioned. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to specify adequate grounds for the protest. Some basis for the belief stated in the protest must be given. For the purpose of illustrating required specificity, set forth below are 3 examples which provide sufficient specificity and 3 examples which lack sufficient specificity.

Example 1: An allegation that firm X is large because it employs more than 500 employees (where 500 employees is the applicable size standard) without setting forth a basis for the allegation is unspecific.

Example 2: An allegation that firm X is large because it exceeds the 500 employee size standard (where 500 employees is the applicable size standard) because a higher employment figure was published in publication Y is sufficiently specific.

Example 3: An allegation that firm X is affiliated with firm Y without setting forth any basis for the allegation is unspecific.

Example 4: An allegation that firm X is affiliated with firm Y because officer A is an officer of both companies is sufficiently specific.

Example 5: An allegation that firm X has revenues in excess of $2 million (where the applicable size standard is $2 million) without setting forth a basis for the allegation is unspecific.

Example 6: An allegation that firm X exceeds the size standard (where the applicable size standard is $2 million) because it received Government contracts in excess of $2 million last year is sufficiently specific.

The examples given above in this subsection are stated in the briefest possible fashion, but protestors should provide as much detail as is available to them in order to facilitate making expeditious and accurate size determinations. Materials supporting the protest should be submitted where possible.

(b) *Non-specific protests.* Protests which do not contain sufficient specificity shall be dismissed by SBA.

(c) *Appeal of dismissals.* A dismissal by the applicable SBA Regional Office of a protest for lack of specificity may be appealed to SBA's Office of Hearings and Appeals pursuant to § 121.1700 of these regulations.

§ 121.1605 Notification of protest and filing of Form 355.

(a) Upon receipt of the protest, the SBA Regional Administrator or his or her delegatee shall immediately notify the contracting officer and the protestor of the date such protest was received and whether it will be processed or dismissed for lack of specificity. Where a protest is filed pertaining to SBA's Small Business Innovation Research Program, notification shall also be made to SBA's Assistant Administrator for Innovation, Research and Technology. In cases where the protest is sufficiently specific, the Regional Administrator or his or her delegatee shall also advise the protested offeror of the receipt of the protest and shall forward to the protested offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Size Determination (OMB No. 3245–0101), by certified mail, return receipt requested.

(b) Such offeror must file the completed Form 355 within 3 working days as directed by SBA, and must attach thereto its answers to the allegations contained in the protest, together with any supporting material.

(c) If such offeror does not submit the completed SBA Form 355 and its answers to the allegations within 3 working days, or within any additional period of time provided by SBA for good cause, SBA may assume that disclosure of the form or any missing part thereof or any missing answer to the allegations would be contrary to the interests of the protested concern, and SBA may determine that the protested concern is other than a small business.

§ 121.1606 Making the size determination.

(a) *General.* After receipt of a protest or a request for a formal size determination and responses thereto, SBA shall make a formal size determination within 10 working days, if possible.

(b) *Withdrawal of request for formal size determination or protest.* Once properly instituted by the filing of a request for a formal size determination or a protest, the size determination may be completed by SBA, even if the particular application, proposal, or offer is withdrawn or the Government procurement or sale is cancelled or awarded. This continuation of the size determination process is discretionary with SBA and will be used to prevent the misuse of small business assistance programs and this Part 121.

(c) *Basis for determination.* Once the protest or request for a formal size determination is found to be sufficiently specific, such size determination may be based on other grounds not raised in the protest/request. The size determination shall be based primarily on facts and allegations supplied by the protestor and protested concern (or by the entity requesting the size determination). If deemed necessary or appropriate, SBA may utilize other information in its files and may make inquiries including requests to the protestor, the protested concern and any alleged affiliates, or other persons for additional specific information.

(d) *Burden of persuasion.* The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size is under consideration.

(e) *Weight of evidence.* Specific signed factual evidence will be weighed more heavily by SBA than general

unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure.

(f) *Formal size determination.* The SBA shall base its formal size determination upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(g) *Notification of determination.* After making its determination, SBA shall immediately notify the contracting officer, the protestor and the protested offeror and each affiliate or alleged affiliate of its determination. Such notification shall be by certified mail, return receipt requested.

(h) *Results of an SBA size determination.* (1) A formal size determination becomes effective immediately and remains in full force and effect unless and until reversed upon appeal to SBA's Office of Hearings and Appeals pursuant to § 121.1700 of these regulations, or unless the concern is recertified as a small business pursuant to § 121.1607 of these regulations.

(2) After SBA has determined that a protested concern is other than small for purposes of a particular procurement, such concern cannot thereafter become eligible for such procurement by affirmatively reducing its size.

(3) If SBA has made a formal size determination that a particular concern is not small, the concern will be deemed ineligible within such applicable size standard for any assistance under the Small Business Act or the Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business as provided below. After such an adverse size determination, the concern shall not self-certify as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified.

§ 121.1607 Recertifications.

(a) An application for recertification may be made at any time to the SBA Regional Office which made the original size determination. Such application must be accompanied by a current completed Form 355 (OMB control number 3245–0101) and any other information sufficient to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern.

(b) Recertification shall not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation due to a joint venture (e.g., ostensible subcontracting) limited to a particular Government procurement or property sale, or is based on an ineligible non-manufacturer size determination on a particular Government procurement.

(c) If SBA denies an application for recertification, such denial shall be deemed a formal size determination. Except as to timber sales size determinations, denials are appealable only by the concern in question to the SBA Office of Hearings and Appeals pursuant to § 121.1700 of these regulations. With respect to timber sales size determinations, SBA may also appeal a denial to the Office of Hearings and Appeals. (However, the concern's later self-certification on subsequent small business assistance applications may be protested in the usual manner.)

(d) The granting of an application for recertification shall have future effect only and shall be deemed a formal size determination, except that the notice requirements of § 121.1606(g) to entities other than the applicant shall not apply.

§ 121.1608 SIC appeals.

The Office of Hearings and Appeals exclusively shall determine all SIC Code Appeals. Procedures for filing appeals from SIC Code designations are set forth in § 121.1700 of these regulations.

§ 121.1700 Procedures for size and SIC Code Appeals.

§ 121.1701 Jurisdiction of Office of Hearings and Appeals.

The jurisdiction of the Office of Hearings and Appeals under this part shall be limited, as specified in paragraphs (a) and (b) of this section to appeals from formal size determinations and appeals from SIC Code designations. No appeal will be permitted from an informal or advisory size opinion. The Office of Hearings and Appeals will review appeals and make final decisions pursuant to the provisions of this subpart, affirming, reversing or modifying:

(a) Formal size determinations made by SBA Regional Offices, pursuant to § 121.1600, as to a concern's small business size status; and

(b) Designations by contracting officers, as made by the contracting officer or as changed by SBA pursuant to § 121.902(d) or § 121.1102(d) of this part, regarding classifications of the Standard Industrial Classification (SIC) Code and/or the Small Business Administration size standard applicable to a product or service for the purpose of Government procurements and sales.

§ 121.1702 Definitions.

The following definitions shall apply to this subpart 121.1700:

(a) "Person" means an individual, partnership, corporation, association, or other business entity.

(b) "Party" means the appellant, the concern whose size is at issue and all alleged affiliates of such concern that participate or are specifically afforded the opportunity to participate in the proceeding by the Presiding Judge, the contracting officer in a SIC Code designation appeal, the SBA in section 8(a) size appeals and other size appeals in which there is initially no other adverse party to the concern whose size is at issue in the case or where admitted by motion, and any other person so designated by the Presiding Judge. Parties have full rights of participation in the proceeding and are bound by the decision of the panel.

§ 121.1703 Who may appeal.

Appeals from size determinations and SIC Code designations may be filed with the Office of Hearings and Appeals by any of the following:

(a) Any interested person who was a party to or has been adversely affected by a formal size determination made pursuant to § 121.1600 of this part;

(b) Any interested person who has been adversely affected by a SIC Code designation; however, with respect to a particular section 8(a) contract, only SBA, or the contracting officer where SBA has changed a SIC Code designation pursuant to § 121.1102(d), may appeal a SIC Code designation;

(c) The Small Business Administration Associate or Assistant Administrator for the Small Business Administration program involved or the SBA Regional Administrator in the region which made the formal size determination, through the SBA's Office of General Counsel.

§ 121.1704 Where to appeal.

Written Notices of Appeal conforming to § 121.1706 may be mailed to the Office of Hearings and Appeals, Small Business Administration, Washington, DC 20416, or may be personally delivered to the Office of Hearings and Appeals at 2100 K Street, NW., Washington, DC.

§ 121.1705 Time limits for appeals.

(a)(1) Except as provided in paragraph (a)(2) of this section, a written appeal from a size determination must be sent by certified mail, return receipt requested, to the Office of Hearings and Appeals no later than thirty (30) calendar days after the date of receipt of such determination;

(2) A written appeal from a size determination in a pending procurement or a pending Government property sale must be sent by certified mail, return receipt requested, no later than five (5) days (exclusive of Saturdays, Sundays, and legal holidays) after the date of receipt of such determination. Unless written notice of such an appeal is mailed within the prescribed time limit, the appellant will be deemed to have waived all rights of appeal regarding size insofar as the pending procurement or sale is concerned; however, an appeal which is untimely under this paragraph (a)(2) may, if timely under paragraph (a)(1) of this section, proceed to final determination and shall apply to future procurements and sales.

(b)(1) Except as provided in paragraph (b)(2) of this section, an appeal from a SIC Code designation must be sent by certified mail, return receipt requested, to the Office of Hearings and Appeals no later than 10 days (exclusive of Saturdays, Sundays, and legal holidays) before the bid opening day or deadline for submitting proposals or quotations as specified in the solicitation, taking into account any modifications to such dates.

(2) Where the bid opening day or deadline for submitting proposals or quotations is less than 30 days after the issuance of the invitation for bids or request for proposals or quotations, the appeal must be sent by certified mail, return receipt requested, to the Office of Hearings and Appeals no later than 5 days (exclusive of Saturdays, Sundays, and legal holidays) before the bid opening day or deadline for submitting proposals or quotations.

(3) An untimely appeal of a SIC Code designation will be dismissed.

(c) The date of mailing will be determined by reference to the postmark indicated on the Notice of Appeal.

(d) A Notice of Appeal may be personally delivered to the Office of Hearings and Appeals within the time limits specified in this section in lieu of sending it by certified mail.

§ 121.1706 Initiation of appeal.

(a) The appeal is initiated by filing the Notice of Appeal. No particular form is prescribed for the Notice of Appeal. The appellant shall file the Notice of Appeal with the Office of Hearings and Appeals, in writing. A telegraphic notice shall be confirmed by next day mailing of a written Notice. In accordance with § 121.1712, the Notice of Appeal shall be certified and a copy shall be concurrently served by the appellant upon those parties and persons specified in paragraph (a)(6) of this section. The Notice of Appeal shall include the following information:

(1) Name, address and telephone number of the party filing the appeal, identification of the person to be contacted for service of correspondence, notices, orders, pleadings and requests for information pertaining to the appeal;

(2) The substance and date of the size determination or SIC Code designation from which the appeal is taken, including identification of the concern whose size is being determined, or the SIC or SBA size standard being applied;

(3) If applicable, the solicitation or contract number and date, and the name, address and telephone number of the contracting officer;

(4) A full and specific statement of the reasons why the size determination or SIC Code designation appealed is alleged to be erroneous;

(5) Presentation of arguments in support of such allegations; and

(6) A statement certifying that copies of the Notice of Appeal have been served upon the following, as applicable:

(i) The contracting officer where a procurement or sale is involved;

(ii) The Small Business Administration official whose formal size determination is appealed;

(iii) The concern whose size status is at issue;

(iv) All persons, other than the appellant, who filed protests at the SBA Regional Office level; and

(v) Each concern alleged to be affiliated with the concern whose size is at issue, to the extent that the address of such a concern is reasonably identifiable;

(vi) SBA's Office of General Counsel, attention: Associate General Counsel for General Law.

(b) Upon receipt of a copy of the Notice of Appeal, the SBA Regional Office shall immediately, by express mail or other appropriate next day delivery, send the entire case file to the Office of Hearings and Appeals.

(c) The Office of Hearings and Appeals will notify the parties and persons specified in paragraph (a)(6) of this section, and any other interested persons as determined by the Presiding Judge, of the date it received the Notice of Appeal and the docket number assigned.

§ 121.1707 Scope of appeal and burden of proof.

The Office of Hearings and Appeals will not consider issues not previously presented to the Small Business Administration official who made the size determination appealed unless such consideration is determined to be necessary to prevent manifest injustice to a party and such omission was not due to the fault of such party. The appellant shall have the burden of proof, by a preponderance of the evidence, in both size and SIC Code appeals.

§ 121.1708 Response to notice of appeal.

After a Notice of Appeal has been filed, any interested person may file a signed statement supporting or opposing the appeal and presenting argument and evidence with the Office of Hearings and Appeals. Such statement must be received by the Office of Hearings and Appeals no later than fifteen (15) calendar days after such Office's issuance of the notification of the filing of an Appeal (pursuant to § 121.1706(c)), unless otherwise specified by the Presiding Judge. Such statement shall also, in accordance with § 121.1712, be certified and concurrently served upon all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge. In the discretion of the Presiding Judge, the appellant may be permitted to reply to any such response submitted.

§ 121.1709 Intervention.

(a) *Intervention by SBA.* The SBA may, upon motion and for good cause, intervene in any proceeding covered under this part. Such motion shall be filed on behalf of the SBA by SBA's Office of the General Counsel. Such motion shall be concurrently served on all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge.

(b) *Intervention by interested persons.* Other persons may move to intervene in an appeal before the Office of Hearings and Appeals by filing a motion containing a brief statement of the movant's interest in the proceeding. Such motion shall be concurrently served on all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge. The Presiding Judge may permit a person to intervene to such extent and upon such terms as appropriate, if:

(1) The movant's interest will not be adequately represented by the existing parties;

(2) The movant's participation in the appeal may reasonably be expected to assist in the development of a proper record; and

(3) The movant's participation will not broaden the issues, resulting in prejudicial delay of the proceeding.

§ 121.1710 Docket file.

(a) *Contents.* Upon the receipt of a Notice of Appeal, the case is assigned a docket number. The docket file will consist, as applicable, of the Notice of Appeal, any responses thereto, the case file submitted by the Small Business Administration Regional Office, any materials submitted by the contracting officer, including the related written determination of the official or officer, any additional pleadings, motions and other documents submitted pursuant to these sections, unless expressly excluded from the docket file or not received into evidence by the Presiding Judge, the transcript or recording of any oral hearing or telephone conference, and any orders and decisions issued in the proceeding.

(b) *Public access to docket file.* The following rules apply regarding public access to the docket file for a proceeding:

(1) Except as provided in paragraph (b)(2) of this section, the docket file is available for public inspection in the Office of Hearings and Appeals during normal business hours and copies of such material may be obtained upon payment of the applicable charges.

(2) The following information in the docket file shall not be subject to public inspection or copying:

(i) Information which cannot be disclosed according to law;

(ii) Information subject to an in camera order issued pursuant to § 121.1717 of these regulations; and

(iii) Any proprietary information the withholding of which is provided pursuant to § 121.1712 of these regulations or which is identified and contained in the case file submitted by the Small Business Administration official or the contracting officer.

(3) The case file submitted by the Small Business Administration Regional Office shall be returned to such office upon termination of the proceeding. The remainder of the docket file shall be retained and disposed of in accordance with general principles of Government records management.

§ 121.1711 Assignment of three judge panel.

Upon receipt of a Notice of Appeal, the Assistant Administrator for the Office of Hearings and Appeals will assign the appeal to a panel of three Judges, one of whom (the Presiding Judge) will be designated to preside over the panel. The panel will have jurisdiction to conduct proceedings relative to and to decide the controversy and to take such further appropriate action as may be necessary to issue a decision in the matter in accordance with applicable agency policy, precedent and law. A decision agreed upon by a majority of the panel will be the final decision of the Small Business Administration.

§ 121.1712 Filing and service of pleadings.

The following rules apply to all pleadings, motions, responses, and other documents filed pursuant to these sections.

(a) Except as provided in paragraph (b) of this section, all pleadings, motions, and other documents filed with the Office of Hearings and Appeals pursuant to these sections shall be served upon all parties to the proceeding or their respective counsel or other representative in the proceeding, personally or by registered or certified mail, and shall be accompanied by certification of such service.

(b) Any pleading, motion, response, and other document filed with the Office of Hearings and Appeals shall include a signed certificate which states how and when service was made.

(c) Tax returns, confidential data on SBA Form 355 and any other document that constitutes proprietary information need not initially be served, so long as such deletions are identified and described in the copies served upon all parties to the proceeding pursuant to paragraph (a) of this section. In addition, if such proprietary information is received in evidence by the Presiding Judge, the offering party must petition for an *in camera* order, pursuant to § 121.1717, in order to withhold such information from the public and from other parties.

(d) Any pleading, motion, response, or other document filed pursuant to these sections shall be signed by an authorized person, who shall certify as follows:

I have read this document and, under penalty of perjury and the sanctions imposed under 18 U.S.C. 1001, of which I am aware, I certify that, to the best of my knowledge, the statements made herein are true and correct, and that this document is not being filed for the purpose of delay or harassment.

(e) Time limitations on all filings are strictly enforced. Unless authorized by the Office of Hearings and Appeals, late filings, and filings not specifically provided for in this subpart, may be disregarded to avoid delay in disposing of the appeal. In the exercise of discretion and for good cause, the Presiding Judge may waive, after notice to all parties, any time limit set forth in this section, other than the time limit for appeal set forth in § 121.1705(a), provided that in the most extraordinary situations the limitations of § 121.1705(a) may be waived in order to prevent manifest injustice. A motion for an extension of time must be filed within the time period to which it applies.

§ 121.1713 Authority and functions of presiding judge.

The Presiding Judge of the panel to which the appeal is assigned is authorized to act upon and to dispose of all relevant motions, petitions, responses, and other pleadings; to obtain such competent and relevant facts as the Presiding Judge may deem necessary to a proper and just determination of the matters at issue, including, for example, by oral hearing or telephone conferences, through judge's interrogatories, or by other appropriate means; and to fix the time and place of any oral hearing or telephone conference. The Presiding Judge is also authorized to:

(a) Administer oaths and affirmations;

(b) Request the attendance of Small Business Administration employees;

(c) Examine witnesses;

(d) Permit discovery upon motion;

(e) Issue protective orders in the context of discovery and, as specified in § 121.1716, in the context of subpoenas;

(f) Issue subpoenas as provided in § 121.1716;

(g) Issue *in camera* orders pursuant to § 121.1717;

(h) Rule upon questions of procedure, evidence, policy and law, including the designation of party status in a proceeding and the nature and extent of participation for all other participants;

(i) Regulate the course of any oral hearing, maintain decorum, and exclude from such hearing any person engaging in disruptive conduct;

(j) Require the filing of memoranda and the presentation of oral argument with respect to any question upon which the Presiding Judge is required to rule during the course of the proceeding;

(k) Hold conferences for the settlement, explanation or simplification of the issues or for other appropriate purposes;

(l) Dispose of procedural requests and similar matters;

(m) Take action and make decisions in conformity with applicable law, policy, and procedures of the Small Business Administration;

(n) Act on motions to enlarge, modify, or delete issues in the proceedings;

(o) Extend the time limits for filing pleadings for good cause, except the time limit for appeal set forth in § 121.1705(a); and

(p) Impose appropriate sanctions if any party fails to comply with an order of the Presiding Judge to produce certain information, including but not limited to:

(1) Drawing an inference against the party who has failed to comply with the order as to facts in dispute;

(2) Prohibiting the party who has failed to comply with the order from introducing, or otherwise relying upon, evidence relating to the information sought;

(3) Permitting any opposing party to introduce secondary evidence concerning the information sought;

(4) Striking any part of the pleadings of the party failing to comply with such order; or

(5) Taking such other appropriate action in accordance with applicable law, policy, and procedures of the Small Business Administration.

§ 121.1714 Oral hearings and telephone conferences.

The following rules apply to oral hearings and telephone conferences:

(a) The Presiding Judge generally decides the appeal upon the written record, without an oral hearing or oral argument. An oral hearing shall be held only when the Presiding Judge determines, upon examination of the docket file and consideration of such additional facts as may be acquired on notice to the parties, that there is a genuine dispute as to any material fact of decisional significance which cannot be resolved except by confrontation of witnesses.

(b) If the Presiding Judge determines that there is a matter that cannot be resolved other than by a telephone conference or an oral hearing, he or she will fix a time and place for such conference or hearing to resolve such matter.

(c) Any oral hearing will be set at a site reasonably convenient to the parties and notice thereof will set forth:

(1) A statement as to the purpose of the oral hearing; and

(2) A statement as to the matters of fact and law involved and the issues that will be heard.

(d) The Office of Hearings and Appeals will provide a means for recording oral hearings and telephone conferences at which evidence is taken. A transcript or record, as applicable, may be obtained upon payment of the applicable charges.

§ 121.1715 Prohibited ex parte communications.

Except to the extent required for the disposition of *ex parte* matters as authorized by law or regulation, no person may consult a Judge on a question of fact or law at issue in an appeal except on notice and opportunity for all parties to participate.

§ 121.1716 Subpoenas.

The following rules apply to subpoenas:

(a) Subpoenas are authorized at the discretion of the Presiding Judge. Only parties to the proceeding may request subpoenas. No subpoenas may be issued against Small Business Administration personnel or for documents in the custody or control of the Small Business Administration.

(b) Subpoenas requiring the attendance and testimony of witnesses, and subpoenas requiring the production of any books, papers, records, contracts, agreements, and other documents relating to an appeal under this section shall be signed and issued by the Presiding Judge.

(c) Unless submitted on the record while an oral hearing is in progress, requests for a subpoena *ad testificandum* shall be submitted in writing, under oath, identifying the person to be subpoenaed and showing the relevance, materiality, and the basis for requiring the testimony of such person.

(d) Requests for a subpoena *duces tecum* shall be submitted in writing, under oath, and shall specify with particularity the books, papers and documents desired and the facts expected to be proved thereby. A showing shall also be made as to the relevance and materiality of the evidence sought.

(e) Requests for subpoenas shall be submitted by a party in triplicate and may be made *ex parte*.

(f) Any person or entity against whom a subpoena is directed may, prior to the return date, file with the Presiding Judge a motion to quash or limit the subpoena, setting forth the reasons the subpoena should not be complied with or should be limited in scope. Notwithstanding the requirements of § 121.1712(a) of this subpart, such motion need only be served upon the party requesting the subpoena.

(g) Notice, including a brief statement of the reasons therefor, will be given for the denial, in whole or in part, of a request for subpoena or of a motion to quash.

(h) A subpoena may be served by any person who is not a party to or participant in the proceeding and who is not less than 18 years of age.

(i) Service of a subpoena upon the person named therein shall be made by exhibiting the original subpoena to such person, by reading the original subpoena if such person is unable to read, by delivering a duplicate of the subpoena to such person, and by tendering the fees for one day's attendance at the proceeding to which such person is summoned and the mileage allowed by law. If the subpoena is issued on behalf of the United States or an officer or agency thereof, attendance fees and mileage need not be tendered, but will be paid upon filing of an appropriate claim therefor.

(j) The person effecting service of a subpoena shall sign an affidavit thereof, stating the date, time, and manner of service.

(k) In case of failure to make service, the reasons for the failure shall be stated on the original subpoena by the person who attempted to make service.

(l) The original subpoena, bearing or accompanied by the required affidavit or statement, shall be returned immediately to the Office of Hearings and Appeals.

(m) The attendance of witnesses and the production of documentary evidence may be required from any place in the United States to any designated place of hearing. In case of disobedience of a subpoena, the Small Business Administration may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(n) Witnesses who are subpoenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. Fees shall be paid by party at whose instance the subpoena is issued.

(o) In the exercise of discretion, the Presiding Judge authorizing and issuing any subpoena may, upon request or upon his or her own motion, devise and provide such protective order(s) as may be necessary and appropriate to protect against harassment, undue expense or breach of confidentiality of information and data reasonably concluded to require protection from general disclosure.

§ 121.1717 In camera orders.

(a) *Definition. In camera* materials are documents, testimony, or other data which by order of the Presiding Judge are kept confidential and excluded from disclosure to any person except as provided in this section.

(b) *In camera treatment of documents and testimony.* Upon motion and a showing of good cause, the Presiding Judge shall have the authority to order documents or oral testimony to be received *in camera*. The order will specify the date on which *in camera* treatment is expected to expire and will include:

(1) A description of the documents and/or testimony, or portion(s) thereof, being received *in camera;*

(2) A full statement of the reasons for granting *in camera* treatment; and

(3) The terms and conditions imposed by the Presiding Judge limiting access to or use of the *in camera* material.

(c) *Access and disclosure to parties.* (1) Administrative Judges, their designated staffs and other Office of Hearings and Appeals personnel, as appropriate, shall have complete access to *in camera* materials. Any party to the proceedings may seek access only in accordance with paragraph (c)(2) of this section.

(2) Any person seeking disclosure of *in camera* documents or access to testimony shall make a written request to the Presiding Judge who issued the *in camera* order. The Presiding Judge may grant or deny the request in whole or in part. The Presiding Judge will examine the *in camera* materials and may excise any portions prior to disclosure of the materials to the requester consistent with his or her ruling on the request.

(3) *Appeals.* (i) In cases where a motion for an *in camera* order has been denied in whole or in part by the Presiding Judge, an appeal may be taken to the Assistant Administrator for the Office of Hearings and Appeals.

(ii) In cases where a request for disclosure of materials already subject to an *in camera* order has been denied in whole or in part by the Presiding Judge, an appeal may be taken to the Assistant Administrator for the Office of Hearings and Appeals. To the extent practicable, the submitter of the information sought on appeal shall be afforded an opportunity to provide written comments on the appeal.

(d) *In camera* materials shall be segregated from the docket file and protected from public disclosure until the termination of *in camera* treatment, either by expiration of the order or a successful appeal. After the termination of such *in camera* treatment, the materials shall be open to the public to the extent permitted by law.

(e) Proposed findings, conclusions, briefs, or other documents may not include specific details of *in camera* materials. However, general references to such materials may be made. To the extent that parties consider necessary the inclusion of specific details of *in camera* materials, those references shall be segregated and marked and shall become part of the *in camera* record. Those documents shall be served only on parties accorded access to the *in camera* material by the Presiding Judge.

§ 121.1718 The record.

The following rules apply to the record compiled in the proceeding:

(a) A transcript or recording of any testimony and exhibits, and any other documents included in the docket file pursuant to this provision shall constitute the exclusive record for decision. Where the decision is based on official notice of a material fact not appearing in the record, any party may file a petition for reconsideration no later than 20 calendar days following the issuance of the decision served pursuant to § 121.1721(b) advocating a contrary factual proposition and setting forth the factual or legal basis for the challenge.

(b) The record in a proceeding in which an oral hearing has been held will be closed by an announcement to that effect at such hearing by the Presiding Judge, when the taking of testimony has been concluded. When no oral hearing has been held, the record shall be closed 20 calendar days after the issuance of the notification of the filing of an appeal (§ 121.1706(a)). However, upon notice to all parties to the proceeding, the Presiding Judge, in his or her discretion, may amend the date that the record is closed. In any case where an evidentiary transcript has been prepared following an oral hearing, the transcript, together with all exhibits, will be certified by the Presiding Judge and filed in the docket file in the Office of Hearings and Appeals. A copy of such certification will be served on all parties to the proceeding.

(c) At any time during the course of the proceeding, or as directed by the Presiding Judge, but no later than ten (10) calendar days after the issuance of notice of certification of the record made pursuant to paragraph (b) of this section, any party to the proceeding may file with the Presiding Judge a motion requesting the correction of a transcript, if any, which shall be accompanied by proof of service thereof upon all other parties to the proceeding. No later than five (5) calendar days after the receipt of such a motion, other parties may file a response in support of, or in opposition to, such motion. Thereafter, the Presiding Judge will issue an order specifying the corrections, if any, to be made in the transcript. A copy of the order shall be served upon all parties and will be made a part of the record. The Presiding Judge may, on his or her own motion, specify on notice to the parties corrections to be made in the transcript. Objection to any such proposed correction(s) shall be filed within three (3) days after receipt of such notice and such objection(s) will be the subject of appropriate rulings by the Presiding Judge.

§ 121.1719 Post-hearing procedures.

The following rules will apply to proposed findings and conclusions:

(a) After the conclusion of any oral hearing, any party may, with the concurrence of the Presiding Judge, file proposed findings of fact and conclusions, briefs and memoranda of law; Provided, that the Presiding Judge may, in any proceeding, direct any party to file proposed findings of fact and conclusions, briefs and memoranda of law. Any proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within fifteen (15) calendar days after the issuance of notice of certification of the record pursuant to paragraph (b) of this section unless the Presiding Judge specifies otherwise.

(b) Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out with particularity all decisionally significant evidentiary facts developed on the record that are deemed to support the findings proposed, with citations to the transcript, where appropriate, and to other portions of the record relied on for each evidentiary fact. Proposed conclusions shall also be separately stated in serially numbered paragraphs. Proposed findings and conclusions may be limited to those issues that affect the interests of their proponent and may be accompanied by supporting briefs.

(c) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions, briefs and memoranda of law when directed to do so by the Presiding Judge, will be deemed to constitute a waiver of the right to object to the findings and conclusions of the panel.

§ 121.1720 Decision.

(a) Following receipt of proposed findings and conclusions authorized or directed pursuant to § 121.1719 or default in the making of such filings, or upon closing the record when such filings have not been authorized or directed, the Presiding Judge will prepare a proposed decision containing findings of fact and conclusions, as well as the reasons therefor, with respect to all the decisionally significant material issues of fact and law presented on the record. The proposed decision will be circulated among the panel members for consideration and concurrence. Upon approval of that decision or a different decision by a majority of the panel, the decision will be issued.

(b) The decision is the final decision of the Small Business Administration, becomes effective immediately, and binds all parties to the proceeding. However, a party may petition for reconsideration pursuant to § 121.1721 of this subpart.

(c) The Office of Hearings and Appeals shall serve the decision upon all parties to the proceeding by certified mail. Where time is of the essence, notice of the ultimate determination may be communicated in a telegram or by telephone to the parties, to be followed by service of the full text.

§ 121.1721 Reconsideration of decision.

(a) At any time after a written decision has been issued and upon notice to all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge, the panel may, on its own initiative, reopen the proceeding and enter a new decision confirming, modifying, or setting aside the decision in whole or in part.

(b) Within 20 calendar days after issuance of a written decision and upon notice to all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge, any party may file a petition for reconsideration of such decision, setting forth the relief sought and the grounds in support of the petition. Such grounds must be confined to new questions raised by the decision concerning which the petitioner had no previous opportunity to present evidence or argument.

(c) In cases where SBA has not previously appeared in the case as a party, and was not so asked to appear by the Presiding Judge, SBA's Office of the General Counsel may, within 20 calendar days after issuance of a written decision and upon notice to all parties and persons specified in § 121.1706(a)(6), and upon other persons determined to be interested by the Presiding Judge, file a petition for reconsideration where the decision presents significant issues of precedential importance.

(d) Any party may oppose the petition filed pursuant to paragraph (b) or (c) of this section by filing an answer thereto within 10 days after receipt of service of the petition upon such party.

(e) The filing of a petition for reconsideration shall not stay the effect of the decision unless explicitly ordered by the panel.

§ 121.1722 Delegation of authority when judge not available.

In the event of the absence or unavailability of the Presiding Judge or other member of the panel to which the appeal is assigned, where such action is necessary, any Judge in the Office of Hearings and Appeals may be authorized by the Assistant Administrator of the Office of Hearings and Appeals to participate in rendering a final decision and to dispose of any motions or other interlocutory matters, as appropriate, pertaining to such appeal.

Date: August 19, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-19470 Filed 8-28-87; 8:45 am]

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federal register

Monday
August 31, 1987

Part III

The President

Proclamation 5696—9-1-1 Emergency Number Day, 1987

Public Papers

Federal Register
Vol. 52, No. 168
Monday, August 31, 1987

Presidential Documents

Title 3—

The President

Proclamation 5696 of August 26, 1987

9–1–1 Emergency Number Day, 1987

By the President of the United States of America

A Proclamation

Protecting the lives and property of citizens is one of government's fundamental responsibilities. In times of emergency, citizens must have a quick and easy way to summon police and other rescue services. The 9–1–1 emergency telephone number fulfills this need and proves its value hundreds of times every day throughout our country.

In 1968, 9–1–1 was designated the universal emergency telephone number in North America. Today we can see with satisfaction that much has been done to implement this system. Thousands of municipalities have established the 9–1–1 telephone system, making it possible to save more lives and to increase the public's confidence in local emergency response systems. The 9–1–1 system has enabled communities to respond to a greater number of emergency calls with added efficiency and lower costs to the public.

State and local governments have made a commitment to implement the 9–1–1 telephone system across our Nation as soon as possible. Some States have mandated that the system be operational by a certain date, while others have made much progress on a voluntary basis. These efforts to enhance the welfare and safety of our citizens deserve public recognition and every commendation.

The Congress, by Public Law 99–448, has designated September 11, 1987, as "9–1–1 Emergency Number Day" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September 11, 1987, as 9–1–1 Emergency Number 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-sixth day of August, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-20116
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This is a continuing list of public bills from the current session of Congress which have become Federal Laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 812/Pub. L. 100-107

Malcolm Baldrige National Quality Improvement Act of 1987. (Aug. 20, 1987; 101 Stat. 724; 4 pages) Price: $1.00

H.R. 2971/Pub. L. 100-108

Uniform Cotton Classing Fees Act of 1987. (Aug. 20, 1987; 101 Stat. 728; 2 pages) Price: $1.00

H.R. 3085/Pub. L. 100-109

To amend the Water Resources Development Act of 1986 relating to the level of flood protection provided by the flood control project for Lock Haven, Pennsylvania. (Aug. 20, 1987; 101 Stat. 730; 1 page) Price: $1.00

H.J. Res. 335/Pub.L. 100-110

Designating the week of September 13 through September 19, 1987, as "National Reye's Syndrome Awareness Week." (Aug. 20, 1987; 101 Stat. 731; 2 pages) Price: $1.00

S. 1591/Pub. L. 100-111

To temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States. (Aug. 20, 1987; 101 Stat. 733; 1 page) Price: $1.00

S.J. Res. 175/Pub.L. 100-112

To recognize the efforts of the United States Soccer Federation in bringing the World Cup to the United States in 1994. (Aug. 20, 1987; 101 Stat. 734; 1 page) Price: $1.00

S. 1550/Pub. L. 100-113

Federal Triangle Development Act. (Aug. 21, 1987; 101 Stat. 735; 13 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$9.00	Jan. 1, 1987
3 (1986 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1987
4	14.00	Jan. 1, 1987
5 Parts:		
1–1199	25.00	Jan. 1, 1987
1200–End, 6 (6 Reserved)	9.50	Jan. 1, 1987
7 Parts:		
0–45	25.00	Jan. 1, 1987
46–51	16.00	Jan. 1, 1987
52	23.00	Jan. 1, 1987
53–209	18.00	Jan. 1, 1987
210–299	22.00	Jan. 1, 1987
300–399	10.00	Jan. 1, 1987
400–699	15.00	Jan. 1, 1987
700–899	22.00	Jan. 1, 1987
900–999	26.00	Jan. 1, 1987
1000–1059	15.00	Jan. 1, 1987
1060–1119	13.00	Jan. 1, 1987
1120–1199	11.00	Jan. 1, 1987
1200–1499	18.00	Jan. 1, 1987
1500–1899	9.50	Jan. 1, 1987
1900–1944	25.00	Jan. 1, 1987
1945–End	26.00	Jan. 1, 1987
8	9.50	Jan. 1, 1987
9 Parts:		
1–199	18.00	Jan. 1, 1987
200–End	16.00	Jan. 1, 1987
10 Parts:		
0–199	29.00	Jan. 1, 1987
200–399	13.00	Jan. 1, 1987
400–499	14.00	Jan. 1, 1987
500–End	24.00	Jan. 1, 1987
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	11.00	Jan. 1, 1987
200–299	27.00	Jan. 1, 1987
300–499	13.00	Jan. 1, 1987
500–End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
14 Parts:		
1–59	21.00	Jan. 1, 1987
60–139	19.00	Jan. 1, 1987
140–199	9.50	Jan. 1, 1987
200–1199	19.00	Jan. 1, 1987
1200–End	11.00	Jan. 1, 1987
15 Parts:		
0–299	10.00	Jan. 1, 1987
300–399	20.00	Jan. 1, 1987
400–End	14.00	Jan. 1, 1987
16 Parts:		
0–149	12.00	Jan. 1, 1987
150–999	13.00	Jan. 1, 1987
1000–End	19.00	Jan. 1, 1987
17 Parts:		
1–199	14.00	Apr. 1, 1987
200–239	14.00	Apr. 1, 1987
240–End	19.00	Apr. 1, 1987
18 Parts:		
1–149	15.00	Apr. 1, 1987
150–279	14.00	Apr. 1, 1987
280–399	13.00	Apr. 1, 1987
400–End	8.50	Apr. 1, 1987
19 Parts:		
1–199	27.00	Apr. 1, 1987
200–End	5.50	Apr. 1, 1987
20 Parts:		
1–399	12.00	Apr. 1, 1987
400–499	23.00	Apr. 1, 1987
500–End	24.00	Apr. 1, 1987
21 Parts:		
1–99	12.00	Apr. 1, 1987
100–169	14.00	Apr. 1, 1987
170–199	16.00	Apr. 1, 1987
200–299	5.50	Apr. 1, 1987
300–499	26.00	Apr. 1, 1987
500–599	21.00	Apr. 1, 1987
600–799	7.00	Apr. 1, 1987
800–1299	13.00	Apr. 1, 1987
1300–End	6.00	Apr. 1, 1987
22 Parts:		
1–299	19.00	Apr. 1, 1987
300–End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0–199	14.00	Apr. 1, 1987
200–499	26.00	Apr. 1, 1987
500–699	9.00	Apr. 1, 1987
700–1699	18.00	Apr. 1, 1987
1700–End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
§§ 1.0–1.60	12.00	Apr. 1, 1987
§§ 1.61–1.169	22.00	Apr. 1, 1987
§§ 1.170–1.300	17.00	Apr. 1, 1987
§§ 1.301–1.400	14.00	Apr. 1, 1987
§§ 1.401–1.500	21.00	Apr. 1, 1987
§§ 1.501–1.640	15.00	Apr. 1, 1987
§§ 1.641–1.850	17.00	Apr. 1, 1987
§§ 1.851–1.1000	27.00	Apr. 1, 1987
§§ 1.1001–1.1400	16.00	Apr. 1, 1987
§§ 1.1401–End	20.00	Apr. 1, 1987
2–29	20.00	Apr. 1, 1987
30–39	13.00	Apr. 1, 1987
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300–499	15.00	Apr. 1, 1987
500–599	8.00	[2] Apr. 1, 1980
600–End	6.00	Apr. 1, 1987
27 Parts:		
1–199	21.00	Apr. 1, 1987
200–End	13.00	Apr. 1, 1987
28	21.00	July 1, 1986
29 Parts:		
0–99	16.00	July 1, 1986
100–499	7.00	July 1, 1986
500–899	24.00	July 1, 1986
900–1899	9.00	July 1, 1986
1900–1910	27.00	July 1, 1986
*1911–1925	6.50	July 1, 1987

Title	Price	Revision Date
1920–End	29.00	July 1, 1986
30 Parts:		
0–199	16.00	[3] July 1, 1985
200–699	8.50	July 1, 1986
700–End	17.00	July 1, 1986
31 Parts:		
0–199	12.00	July 1, 1987
200–End	16.00	July 1, 1986
32 Parts:		
1–39, Vol. I	15.00	[4] July 1, 1984
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1–39, Vol. III	18.00	[4] July 1, 1984
1–189	17.00	July 1, 1986
190–399	23.00	July 1, 1986
400–629	21.00	July 1, 1986
630–699	13.00	July 1, 1986
700–799	15.00	July 1, 1986
800–End	16.00	July 1, 1986
33 Parts:		
1–199	27.00	July 1, 1986
200–End	18.00	July 1, 1986
34 Parts:		
1–299	20.00	July 1, 1986
300–399	11.00	July 1, 1986
400–End	25.00	July 1, 1986
35	9.50	July 1, 1986
36 Parts:		
1–199	12.00	July 1, 1986
200–End	19.00	July 1, 1986
37	12.00	July 1, 1986
38 Parts:		
0–17	21.00	July 1, 1986
18–End	15.00	July 1, 1986
39	12.00	July 1, 1986
40 Parts:		
1–51	21.00	July 1, 1986
52	27.00	July 1, 1986
53–60	23.00	July 1, 1986
61–80	10.00	July 1, 1986
81–99	25.00	July 1, 1986
100–149	23.00	July 1, 1986
150–189	21.00	July 1, 1986
190–399	27.00	July 1, 1986
400–424	22.00	July 1, 1986
425–699	24.00	July 1, 1986
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41 Chapters:		
1, 1–1 to 1–10	13.00	[5] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[5] July 1, 1984
3–6	14.00	[5] July 1, 1984
7	6.00	[5] July 1, 1984
8	4.50	[5] July 1, 1984
9	13.00	[5] July 1, 1984
10–17	9.50	[5] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[5] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[5] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[5] July 1, 1984
19–100	13.00	[5] July 1, 1984
1–100	9.50	July 1, 1986
101	23.00	July 1, 1986
102–200	12.00	July 1, 1986
201–End	7.50	July 1, 1986
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1–60	15.00	Oct. 1, 1986
61–399	10.00	Oct. 1, 1986
400–429	20.00	Oct. 1, 1986
430–End	15.00	Oct. 1, 1986
43 Parts:		
1–999	14.00	Oct. 1, 1986
1000–3999	24.00	Oct. 1, 1986
4000–End	11.00	Oct. 1, 1986
44	17.00	Oct. 1, 1986
45 Parts:		
1–199	13.00	Oct. 1, 1986
200–499	9.00	Oct. 1, 1986
500–1199	18.00	Oct. 1, 1986
1200–End	13.00	Oct. 1, 1986
46 Parts:		
1–40	13.00	Oct. 1, 1986
41–69	13.00	Oct. 1, 1986
70–89	7.00	Oct. 1, 1986
90–139	11.00	Oct. 1, 1986
140–155	8.50	[6] Oct. 1, 1985
156–165	14.00	Oct. 1, 1986
166–199	13.00	Oct. 1, 1986
200–499	19.00	Oct. 1, 1986
500–End	9.50	Oct. 1, 1986
47 Parts:		
0–19	17.00	Oct. 1, 1986
20–39	18.00	Oct. 1, 1986
40–69	11.00	Oct. 1, 1986
70–79	17.00	Oct. 1, 1986
80–End	20.00	Oct. 1, 1986
48 Chapters:		
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15–End	22.00	Oct. 1, 1986
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.