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Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS: 1010-87]

Automatic Conversion of Classification of Beneficiary

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations clarifies for the Service, immigration attorneys and representatives, and the public the process for the automatic conversion of classification of a beneficiary of an approved Form I-130, Petition for Alien Relative, to the proper classification and the retention of the original priority date when conversion is done. This clarification will assure that the beneficiary is accorded the classification and priority date to which he/she is entitled and that visa numbers under numerical limitations are preserved when a preference beneficiary converts to an immediate relative beneficiary.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Yolanda Sanchez-K, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-5014.

SUPPLEMENTARY INFORMATION: Title 8, Code of Federal Regulations, § 204.5, Automatic Conversion of Classification of Beneficiary, should clearly show that after a relative petition has been approved by the Service, the following instances that occur subsequent to the approval of the petition cause the classification of the beneficiary to automatically convert to another classification, but have no effect on the original priority date or the date the initial petition is filed with the Service:

1. A currently valid petition previously approved to classify the beneficiary as the unmarried son or unmarried daughter of a United States citizen under section 203(a)(1) of the Act is automatically converted to section 203(a)(4) of the Act as of the date the beneficiary marries.

2. A currently valid petition previously approved to classify a child of a United States citizen as an immediate relative under section 201(b) automatically converts to section 203(a)(4) as of the date the beneficiary marries.

3. A currently valid petition classifying the married son or daughter of a United States citizen as a preference immigrant under section 203(a)(4) automatically converts to section 201(b) if the beneficiary is under 21 years of age or to section 203(a)(1) if the beneficiary is over 21 years of age as of the date of termination of the beneficiary's marriage.

4. A current valid petition classifying the child of a United States citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(1) of the Act as of the beneficiary's twenty-first birthday if the beneficiary is still unmarried.

5. Upon the naturalization of the petitioner, a currently valid petition according preference status under section 203(a)(2) of the Act shall be regarded as approved for immediate relative status under 201(b) for a spouse and a child under the age 21, and under section 203(a)(1) for a son or daughter over 21 years of age.

These changes in regulation accomplish that purpose.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Reporting and recordkeeping requirements.

Accordingly, Chapter I of Title 8, Part 204, Code of Federa Regulations, is amended as follows:

PART 204—PETITION TO CLASSIFY ALIEN AS RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for Part 204 is revised to read:

Authority: 66 Stat. 166, 173, 175, 178, 179, 182, 217; 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1192, 1255.

2. Section 204.5 is revised to read as follows:

§ 204.5 Automatic conversion of classification of beneficiary.

(a) *By change in beneficiary's marital status.* (1) A currently valid petition previously approved to classify the beneficiary as the unmarried son or daughter of a United States citizen under section 203(a)(1) of the Act shall be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for classification under section 203(a)(1) was properly filed.

(2) A currently valid petition previously approved to classify a child of a United States citizen an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(4) of the Act as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for 201(b) classification was properly filed.

(3) A currently valid petition classifying the married son or married daughter of a United States citizen for preference status under section 203(a)(4) of the Act shall, upon legal termination of the beneficiary's marriage, be regarded as approved under section 203(a)(1) of the Act. The beneficiary's priority date is the same as the date the petition for classification under section 203(a)(4) was properly filed. If the beneficiary is under 21 years of age, the petition is considered approved for status as an immediate relative under section 201(b) of the Act as of the date of termination of the marriage.

(b) *By beneficiary's attainment of the age of 21 years.* A currently valid petition classifying the child of a United States citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(1) of the Act as of the beneficiary's twenty-first

birthday. The beneficiary's priority date is the same as the date the petition for 201(b) classification was filed.

(c) *By petitioner's naturalization.* Effective upon the date of naturalization of a petitioner who had been lawfully admitted for permanent residence, a currently valid petition according preference status under section 203(a)(2) of the Act to the petitioner's spouse, unmarried children under 12 years of age, or unmarried son or unmarried daughter over 21 years of age shall be regarded as approved for immediate relative status under section 201(b) of the Act, for the spouse and unmarried children under 21 years of age, and for the unmarried son or unmarried daughter shall be regarded as approved under section 203(a)(1) of the Act. In any case of conversion to classification under section 203(a)(1), the beneficiary's priority date is the same as the date the petition for classification under section 203(a)(2) was properly filed.

Date: September 1, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-20446 Filed 9-4-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 87-050]

Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations by restricting the use of tattoos for identifying certain sows and boars in interstate commerce. Before tattoos may be used, we are requiring that they be authorized by the Deputy Administrator, Veterinary Services. This action is necessary because the majority of slaughter plants have switched to a new methodology that is incompatible with the use of tattoos.

EFFECTIVE DATE: October 8, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. W.E. Ketter, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, 301-436-8135.

SUPPLEMENTARY INFORMATION:

Background

The provisions of 9 CFR Part 78 et seq. (referred to below as the regulations) restrict the interstate movement of cattle, bison, and swine to prevent the spread of brucellosis, and designate the infection status of various states and areas. In the current regulations, Subpart D (§§ 78.30 through 78.34) specifically restricts the interstate movement of certain swine. Section 78.33 requires the use of tattoos, eartags, and backtags for:

1. Identifying sources of brucellosis by tracing movements of brucellosis infested swine back through marketing channels to herds of origin; and

2. Tracing movements of brucellosis infected and exposed swine from herds of origin to final destinations to determine the extent of brucellosis spread.

On January 13, 1987, we published in the **Federal Register** (52 FR 1336-1338, Docket No. 85-049), a document proposing to amend the regulations by restricting the use of tattoos as a swine identification tool. Amendments were also proposed to clarify the regulations relating to "approved swine identification tags" and "purebred registry associations." Other amendments were proposed to require certain individuals to maintain written records concerning swine.

We solicited comments on the proposal for 60 days, ending March 16, 1987. Eight comments were received. All of them supported our proposal. However, several suggested further changes.

One commenter recommended that we "[c]ompletely eliminate the option of tattooing any slaughter breeding swine for the purpose of traceback." Another commenter stated that "[i]f a slaughter plant still uses the scalding process, tattoos should remain an alternative identification to eartags and backtags." In the past, tattoos were a good identification method. Slaughtering establishments routinely scalded swine in hot water. This removed the hair, and identification tattoos were easily read and recorded. Today, many slaughtering establishments use skinning procedures rather than the scalding process. In skinning, hair is not removed from the hides, and tattoos are impossible to read. However, some slaughtering plants still use scalding. In these cases, tattoos would still effectively identify the swine.

We have considered these comments, and decided not to discontinue the use of tattoos entirely. There are some situations, for example, slaughter plants that still use the scalding process, when tattoos provide an adequate means for swine identification and trace-back. To allow for this, and ensure that any continued uses of tattoos will provide effective identification, § 78.33(a)(3) permits use of Veterinary Services-approved tattoos only when:

1. This means of identification has been requested, in writing, by the person who will be using the tattoo or by a state animal health official; and

2. The Deputy Administrator authorizes this specific use of tattoos after determining that tattoos would provide an effective means of identification and trace-back under the circumstances described by the requestor.

One commenter recommended that swine backtags be visually different from cattle backtags to avoid confusion after the tags are removed from slaughtered animals. We not only agree, but we have been issuing different swine and cattle backtags since the beginning of the year. The cattle backtag is still oblong in shape and utilizes both alpha-numeric and bar codes. The new swine backtag is round in shape and utilizes alpha-numeric codes only.

Another commenter suggested that cattle backtags be the "primary mode of identification on all slaughter breeding swine," and that ear tags should be reserved for animals from known infected and quarantined herds, or in special situations. The commenter explained that: (1) The cattle backtag system has been in use for a long time; (2) markets and dealers use it for keeping track of animals in their own records; (3) making it the primary identification system would eliminate the need for industry to introduce any additional, different identification systems; and (4) ear tags cannot be inserted without restraining each individual swine; whereas backtags are very easy to apply.

We are not making any changes in the regulations based on this comment. The regulations as proposed allow either a backtag or eartag to be used to identify swine. The individual responsible for identifying the swine can choose, based on all the circumstances, which identification device to use. Also, as explained above, swine backtags are different than cattle backtags. However, industry can keep track of and use swine backtag numbers in the same way as they keep track of and use cattle backtag numbers. Allowing eartags as acceptable identification for swine should not require industry to introduce any new identification systems.

One commenter suggested that the regulations specify where the backtag should be placed on swine.

Though we currently have regulations in Part 78 specifying where backtags must be placed on cattle, we do not have enough data at this time to determine the best location to place backtags on swine. Placement on the shoulder has been successful on cattle, but at least one state has reported that backtags do not stay on when placed behind the shoulder on swine. States reporting good backtag retention on swine do not agree on where the backtag should be placed. For example, one state requires placement on the forehead; another requires placement "on either side of the neck, as close to the head area as possible." If we determine that there is one preferable position for backtag placement on swine, we will propose amending the regulations to specify the location.

Finally, one commenter questioned whether footnotes to the regulations are enforceable, and stated specifically that the material in footnote 6 to § 78.33 is "needed" and should be in a form that can be enforced.

In fact, footnotes are enforced just like any other subpart, section, or paragraph of the regulations. However, if the commenter is uncertain, we can assume that a certain amount of reader confusion may exist with regard to this point. Therefore, we have inserted the wording of footnotes 6 and 7 into the text of the final regulations as new §§ 78.33 (d) and (e), respectively. Because we have moved proposed footnotes 6 and 7 into the text, we have renumbered proposed footnote 8 as footnote 6.

Miscellaneous

We have made nonsubstantive changes to present the provisions of this rule more clearly.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0579–0047.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this action will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The purpose of this final rulemaking is to make official eartags and United States Department of Agriculture backtags the primary methods for identifying sows and boars moved in interstate commerce for slaughter or breeding, rather than Veterinary Services approved tattoos. This change will have little effect on the movement of swine in interstate commerce.

Previously, Veterinary Services approved tattoos were used without prior approval, while eartag and backtag use was restricted. This final rule removes prior approval requirements for eartag and backtag use, but places restrictions on the use of tattoos. As a result, most persons who were tattooing will now switch to use of official eartags or United States Department of Agriculture backtags.

The changeover of identification methods will represent a small savings for some users and a small additional cost for others. In either case, the economic impact will be insignificant when measured against the overall production, maintenance, and transportation costs for any persons moving swine.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended to read as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 78.1 is amended by adding the following definitions in alphabetical order:

§ 78.1 [Amended]

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association.

* * * * *

United States Department of Agriculture backtag. A Veterinary Services approved identification backtag conforming to the eight-character alpha-numeric National Backtagging System, which provides a unique identification for each individual animal.

* * * * *

Veterinary Services approved tattoo. A tattoo, conforming to the six character alpha-numeric National Tattoo System, which is assigned by a state animal health official or the Veterinarian in Charge to provide a unique identification for each herd or lot of swine.

* * * * *

3. Section 78.33 is revised to read as follows:

§ 78.33 Sows and boars.

(a) Sows and boars may be moved in interstate commerce for slaughter or for sale for slaughter if they are:

(1) Individually identified by an official eartag or a United States Department of Agriculture backtag applied before movement in interstate commerce and before they are mixed with swine from any other source; or

(2) Individually identified by an official eartag or a United States Department of Agriculture backtag applied upon arrival after movement in interstate commerce and before they are mixed with swine from any other source, when moved directly from their herd of origin to:

(i) A recognized slaughtering establishment; or

(ii) A stockyard, market agency, or dealer operating under the Packers and Stockyards Act, as amended (7 U.S.C. 181 et seq.); or

(3) Individually identified by a Veterinary Services-approved tattoo, when the use of the Veterinary Services-approved tattoo has been requested by a user or the State animal health official, and the Deputy Administrator authorizes its use in writing based on a determination that use of the Veterinary Services-approved tattoo will provide a means of tracing the movement of the sows and boars in interstate commerce.

(b) Sows and boars may be moved in interstate commerce for breeding only if individually identified by an official eartag, or by ear notching or an ear tattoo that has been recorded in the book of record of a purebred registry association. This identification must be

accomplished before movement in interstate commerce and before the sows and boars are mixed with swine from any other source.

(c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart.

(d) Serial numbers of official eartags, United States Department of Agriculture backtags, and Veterinary Services approved tattoos will be assigned to each person who applies to the state animal health official or the Veterinarian in Charge for the state in which that person maintains his or her place of business. Persons assigned serial numbers must:

(1) Identify the herd of origin of swine upon which the serial numbers were used and record this information on a document;

(2) Maintain these records at their place of business for two years; and

(3) Make these records available for inspection during ordinary business hours upon request by a Veterinary Services representative or a state representative.

(e) The operator of each place of business where sows and boars are identified on arrival in accordance with this section must enter the identification on the yarding receipt, sale ticket, invoice, or waybill relating to the sows and boars, and maintain the document at the place of business for 2 years. The operator must make the document available for inspection during ordinary business hours upon request by a Veterinary Services representative or state representative.

§ 78.44 [Amended]

4. In § 78.44, footnote number "9" and the reference to it are redesignated "6".

Done at Washington, DC, this 2nd day of September, 1987.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 87-20571 Filed 9-4-87; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 94

[Docket No. 86-129]

Importation of Meat and Animal Products Imported From Countries With Rinderpest, etc.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of meat and animal products by requiring that imported cooked meat from ruminants or swine originating in countries where rinderpest or foot-and-mouth disease exists be inspected at ports of arrival in defrost facilities approved by the Deputy Administrator, Veterinary Services. This action is necessary to help prevent the introduction of rinderpest and foot-and-mouth disease into the United States.

EFFECTIVE DATE: October 8, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 805, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), restrict the importation into the United States of certain animals, meat, and animal byproducts in order to prevent the introduction into the United States of various diseases, including rinderpest and foot-and-mouth disease. Section 94.4(b) sets forth the conditions under which a person may import cooked meat (except meat sterilized by heat in hermetically sealed containers) from ruminants or swine originating in any country where rinderpest or foot-and-mouth disease exists.

On October 20, 1986, we published in the **Federal Register** (51 FR 37193-37195, Docket Number 85-112), a document proposing to revise § 94.4(b) to (1) require that cooked meat originating in countries where rinderpest or foot-and-mouth disease exists be inspected at ports of arrival in defrost facilities approved by the Deputy Administrator, (2) clarify the restrictions on the importation of ruminants and swine from countries where rinderpest and foot-and-mouth disease exists, and (3) establish a new § 94.0, "Definitions" and add two footnotes to § 94.4. Our proposal invited the submission of written comments on or before December 19, 1986. We received one comment, which supports the proposed rule.

We have made nonsubstantive changes to present the provisions of this rule more clearly. Except for these changes, we are adopting the provisions of the proposal as a final rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Cooked meat derived from ruminants or swine originating in countries where rinderpest or foot-and-mouth disease exists is imported into the United States from South America. The meat is shipped frozen in refrigerated containers aboard ships and arrives in the United States for Food Safety and Inspection Service (FSIS) inspection, at 35 defrost facilities located at the following ports: Boston, MA; Charleston, SC; Chicago, IL; Gulfport, MS; Houston, TX; Los Angeles and San Francisco, CA; New Orleans, LA; New York, NY; Norfolk, VA; Philadelphia, PA; Seattle and Takoma, WA; Jacksonville, Miami, and Tampa, FL; and Wilmington, DE. Cooked meat from South America has been shipped to these same ports for over 10 years. All 35 defrost facilities are approved by FSIS to receive this meat for inspection, and all meet the standards that are required by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 94

African swine fever, Animal diseases, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

Accordingly, 9 CFR Part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNUEMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for Part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. In Part 94, a new § 94.0 is added to read as follows:

§ 94.0 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

Deputy Administrator. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official authorized to act in the Deputy Administrator's stead.

FSIS inspector. An individual authorized by the Administrator, Food Safety and Inspection Service, United States Department of Agriculture, to perform the function involved.

Operator. The operator responsible for the day-to-day operations of a facility.

Thoroughly cooked. Heated so that the flesh and juices have lost all red or pink color.

3. In § 94.1, the section heading and paragraph (b) are revised, and a new footnote 1 is added to read as follows.

§ 94.1 Countries where rinderpest or foot-and-mouth disease exists; importations prohibited.

* * * * *

(b) The importation of any ruminant or swine or any fresh, chilled, or frozen meat of any ruminant or swine [1] that originates in any country where rinderpest or foot-and-mouth disease exists, as designated in paragraph (a) of this section, or that enters a port in or otherwise transits a country in which rinderpest or foot-and-mouth disease exists, is prohibited: (1) Except as provided in Part 92 of this chapter for wild ruminants and wild swine; (2) except as provided in Part 92 of this chapter for the importation of ruminants and swine through the Harry S Truman Animal Import Center; (3) except as provided in paragraph (c) of this section for meat of ruminants or swine that originates in countries free of rinderpest and foot-and-mouth disease but that enters a port or otherwise transits a country where rinderpest or foot-and-mouth disease exists; and (4) except as provided in § 94.4 of this part for cooked or cured meat from countries where rinderpest or foot-and-mouth disease exists.

* * * * *

4. In § 94.4, paragraph (b)(3) is redesignated (b)(4).

5. In § 94.4, the section heading and paragraphs (b) through (b)(2) are revised, and a new paragraph (b)(3), and footnotes 2 and 3 are added to read as follows:

§ 94.4 Cured or cooked meat [1] from countries where rinderpest or foot-and-mouth disease exists.

* * * * *

(b) The importation of cooked meat from ruminants or swine originating in any country where rinderpest or foot-and-mouth disease exists, as designated in § 94.1, is prohibited unless the following conditions are met:

(1) All bones have been completely removed in the country of origin.

(2) The meat has been thoroughly cooked in the country of origin.

(3) The meat is inspected by an FSIS inspector at a port of arrival in a defrost facility approved by the Deputy Administrator [2] and the meat is found to be thoroughly cooked.

(i) Request for approval of any defrost facility must be made to the Deputy Administrator. The Deputy Administrator will approve a defrost facility only under the following conditions:

(A) The defrost facility has equipment and procedures that permit FSIS inspectors to determine whether meat is thoroughly cooked;

(B) The defrost facility is located at a port of arrival; and

(C) The defrost facility is approved by the Food Safety and Inspection Service, United States Department of Agriculture.[3]

(ii) The Deputy Administrator may deny approval of any defrost facility if the Deputy Administrator determines that the defrost facility does not meet the conditions for approval. If approval is denied, the operator of the defrost facility will be informed of the reasons for denial and be given an opportunity to respond. The operator will be afforded an opportunity for a hearing with respect to any disputed issues of fact. The hearing will be conducted in accordance with rules of practice that will be adopted for the proceeding.

(iii) The Deputy Administrator may withdraw approval of any defrost facility as follows: (A) When the operator of the defrost facility notifies the Deputy Administrator in writing that the defrost facility no longer performs the required services; or (B) when the Deputy Administrator determines that the defrost facility does not meet the conditions for approval. Before the Deputy Administrator withdraws approval from any defrost facility, the operator of the defrost facility will be informed of the reasons for the proposed withdrawal and given an opportunity to respond. The operator will be afforded a hearing with respect to any disputed issues of fact. The hearing will be conducted in accordance with rules of practice that will be adopted for the proceeding. If approval of a defrost facility is withdrawn, the Deputy Administrator will remove its name from the list of approved defrost facilities.

* * * * *

Done in Washington, DC, this 2nd day of September, 1987.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-20572 Filed 9-4-87; 8:45 am]

BILLING CODE 3410-34-M

[1] Importation of animals and meat includes bringing the animals or meat within the territorial limits of the United States on a means of conveyance for use as sea stores or for other purposes.

[1] This does not include any meat that has been sterilized by heat in hermetically sealed containers.

[2] The names and addresses of approved defrost facilities and conditions for approval may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250.

[3] Conditions for the approval of any defrost facility by the Food Safety and Inspection Service, United States Department of Agriculture, may be obtained from the Import Inspection Division, International Programs, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM86-2-000]

Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the Methodology for Assessing Federal Land Use Charges

August 20, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of OMB control number.

SUMMARY: On May 8, 1987, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM86–2–000, 52 FR 18201 (May 14, 1987) revising the billing procedures for annual charges for administering Part I of the Federal Power Act, the billing procedures for charges for Federal dam and land use, and the methodology for assessing Federal land use charges. This notice states the OMB control number for the regulations promulgated in this docket.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: James R. Keegan, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357–8542.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501 through 3520 (1982), and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements imposed by agency rules. On July 23, 1987, the OMB approved the information collection requirements set forth in the final rule, and issued Control Number 1902–0136 for those requirements in §§ 11.3(c) and 11.4(b). This control number appears in the table in 18 CFR 389.101(b). Therefore, the final rule in Docket No. RM86–2–000 became effective on July 28, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–19633 Filed 9–4–87; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 75F–0303]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acrylonitrile/styrene copolymer in packaging beverages that contain up to 8 percent alcohol. This action responds to a petition filed by Monsanto Co.

DATES: Effective September 8, 1987; objections by October 8, 1987.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 10, 1975 (40 FR 52427), FDA announced that a petition (FAP 6B3128) had been filed by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63141, proposing that § 121.2629 *Acrylonitrile/styrene copolymer* (21 CFR 121.2629) (recodified on March 15, 1977 (42 FR 14572) as 21 CFR 177.1040) be amended to expand the permitted use of the copolymer to include its use as an article or a component of articles intended to contact all foods except those containing more than 8 percent alcohol. During the course of the petition review, Monsanto limited its request to the use of the copolymer in the fabrication of bottles for use only in contact with beverages containing up to 8 percent alcohol.

I. Background

In the **Federal Register** of September 19, 1984 (49 FR 36635), FDA issued a final rule in response to FAP 3B3690 on the use of acrylonitrile/styrene copolymer. This final rule amended § 177.1040 to authorize the use of this copolymer to fabricate bottles for nonalcoholic beverages. In that final rule, FDA set forth the regulatory history of the use of acrylonitrile copolymers as articles or components of articles for use in contact with food. In addition, the agency explained the basis on which it had concluded that the use of this copolymer resin in the manufacture of bottles for nonalcoholic beverages is safe, even though the copolymer may contain minute amounts of acrylonitrile monomer, which has been shown to cause cancer in test animals, as a byproduct of its production.

Residual amounts of reactants and manufacturing aids, such as acrylonitrile monomer, are commonly found as contaminants in chemical products, including food additives. To ensure that potential exposure to acrylonitrile monomer from its presence in bottles for nonalcoholic beverages did not exceed levels considered to be safe, however, the agency established specifications for the copolymer.

II. Evaluation of the Proposed Use

A. Introduction

In 1986, when Monsanto Co. limited the present petition (FAP 6B3128) so that it covered only the use of acrylonitrile/styrene copolymer in bottles for beverages containing up to 8 percent alcohol, it also limited the petition to cover only the acrylonitrile/styrene copolymer that FDA had listed in 21 CFR 177.1040(c)(3) in the 1984 final rule. FDA has evaluated the safety of the use of this additive, and of the starting materials used to manufacture it, in fabricating bottles that would contact beverages that contain up to 8 percent alcohol.

B. Migration

Monsanto submitted data on the migration of acrylonitrile monomer from copolymer fabricated bottles using 8 percent ethanol to simulate alcoholic beverage use. These data show that the level at which the acrylonitrile monomer migrates into 8 percent alcohol does not exceed the level at which it migrates into 3 percent acetic acid, the solvent that was used to simulate nonalcoholic beverages.

C. Exposure

In the 1984 final rule, in estimating the dietary exposure to the acrylonitrile monomer from its use in bottles that contact nonalcoholic beverages, the agency conservatively assumed that such beverages comprise about one-third of a person's total diet. In its review of the present petition, FDA made the same assumption about the portion of the diet that is comprised of beverages containing up to 8 percent alcohol. Nonetheless, the agency believes that total beverage intake will not exceed one-third of the diet, and that, in reality, beverages containing up to 8 percent alcohol will substitute for nonalcoholic beverages (see 49 FR 36635). Therefore, exposure to acrylonitrile monomer from its use in bottles used to package beverages containing up to 8 percent alcohol, as well as in bottles used to package nonalcoholic beverages, will not exceed the exposure previously estimated for nonalcoholic beverages alone, i.e., 0.058 microgram per person per day. For this reason, the agency concludes that there will be no increase in the maximum potential dietary exposure to acrylonitrile monomer from the use of the copolymer for packaging beverages containing up to 8 percent alcohol.

D. Evaluation

In the 1984 final rule (49 FR 36635), FDA discussed two multidose carcinogenicity drinking water studies performed in rats and the quantitative risk assessment used to evaluate the safety of acrylonitrile monomer exposure from nonalcoholic beverages. In that risk assessment, FDA calculated the upper limit of individual lifetime risk from the exposure to acrylonitrile monomer that it estimated could result from the use of the acrylonitrile/styrene resin in bottles for use in contact with nonalcoholic beverages to be 5.8×10^{-8} to 1.2×10^{-7} or less than 1 in 8 million.

Given the fact that the subject use represents no increase in exposure to acrylonitrile monomer above levels that will result from the use of acrylonitrile/styrene resin in bottles containing nonalcoholic beverages, FDA concludes that it can use the same animal studies and quantitative risk assessment procedures to calculate the upper limit of individual lifetime risk in this proceeding as was used in the nonalcoholic beverage container proceeding. After applying such procedures, the agency finds that the risk from the use of acrylonitrile/styrene resin in containers of beverages that contain up to 8 percent alcohol will be no greater than the risk from its use in packaging nonalcoholic beverages, i.e., 5.8×10^{-8} to 1.2×10^{-7} or less than 1 in 8 million.

Therefore, the agency concludes that there is reasonable certainty that no harm will result from exposure to acrylonitrile/styrene copolymer from its use in packaging beverages that contain up to 8 percent alcohol. FDA is consequently amending 21 CFR 177.1040(c) of the food additive regulations to include the proposed use of acrylonitrile/styrene copolymer in fabricating bottles for use in contact with beverages that contain up to 8 percent alcohol, as set forth below.

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

The environmental impact of the use of acrylonitrile copolymer to fabricate beverage bottles was thoroughly discussed in FDA's 1984 environmental impact determination (49 FR 36635; Docket No. 83F-0006). The agency has again carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before October 8, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 is revised to read as follows:

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

§ 177.1040 [Amended]

2. In § 177.1040 *Acrylonitrile/styrene copolymer* in the table in paragraph (c), item 3, first column, "Type VI–B" is revised to read "Types VI–A and VI–B".

Dated: September 1, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–20504 Filed 9–4–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid With Melengestrol Acetate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADA's) filed by the Upjohn Co., providing melengestrol acetate and lasalocid combined in Type C medicated feeds for administration to feedlot heifers. Each combination drug is indicated for increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat) in heifers fed in confinement for slaughter.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed NADA's 139–876 and 140–288 to provide for combining melengestrol acetate with lasalocid sodium in Type C medicated feeds for administration to feedlot heifers. The drugs are incorporated into Type C feeds by (1) adding melengestrol acetate dry or liquid (NADA's 139–876 or 140–288, respectively) and lasalocid sodium from separate Type B feeds, or (2) adding a Type B feed containing 0.125 to 1.0 milligram of melengestrol acetate per pound to a Type C feed containing 10 to 30 grams of lasalocid sodium activity per ton. The melengestrol acetate concentration in the Type C feed is 0.25 to 2.0 grams per ton to provide 0.25 to 0.5 milligram per head per day. The drug combination is indicated for increased rate of weight gain, improved feed efficiency, and suppression of estrus in heifers fed in

confinement for slaughter. There are existing approvals for use of the drugs at the same levels separately in Type C cattle feeds.

The NADA's are approved and the regulations are amended in § 558.311 by amending paragraph (b)(3) and by adding a new paragraph (e)(1)(xii) and in § 558.342 by adding a new paragraph (c)(3) to reflect the approvals. The basis of approval is explained in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

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

2. Section 558.311 is amended in paragraph (b)(3) by revising the phrase "(e)(1)(vi), (vii), (ix), and (xi)" to read "(e)(1)(vi), (vii), (ix), (xi), and (xii)" and by adding new paragraph (e)(1)(xii), to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e) * * *

(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* * * * *				
(xii) 10 (0.0011 pct) to 30 (0.0033 pct)	Melengestrol acetate 0.25 to 2	Heifers; for increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat).	In Type C feeds; heifers fed in confinement for slaughter only; feed continuously in Type C feed to provide not less than 100 mg nor more than 360 mg of lasalocid sodium activity per head per day and 0.25 mg to 0.5 mg of melengestrol acetate per head per day; withdraw melengestrol acetate 48 hours prior to slaughter; lasalocid sodium provided by No. 000004 in § 510.600(c) of this chapter; melengestrol acetate provided by No. 000009 in § 510.600(c) of this chapter and used as in § 558.342(c)(3).	.....
* * * * *				

2. Section 558.342 is amended by adding new paragraph (c)(3) to read as follows:

§ 558.342 Melengestrol acetate.

* * * * *

(c) * * *

(3) *Amount.* Melengestrol acetate, 0.25 to 2.0 grams per ton (to provide 0.25 to 0.50 milligram per head per day), plus lasalocid sodium, 10 to 30 grams per ton (to provide 100 to 360 milligrams per head per day), see § 558.311(e)(1)(xii).

(i) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and suppression of estrus (heat).

(ii) *Limitations.* Heifers being fed in confinement for slaughter: Administer melengestrol acetate and lasalocid sodium by (*a*) adding melengestrol acetate from a separate Type B feed containing 0.125 to 1.0 milligram per pound to Type C medicated feeds containing 10 to 30 grams of lasalocid sodium activity per ton or (*b*) adding melengestrol acetate from a separate Type B feed containing 0.125 to 1.0 milligram per pound and lasalocid sodium from a separate Type B feed containing 100 to 1,440 grams per ton to Type C medicated feeds. Type C medicated feeds in paragraphs (c)(3)(ii)(*a*) and (*b*) of this section may be manufactured from lasalocid liquid Type B feeds in accordance with paragraphs (d)(1) through (5) of § 558.311. Withdraw melengestrol acetate 48 hours prior to slaughter. Lasalocid sodium provided by No. 000004 in § 510.600(c) of this chapter.

Dated: August 31, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–20503 Filed 9–4–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 234

[Docket No. R–87–1202; FR–1999]

Condominium Ownership Mortgage Insurance; 1983 Act Amendments

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

ACTION: Final rule.

SUMMARY: This final rule adopts a proposed rule to revise the regulations governing eligibility requirements for mortgage insurance in the condominium program, in accordance with 1983 statutory amendments to section 234 of the National Housing Act.

This rule removes (1) the provision making units in a project having 12 or more units and less than a year old ineligible for condominium mortgage insurance where the project was not covered by FHA mortgage insurance or was not VA-approved; and (2) the requirements that an investor must be the owner-occupant of a family unit covered by an insured mortgage before acquiring other units covered by insured mortgages. The rule also restricts the availability of unit mortgage insurance in projects that were converted from rental housing.

EFFECTIVE DATE: October 13, 1987.

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

SUPPLEMENTARY INFORMATION:

Statutory Background

Section 420 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181, approved November 30, 1983) (1983 Act) amended section 234(c) of the National Hosing Act (NHA), which provides for mortgage insurance for condominium dwelling units. The amendment removed the requirement that, for a condominium unit to be eligible for mortgage insurance, it had to be in a project covered by a HUD-insured mortgage. Accompanying this requirement was the proviso (also repealed) that a dwelling in an uninsured condominium project containing 12 or more units was eligible for mortgage insurance only if project construction had been completed more than one year before application for mortgage insurance. Under the amended section 234(c), project mortgage insurance is no longer a prerequisite to eligibility for unit mortgage insurance.

The amendment also had the effect of removing language from section 234(c) that provided for insurance of unit mortgages in a project approved for a guarantee, insurance, or a direct loan by the Veterans Administration (VA). However, under the continuing authority of section 203(b), made applicable to section 234(c), units in a condominium approved by the VA under that agency's programs remain eligible for mortgage insurance.

Also removed from section 234(c) was the provision that a mortgagor must be an owner-occupant of a family unit covered by an insured mortgage in order to be able to acquire additional family units covered by mortgages insured under this section—limited to a maximum of four units. With the repeal of this provision, a mortgagor no longer has to acquire a unit covered by a mortgage insured under this section for the mortgagor's own use and occupancy before the mortgagor may purchse, for investment purposes, units with mortgages insured under section 234(c). Section 234(c) of the NHA now provides instead that mortgage insurance on an investor-owned condominium unit is contingent on at least 80 percent of the FHA-insured units in the project being occupied by mortgagors or by comortgagors. Thus, an application for mortgage insurance will not be approved if approval would result in less than 80 percent of the units with insured mortgages in the project being occupied by mortgagors or comortgagors.

Section 420 of the 1983 Act also amended section 234 to add a new section 234(k), which provides that no insurance may be provided with respect to a unit in any project that was converted from rental housing, unless—

> (1) The conversion occurred more than one year prior to the application for insurance, (2) the mortgagor or comortgagor was a tenant of that rental housing, or (3) the conversion of the property is sponsored by a bona fide tenants organization representing a majority of the households in the project.

Under an amendment by section 104(a)(2) of the Housing and Community Development Technical Amendments Act of 1985 (Pub. L. 98–479, approved October 17, 1984) a new subsection (4) was added, to permit mortgage insurance on a unit in a project that was converted from rental housing if—

> [B]efore April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under Chapter 37 of Title 38, United States Code.

The amendment made by section 104(a)(2) is not implemented in this rulemaking because by the effective date of this rule, action would have been completed on the three categories of projects specified in subsection (4) that were converted before April 20, 1984.

Amendments Made by This Final Rule

In § 234.1 definitions are added for the terms "conversion", "tenant", and "bona fide tenants' organization". The terms "mortgage" and "project" (formerly "multifamily project") are redefined in this rule to omit reference to the word "multifamily", since the text of the rule does not use the term "multifamily project", but only "project".

Section 234.26 is revised to remove the restrictive eligibility requirements previously applicable under 24 CFR 234.26(a)(1) through (3). These requirements are no longer necessary under the amendments contained in the 1983 Act. Added to § 234.26 by this rule, at § 234.26(e)(2) and § 234.26(f), respectively, are the new provisions on minimum mortgagor occupancy levels and on limitations on conversion of rental housing.

The regulatory provision at 24 CFR 234.59 on "mortgagor limitations" is removed. That provision is no longer valid as a result of the repeal of section 234(c)(3) of the NHA by section 420 of the 1983 Act.

Public Comments

The Department published a proposed rule on June 28, 1985 (50 FR 26792), inviting comment for a 60-day period ending August 27, 1985. Three comments were received. A summary of these comments, along with the Department's response, follows.

A developer proposed that the rule be drafted in a manner that would allow the Veterans Administration (VA) to "honor" the VA's Certificate of Reasonable Value (CRV) on a condominium for which HUD has issued a commitment. The commenter claimed that the VA had informed him that unless the VA is involved in a condominium project from the beginning, it "will not underwrite a VA mortgage nor honor reciprocal agreement with HUD." The commenter's proposal, even if it were to be made part of this rule, would be unenforceable by HUD, because this Department has no authority to fix VA policy regarding that agency's acceptance of HUD commitments. HUD, however, does accept VA CRVs on units in condominiums.

The Department notes, however, that in a Circular issued on December 30, 1983 (DVB Circular 26–83–50), the VA informed its field stations that, among other things, section 535 of Pub. L. 98–181 "requires total reciprocity for housing subdivision approvals issued by the VA, USDA * * *, and HUD." The VA Circular went on to advise that—

> As of January 1, 1984, VA will accept satisfactory evidence of subdivision approvals given by [HUD] when presented by the holder of such approval. No further subdivision processing or environmental clearances will be conducted by VA.
>
> * * * * *
>
> Condominiums approved by HUD * * * shall be accepted by VA. Organizational documents related to condominiums and planned-unit developments approved by HUD * * * are required as necessary exhibits for appraisal purposes only. VA CRV's issued as the result of the conversion of a HUD conditional commitment related to a condominium a planned-unit development do not require any submission of review or organizational documents.

In light of the above-cited language from the VA Circular, which VA has advised us continues to be its policy, we

believe the information conveyed by the commenter is out of date or based on misunderstanding. We do not believe there is a problem of VA reluctance to issue CRVs based on HUD/FHA commitments or on appraisals by Direct Endorsement lenders.

The same commenter also proposed that HUD grant permission to commence early construction on a condominium construction phase, in the same way that it allows an early start on projects that apply for an FHA-insured mortgage, when there is an unreasonable delay in processing the commitment on a construction phase.

HUD will grant permission for an early start, *i.e.*, for construction to begin before the commitment for mortgage insurance is issued. After the local authority issues the building permit, the mortgagee may request HUD's permission for the builder to start construction before the issuance of a conditional commitment.

This commenter also argued that much time could be saved if applications for condominium mortgage insurance were processed under guidelines similar to those applicable to single family mortgage insurance. This rule eliminates project mortgage insurance as a prerequisite to unit mortgage insurance. Thus, with only the application for unit mortgage insurance to process, delays should be minimized, making processing time for condominium unit insurance generally comparable to that in the single family program.

A trade association limited its comments to supporting the inclusion in the rule of the amendment to section 234(k) of the NHA made by section 104(a)(2) of the Housing and Community Development Technical Amendments Act of 1984. The 1984 Amendment is not included in this final rule because, as explained above, the passage of time has made the amendatory language superfluous.

Another trade association urged the Department to seek repeal of the statutory language restricting the availability of condominium unit mortgage insurance in projects that are converted from rental housing. In this commenter's view, such a restriction does not stop conversion, but limits the availability of FHA insurance to those who need it most.

The Department is not persuaded that it should seek repeal of the restrictive statutory language. Indeed, HUD disagrees with the contention that the restriction limits the availability of FHA insurance to a needy class. Mortgage insurance is still available unconditionally on other condominium projects, and the commenter offers no evidence to show that the class that it seeks to protect (first-time and other buyers with limited assets) cannot frequently qualify to purchase these units. Stated differently, the comment fails to make a case that unrestricted condominium conversion brings homeownership within easier reach of this class. Moreover, the restriction at issue is short-term and is inapplicable to mortgagors who were tenants of a converted project or to conversions sponsored by the majority of the tenants of a rental project.

The same commenter also sought clarification of the provision relating to conversion that states that "the mortgagor or comortgagor was a tenant of the housing." The commenter argued that this language might be interpreted as limiting a tenant in a converted project to purchasing the same unit that he or she formerly rented. The Department disagrees that the proposed rule's formulation is unclear. The statute (section 420(c) of the 1983 Act) uses both term "rental housing" and the term "unit." The rule closely parallels the statute. Both are clear, in our view, in providing that a preconversion tenant is free to purchase *any* unit in the tenant's converted project. However, to clarify further the intended meaning, we have revised § 234.26(f)(2).

A further point raised by this commenter was that for multi-phase condominium conversions, the date of conversion be defined for the entire project (*i.e.*, all phases) as the date the conversion documents were filed *for the first phase* of the project. According to the comment, because of the vagaries of the market, a "concrete determination of an entire project's eligibility for FHA unit mortgage insurance will enhance the ability to plan projects in a financially feasible manner, thus lowering costs to potential buyers."

The creation of a condominium is peculiarly a matter of State or local law. A conversion can only take place, under the rule, when "all documents necessary to create a condominium under State law * * * have been recorded." Therefore, by tying the act of conversion to the creation of a condominium, the rule permits State or local law to determine whether the conversion of the first phase in a multi-phase condominium project can serve as the date of conversion for all phases of the project. As such, State or local condominium law may recognize that a condominium has been created for all phases of a multi-phase condominium project, notwithstanding that conversion documents were filed for only the first phase of the project. Additionally, the rule's definition of "project" and "conversion" (see § 234.1 (k) and (o), respectively) is sufficiently broad, the Department believes, to accommodate the commenter's suggestion. The test, however, would be whether the suggestion is consistent with a particular jurisdiction's condominium law. Therefore, unless State or local law allows the recordation creating the condominium to cover all phases, the one-year limitation will apply to each phase.

As a final note, this commenter urged HUD to advise its field offices to maintain accurate records under the 80 percent mortgagor-occupied provision. (See §234.26(e)(2).) Accurate records are necessary, argued the commenter, to avoid borrowers' losing non-refundable application fees in situations where approval of an application for insurance would violate the 80 percent provision. The Department has already taken steps to ensure that FHA commitments are properly recorded in each Field Office's condominium log. Further, direct endorsement lenders have been advised to contact the local HUD office to determine whether the office can accept an endorsement where an investor is involved. These actions, the Department believes, will avoid the occurrence of the problem cited by the commenter.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(20(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule removes regulatory provisions in accordance with recent statutory amendments, and adds provisions that are protective of, or that redirect benefits to, a determinable class of users without imposing any economic burden on small entities.

This rule was listed as Sequence Number 963 in the Department's Semiannual Agenda of Regulations published on April 27, 1987 (52 FR 14387), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.133.

List of Subjects in 24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, the Department amends 24 CFR Part 234 as follows:

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

1. The authority citation for Part 234 continues to read as follows:

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

2. In § 234.1, paragraphs (d) and (k) are revised, and new paragraphs (o), (p), and (q) are added, to read as follows:

§ 234.1 Definitions used in this subpart.

* * * * *

(d) "Mortgage" means a first lien covering a fee interest or eligible leasehold interest in a one-family unit in a project, together, with an undivided interest in the common areas and facilities serving the project, and such restricted common areas and facilities as may be designated.

* * * * *

(k) "Project" means a structure or structures containing four or more family units.

* * * * *

(o) "Conversion" means the date on which all documents necessary to create a condominium under State law (and under local law, where applicable) have been recorded.

(p) "Tenant" means the occupant(s) named in the lease or rental agreement of a housing unit in a project as of the date the condominium conversion documents are properly filed for the project, or as of the date on which the occupants are notified by management of intent to convert the project to a condominium, whichever is earlier.

(q) "Bona fide tenants' organization" means an association of tenants formed by the tenants to promote their interests in a particular project, with membership in the association open to each tenant, and all requirements of the association applying equally to every tenant.

3. Section 234.26 is revised to read as follows:

§ 234.26 Project requirements.

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project that the Commissioner determines to be acceptable.

(b) *Plan of condominium ownership.* The project in which the unit is located shall have been committed to a plan of condominium ownership by a deed, or other recorded instrument, that is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgage.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership comply with legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit, subject only to a mortgage that is a valid first lien on the family unit.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* (1) The Commissioner may require such conditions and provisions as the Commissioner determines are necessary for the protection of consumers and the public interest.

(2) An application for mortgage insurance of a unit will not be approved if approval would result in less than 80 percent of the FHA-insured mortgages covering units in the projects being occupied by the mortgagors or comortgagors.

(3) In addition to the other requirements contained in his section, in order for a project to be acceptable to the Secretary, at least 51 percent of all family units (i.e., both FHA-insured and conventionally financed units) shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(f) *Limitations on conversion of rental housing to condominium use.* With respect to a family unit in any project that was converted from rental housing, no insurance will be provided under this section unless:

(1) The conversion occurred more than one year before the application for insurance; or

(2) The mortgagor or comortgagor was a tenant of a unit in the rental housing project converted to condominium use; or

(3) The conversion of the property is sponsored by a bona fide tenants' organization representing a majority of the households in the project.

(g) *Projects covered by an insured or Secretary-held mortgage.* In addition to the requirements contained in paragraphs (a) through (f) of this section, projects which are covered by an FHA-insured project mortgage, or by a mortgage held by the Secretary, must be in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that the Commissioner's interests, and those of the individuals purchasing the family units, are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The project mortgage shall certify that, notwithstanding any provisions of the mortgage covering prepayment, no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(h) *Projects not covered by an insured or Secretary-held mortgage.* In addition to the requirements containted in paragraphs (a) through (f) of this section, projects which are not covered by an insured project mortgage or by a Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance, or direct loan programs shall meet the requirements of this paragraph. Except with the approval of the Commissioner for the purpose of constructing or coverting the project in phases or stages, any special right of the declarant (as declarant and not as a unit

owner) to do any or all of the following must have expired or must have been waiver in a recorded instrument:

(1) Add land or units to the condominium;

(2) Convert common elements into additional units or limited common elements;

(3) Withdraw land from the condominium;

(4) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(5) Convert a unit into two or more units, common elements, or into two or more units and common elements.

§ 234.59 [Removed]

4. Section 234.59 is removed.

Date: August 28, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-20525 Filed 9-4-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8157]

Income Tax Regulations; Deposit of Estimated Income Tax by Certain Private Foundations and Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations that revise the Federal tax deposit regulations relating to corporate estimated income tax to make them applicable to quarterly payments required by the Tax Reform Act of 1986 of unrelated business income tax imposed upon certain tax-exempt organizations and the net investment income excise tax imposed upon certain private foundations. These amendments affect certain tax-exempt organizations which have income subject to the tax upon unrelated business income imposed by section 511 and certain private foundations subject to the net investment excise tax imposed by section 4940.

DATE: These amendments are applicable and effective for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone 202-566-3829 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1986, the Federal Register published a notice of proposed rulemaking (51 FR 46689) by cross reference to temporary regulations published the same day in the Federal Register (51 FR 46619) under section 1542 of the Tax Reform Act of 1986 which requires quarterly payments of the tax upon net investment income and unrelated business income of certain private foundations and tax-exempt organizations.

This document contains final regulations regarding deposits under section 6302(c) of the Internal Revenue Code of 1986 of the above-described tax effective for taxable years beginning after December 31, 1986. No hearing was requested with respect to the proposed regulations, and none was held. Several written public comments were received in response to the cross-reference notice, but since none of them requested any revision to the temporary regulations under section 6302(c), the final regulations promulgate the proposed regulations without substantive change.

Explanation of Provisions

Prior to the enactment of the Tax Reform Act of 1986, tax-exempt organizations were required to pay the tax imposed by section 511 upon their unrelated business income, and some private foundations were required to pay the excise tax imposed by section 4940 upon their net investment income, annually with their returns. Section 1542 of the Tax Reform Act of 1986 provides that private foundations and tax-exempt organizations must make quarterly estimated payments of the tax on net investment income or of the tax on unrelated business income, respectively, under the same rules that currently require quarterly estimated payments of corporate income taxes.

This Treasury decision provides that private foundations and tax-exempt organizations shall pay their quarterly estimated taxes in the same manner and time as corporations pay their quarterly estimated taxes by making a deposit of their quarterly taxes through the Federal Tax Deposit (FTD) system by the due dates for paying estimated taxes.

Public Comments

Two commentators discussed the problems which they believe private foundations and tax-exempt organizations face in making accurate and timely estimated tax payments by the 15th day of the 4th month of the taxable year (April 15 in the case of a calendar-year organization) as required under section 6154(b) of the Internal Revenue Code of 1986, while section 6072(e) of the Code provides that such organizations are not required to file their income tax returns for the previous taxable year until the 15th day of the 5th month of the taxable year (May 15 in the case of a calendar-year organization). Any problem caused by the application of these rules arises directly from the effect of Code section 6154(h) in subjecting private foundations and tax-exempt organizations to the estimated tax rules applicable to corporations and not from any provision of the proposed regulations.

No commentator noted any problem in requiring such organizations to make their estimated tax payments through the Federal Tax Deposit (FTD) system instead of using estimated tax payment vouchers similar to those used by individual taxpayers. Hence, this document promulgates, without substantive revision, the proposed regulations which simply require such organizations to make their quarterly estimated tax payments through the FTD system.

Nonapplicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

The Secretary of the Treasury has certified that this rule will not have a significant impact on a substantial number of small entities because the economic and any other secondary or incidental impact of the requirement for quarterly tax payments flows directly from the underlying statute. A regulatory flexibility analysis, therefore, is not required under the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget

(OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The requirements have been approved by OMB under control number 1545–0257. This number has already been incorporated into the table in 26 CFR 602.101(c).

Drafting Information

The principal author of this regulatory amendment is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.6302–1—1.6302–2

Income taxes, Administration and procedure, Tax depositaries.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by removing the citation for § 1.6302–1T, and adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.6302–1 (a) also issued under 26 U.S.C. 6302 (c). * * *

Par 2. The heading and paragraph (a) of § 1.6302–1 are hereby revised to read as follows:

§ 1.6302–1 Use of Government depositaries in connection with corporation income and estimated income taxes and certain taxes of tax-exempt organizations.

(a) *Requirement.* A corporation (and, for taxable years beginning after December 31, 1986, any organization subject to the tax imposed by section 511, and any private foundation subject to the tax imposed by section 4940) shall deposit with an authorized depositary of Federal taxes all payments of tax imposed by Chapter 1 of the Code (or treated as so imposed by section 6154 (h)), including any payments of estimated tax, on or before the date otherwise prescribed for paying such tax. This paragraph does not apply to a foreign corporation or entity which has no office or place of business in the United States.

* * * * *

§ 1.6302–1T [Removed]

Par. 3. Section 1.6302–1T is hereby removed.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 19, 1987.

O. Donaldson Chapoton,

Acting Assistant Secretary of the Treasury.

[FR Doc. 87–20457 Filed 9–4–87; 8:45 am]

BILLING CODE 483–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Exemption from Coverage of Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Reaffirmation of final rule.

SUMMARY: In June of 1984 the Equal Employment Opportunity Commission voted to undertake a review of the Commission's Interpretative Regulation set forth at 29 CFR 1625.13: Apprenticeship Programs Under the Age Discrimination in Employment Act of 1967, as amended (ADEA). The Commission has determined, after careful reassessment of the statutory language of the ADEA, the Act's legislative history, related statutes and case law, and a thorough examination of the history of apprenticeship programs, that Congress when enacting the ADEA did not intend to subject *bona fide* apprenticeship programs to the prohibitions of the Act. Accordingly, it is the Commission's view that § 1625.13 clearly embodies the intent of Congress and therefore should remain in full force and effect.

EFFECTIVE DATE: July 30, 1987.

FOR FURTHER INFORMATION CONTACT: James E. Cooks, Attorney-Advisor, ADEA Division, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC 20507, (202) 634–6423.

Signed this 1st Day of September, 1987 at Washington, DC.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 87–20552 Filed 9–4–87; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177

[CGD 86–082]

Identification of the Horizontal Datum Referenced in the Coast Guard Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to inform the public that due to the ability to establish global reference systems that provide more accurate geographic positions (latitude and longitude), the horizontal datums referenced on maps and charts are being revised and during the interim, various horizontal datums may be encountered. The geographic positions listed in the regulations in Title 33, Parts 1–999 are referenced to various horizontal datums such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others; however, the datum is not identified. The National Oceanic and Atmospheric Administration (NOAA) has identified the North American Datum of 1983 (NAD 83) to replace the various horizontal datums currently in use. The rulemaking inserts cautionary reminders that during the conversion there may be discrepancies between the positions described in the existing regulations and the charted positions.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Parker, (202) 267–0357.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking has not been published for this regulation; and it is being made effective in less than 30 days. This rulemaking is not changing any of the information contained in the regulations, but is merely providing a means of identifying when the geographic positions are referenced to NAD 83. Therefore, the Coast Guard finds that an opportunity for notice and comment is unnecessary under 5 U.S.C. 553(b)(B). Because of the different datums referenced on the many maps and charts that are produced, and in view of the necessity for individuals to be able to identify the horizontal datum referenced in the published geographic positions, it has been determined that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective in less than 30 days.

Drafting Information

The principle persons involved in drafting this rulemaking are Mr. Frank Parker, Project Manager, and Lieutenant S.R. Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of the Regulation

Through the use of satellites and other modern surveying techniques, it is now possible to establish global reference systems which provide more accurate geographic positions. Currently, several datums such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others are in use. The National Oceanic and Atmospheric Administration (NOAA) has identified the North American Datum of 1983 (NAD 83) to replace the various datums used in the past on maps and charts. NOAA has begun converting geographic positions to NAD 83. Over time, all maps and charts will reference NAD 83, except for nautical charts of the Pacific Territory Islands, which will be compiled on World Geodetic Systems 1984 (WGS 84). For the accuracy required for charting purposes, geographic positions referenced to WGS 84 are essentially equivalent to the geographic positions referenced to NAD 83. The entire conversion is expected to be accomplished over a ten-year period.

During the period of conversion, some maps and charts will be referenced to the new NAD 83, while others will still be referenced to the former datums, such as the North American Datum of 1927, U.S. Standard Datum, Old Hawaiian Datum, Puerto Rican Datum, Local Astronomic Datum, and others. Corrections must be made to the geographic positions from the previous referenced datum to NAD 83. As a result of applying these corrections the geographic positions will change; however, the location of objects in relation to surrounding land does not change.

The regulations in Title 33, Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177 are being amended to include a notice that indicates when the datums of the geographic positions in these regulations are referenced to NAD 83.

Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule is merely adding information to clarify the existing regulations. This final rule will not have a quantifiable cost impact. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 3

Coast Guard areas, Districts, Marine inspection zones, Captain of the Port zones.

33 CFR Part 67

Aids to navigation on artificial islands and fixed structures.

33 CFR Part 80

COLREGS demarcation lines.

33 CFR Part 100

Safety of life on navigable waters.

33 CFR Part 110

Anchorage regulations.

33 CFR Part 147

Safety zones.

33 CFR Part 150

Operations.

33 CFR Part 161

Vessel traffic management.

33 CFR Part 162

Inland waterways navigation regulations.

33 CFR Part 165

Regulated navigation areas and limited access areas.

33 CFR Part 166

Shipping safety fairways.

33 CFR Part 167

Offshore traffic separation schemes.

33 CFR Part 177

Correction of especially hazardous conditions.

For reasons set out in the preamble, Title 33, Chapter 1, Parts 3, 67, 80, 100, 110, 147, 150, 161, 162, 165, 166, 167, and 177 of the Code of Federal Regulations, are amended as set forth below.

PART 3—[AMENDED]

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

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. Section 3.01–1(h) is revised and redesignated as paragraph (g) to read as follows:

§ 3.01–1 General description.

* * * * *

(g) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 67—[AMENDED]

3. The authority citation for Part 67 is revised to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; 49 CFR 1.46.

All other authority citations are deleted.

4. Section 67.50–1 is revised to read as follows:

§ 67.50–1 Scope.

(a) The regulations in this subpart shall apply to the structures which are located within the boundaries of the Coast Guard districts hereinafter defined.

(b) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

* * * * *

PART 80—[AMENDED]

5. The authority citation for Part 80 is revised to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.46.

6. Section 80.01(c) is added to read as follows:

§ 80.01 General basis and purpose for demarcation lines.

* * * * *

(c) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on

maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 100—[AMENDED]

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

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

8. Section 100.01(b) is added to read as follows:

§ 100.01 Purpose and intent.

* * * * *

(b) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 110—[AMENDED]

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

Authority: 33 U.S.C. 471, 2071; 49 CFR 1.46, 33 CFR 1.05–1(g).

10. Section 110.1(d) is added to read as follows:

§ 110.1 General.

* * * * *

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 147—[AMENDED]

11. The authority citation for Part 147 is revised to read as follows:

Authority: 14 U.S.C. 85; 33 U.S.C. 2071; 49 CFR 1.46.

12. Section 147.10(d) is added to read as follows:

§ 147.10 Establishment of safety zones.

* * * * *

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts reference to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 150—[AMENDED]

13. The authority citation for Part 150 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1509; 49 CFR 1.46.

14. Appendix A to Part 150 is amended by adding a new paragraph V to read as follows:

Appendix A—Deepwater Port Safety Zone Boundaries

* * * * *

V. Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 161—[AMENDED]

15. The authority citation for Part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

16. Section 161.101(d) is added to read as follows:

§ 161.101 Purpose and applicability.

* * * * *

(d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), uless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 162—[AMENDED]

17. The authority citation for Part 162 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

18. Section 162.1 is added to read as follows:

§ 162.1 General.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 165—[AMENDED]

19. The authority citation for Part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

20. Section 165.8 is added to read as follows:

§ 165.8 Geographic coordinates.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 166—[AMENDED]

21. The authority citation for Part 166 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

22. Section 166.103 is added to read as follows:

§ 166.103 Geographic coordinates.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 167—[AMENDED]

23. The authority citation for Part 167 is revised to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

24. Section 167.3 is added to read as follows:

§ 167.3 Geographic coordinates.

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

PART 177—[AMENDED]

25. The authority citation for Part 177 is revised to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

26. Section 177.08 introductory text is revised to read as follows:

§ 177.08 Regulated boating areas.

For the purpose of this part, the following are regulated boating areas.

Note: Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

* * * * *

Dated: August 3, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 87-20332 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5 87-035]

Drawbridge Operation Regulations; Christina River, Wilmington, DE

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for Conrail's Christina River drawbridge, mile 5.4, because the swing bridge has been removed. Regulations for the other bridges on the Christina River remain unchanged. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: These regulations become effective September 8, 1987.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, Bldg. 135A, Governors Island, New York 10004 (212) 668-7994.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations for a swing bridge that no longer exists. Consequently, this action is considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of these regulations are Sylvia L. Bowens, project officer, and Cdr. Robert J. Reining, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.237(c) is revised to read as follows:

§ 117.237 Christina River.

* * * * *

(c) The draws of he Conrail bridges, at miles 4.1 and 4.2, both at Wilmington, shall open on signal from 6 a.m. to 8 p.m. if at least 24 hours notice is given. From 8 p.m. to 6 a.m., the draws need not be opened for the passage of vessels.

* * * * *

Dated: August 18, 1987.

R.M. Polant,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 87-20539 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 305 and 306

[FRL-3249-2]

Withdrawal of Arbitration Procedures and Natural Resource Claims Procedures for Hazardous Substance Superfund

AGENCY: Environmental Protection Agency.

ACTION: Final rule; removal of regulations.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is withdrawing two procedural rules promulgated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). The rules concern: (1) The submission and evaluation of natural resource claims against the Hazardous Substance Superfund (Superfund) (40 CFR Part 306), and (2) the arbitration of both natural resource and response claims (40 CFR Part 305). EPA is withdrawing these two regulations because the authority for financing natural resource claims and for arbitrating claims has been revoked by provisions of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

EFFECTIVE DATE: October 8, 1987.

ADDRESS: *Docket*—The public docket for the arbitration and claims procedures is available for public inspection at the U.S. Environmental Protection Agency, Waterside Mall, Lower Garage, 401 M Street, SW., Washington, DC 20460. The docket is available for viewing by appointment only, (202) 382-3046, from 9:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: William O. Ross, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 382-4645, or The RCRA/CERCLA Hotline, (800) 424-9346 (or 382-3000 in the Washington, DC metropolitan area).

SUPPLEMENTARY INFORMATION:

I. Natural Resource Claims Procedures Rule

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, Pub. L. 96-510, authorized the assertion of two types of claims against the Superfund: Response claims

authorized by section 111(a)(2) of CERCLA and natural resource claims authorized by section 111(a)(3) of CERCLA. Response claims are to reimburse private parties for at least part of their costs in responding to a release, or threat of a release, of a hazardous substance, pollutant or contaminant. Natural resource claims are submitted by Federal, State, or Indian tribe trustees for reimbursement of the costs of assessing damage to a natural resource, or for the restoration, rehabilitation, replacement or acquiring the equivalent of a natural resource that has been injured, destroyed or lost. The submission and evaluation of natural resource claims was the subject of a rule promulgated by EPA on December 13, 1985. 50 FR 51196 *et seq.*, 40 CFR Part 306. The Agency is today withdrawing this rule because CERCLA, as amended by SARA, does not authorize the appropriation of funds for the payment of natural resource claims.

SARA treats natural resource claims in different ways. Section 111(c)(1) of SARA amends section 111(b) of CERCLA to prohibit payment from the Superfund of a natural resource claim unless the President determines that the claimant has exhausted all administrative and judicial remedies for recovering such claims from parties liable under section 107 of CERCLA. This restriction applies only to claims for restoration, rehabilitation, replacement or acquiring the equivalent of an injured natural resource—not to claims for damage assessments. Another provision, section 111(e) of SARA, amends section 111(e)(2) of CERCLA to prohibit payment from the Superfund in any fiscal year where the President determines that such funds are needed for response to threats to public health.

However, the above provisions are mooted by section 517(a) of SARA, which amends the Internal Revenue Code as follows:

> Amounts in the Superfund shall be available, as provided in the appropriation Acts, only for purposes of making expenditures—
>
> (A) To carry out the purposes of—
>
> (i) Paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,
>
> (ii) Section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof * * *.

It can be seen that section 517(a) of SARA prohibits Superfund expenditures to carry out the purposes of sections 111 (a)(3), (b), (c)(1), (c)(2) of CERCLA. These are the authorizing provisions for natural resource claims. Therefore, even though the programmatic sections regarding natural resource claims still exist, the authority to spend money for those claims has been specifically revoked.

The legislative history is clear that Congress intended that natural resource claims not be paid. The conference report to SARA holds that: "[t]he conference agreement follows the House bill in deleting natural resource damage and assessment claims as a Superfund expenditure purpose." H.R. Rep. No. 962, 99th Cong. 2d Sess. 321 (Oct 3, 1986); *see* H.R. Rep. No. 253, 99th Cong. 2d Sess., pt. 2, at 54 (1985) (House Report). Because of section 517(a) of SARA, EPA is today withdrawing the regulatory procedures for natural resource claims.

II. Arbitration Rule

Section 112 of CERCLA (as amended by SARA) outlines procedures for asserting all claims against the Fund for response costs. Prior to the enactment of SARA, section 112(b)(4) of CERCLA required the creation of a Board of Arbitrators to review EPA's claim determinations if either the claim was denied or the claimant contests the amount of an award. Implementing this statutory mandate, the Agency promulgated a rule that formally established an arbitration board and set forth procedures for the consideration of contested claims. 50 FR 51196 *et seq.* (December 13, 1985), 40 CFR Part 305.

Section 112(b) of SARA revokes the statutory authorization for an arbitration board. In its place, section 112(b) of SARA amended section 112(b)(2) of CERCLA to allow a claimant to request an administrative hearing if all or part of his claim is denied. Paragraphs (3) through (5) of the revised subsection 112(b) outline the general parameters of the administrative hearing. In furtherance of this statutory mandate, EPA is currently drafting rules for such administrative hearings. Because all statutory authority for arbitration was specifically revoked, and the arbitration procedures were specifically replaced by an alternative administrative procedure, the Agency is withdrawing its rules for arbitration, currently found at 40 CFR Part 305.

III. Response to Public Comments

In the 30-day period after this rule was proposed on July 13, 1987 (52 FR 26160), the Agency received two public comments: One favoring the withdrawal of the regulations over suspension; the other opposed withdrawal of the regulations, questioning EPA's authority to do so in light of section 112 of CERCLA. The latter commenter stated that the filing of claims should be allowed given the strict time limit for such filings, and concluded that it would be less confusing to notify trustees that they may may "file such claims if they want to preserve them for *possible* future funding" (emphasis supplied).

Executive order 12580 delegates to EPA the President's authorities under section 112, including the responsibility to prescribe appropriate forms and procedures for response and natural resource claims. EPA takes seriously its responsibilities under section 112(b)(1) and will propose procedures for filing response claims in the near future. It is EPA's position, however, in view of the section 517 provision limiting the use of Fund monies, that it is inappropriate to maintain the regulation establishing natural resource claims procedures.

Since no Fund monies may be used to pay natural resource claims, EPA sees no reason to expend resources in processing such claims, against the uncertain prospect of future Congressional authorization. In addition, in order to process those claims, the Agency would need to develop procedures to determine the requirements for exhausting administrative and judicial remedies (CERCLA section 111(b)(2)(A)). EPA does not believe that such a use of governmental resources is now warranted.

To be sure, the 3-year period for filing natural resource claims may be running at some sites. However, that is of no significance so long as authorization to pay claims is lacking. Should Congress decide in the future to authorize the payment of Fund monies for natural resource claims, any necessary adjustments in the statute of limitations may be made at that time.

IV. Regulatory Status and Required Analysis

Final rules issued by Federal agencies are governed by several statutes and executive orders. These include Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

A. Executive Order 12291

Executive Order 12291 requires that proposed regulations be classified as major or non-major for purposes of review by the Office of Management and Budget. A regulatory impact analysis is required for a major rule. According to Executive order 12291, major rules are regulations that are likely to result in:

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

(2) A major increase in costs or prices for consumers, individual industries,

federal, state, or local government agencies, or geographic regions; or

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

Both the arbitration and natural resource claims regulations were determined to be non-major under Executive Order 12291, and this rule, which withdraws those two regulations, is also unlikely to result in any of the impacts identified above. Therefore, the Agency has not prepared a regulatory impact analysis for this regulation.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have "significant impact on a substantial number of small entities."

The withdrawal of the natural resource claims regulation will only affect Federal and State governments or Indian tribes, since they were the only parties eligible to file such claims. The withdrawal of the arbitration regulation will have little impact, since it will be replaced by the rules for administrative procedures mandated by the statute. Therefore, EPA certifies that this rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Information Collection approved by OMB (2050–0043 (expiring April 30, 1988)) is withdrawn. The 201,600 approved hours have been taken out of the Information Collection Budgets for the year ending September 30, 1987, and thereafter.

List of Subjects in 40 CFR Parts 305 and 306

Administrative Practice and Procedure, Air pollution control, Chemicals, Claims, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Waste pollution control, Water supply.

Authority: 42 U.S.C. 9601 *et seq.* and E.O. 12580 secs. 4 and 9.

Dated: September 1, 1987.

Lee M. Thomas,

Administrator.

Chapter I, Title 40 of the Code of Federal Regulations is amended as set forth below.

PARTS 305 AND 306—[REMOVED AND RESERVED]

Title 40 of the Code of Federal Regulations is amended by removing and reserving Parts 305 and 306.

[FR Doc. 87–20547 Filed 9–4–87; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 361

Criteria for Earthquake Hazards Reduction Assistance to State and Local Governments

Date: September 1, 1987.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The purpose of this regulation is to establish policy and provide criteria for the provision of financial and technical assistance to States and local governments by the Federal Emergency Management Agency (FEMA), under the Earthquake Hazards Reduction Act of 1977 (Pub. L. 95–124, amended by Pub. L. 96–472). This regulation supersedes that portion of 44 CFR 300.6, Earthquake and Hurricane Plans and Preparedness, which pertains to earthquake preparedness.

In keeping with the trend of Federal programs of assistance to State and local governments toward increased cost sharing, FEMA intends to initiate cost sharing with States (and local governments, where appropriate) for their earthquake hazards reduction projects. These projects have in the past been (in most but not all cases) 100 percent federally funded. This rule sets out the requirements for cost sharing. The final objective is cost sharing on a 50-percent Federal-50 percent non-Federal basis, with the non-Federal contribution required to be cash.

FEMA realizes, however, that timing and other contingencies may preclude the availability of State cash contributions for earthquake hazards reduction activities in time for Fiscal Year (FY) 1988. In order to accommodate States, therefore, FEMA plans to phase in cost sharing over a period of three years. In FY 1988, FEMA will continue to fund State earthquake hazards reduction projects without requiring any State match. Of course, those States that have already planned to cost share, and/or have been sharing the costs with FEMA of their earthquake hazards reduction projects in previous years are encouraged to continue to do so. In FY 1989, minimum cost share requirements will be instituted. These will require States to contribute 25 percent of the total costs of their projects, with the Federal Government providing the remaining 75 percent. The State contribution may be cash or in-kind. Beginning in FY 1990, the full cost sharing provisions will be implemented, which will require States to provide a minimum of 50 percent of the costs of their projects, with this contribution required to be cash. The publication of this regulation at this time is intended to provide official notice to States of this pending requirement, in order to give them the time necessary to obtain their required matches for FY 1989 and FY 1990.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Terry Feldman, Earthquakes and Natural Hazards Programs Division, Office of Natural and Technological Hazards Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4145.

SUPPLEMENTARY INFORMATION: Congress enacted the Earthquake Hazards Reduction Act of 1977 with the purpose of reducing the loss of life and damage to property "from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program." The Federal Emergency Management Agency (FEMA) has been designated as the lead Federal agency with responsibility for implementing this National Earthquake Hazards Reduction Program (NEHRP). FEMA exercises this responsibility in close cooperation with the three other principal Federal agencies of the program: U.S. Geological Survey, National Science Foundation, and the National Bureau of Standards. Each of these agencies is responsible for those specific aspects of the NEHRP that are most closely related to its own overall mission.

In addition to its lead agency responsibilities (Pub. L. 96–472, section 101(b)), FEMA is responsible under the Earthquake Hazards Reduction Act for supporting State and local earthquake hazards reduction projects, supporting the development and implementation of seismic design and construction standards, leading the Federal earthquake response planning effort, conducting mitigation and multihazard preparedness planning, and fostering earthquake education and information transfer. The support of State and local earthquake hazards reduction projects

focuses on the provision of financial and technical assistance to States, and, through them, to local governments upon occasion, in order to further the purposes of the Act. This includes making available the results of research and other activities carried out by FEMA and the other principal and participating Federal agencies under the NEHRP. (For simplicity and clarity of expression in the remainder of this discussion, where the term "State" is used alone, it is defined to mean local governments as well).

Guidance on earthquake hazards reduction projects is found in FEMA publication Civil Preparedness Guide (CPG) 2–18, *State and Local Earthquake Hazards Reduction: Implementation of FEMA Funding and Support.* Copies are available by writing to FEMA, P.O. Box 70274, Washington, DC 20424. Chapter 3 of that document delineates broad categories or program elements for State and local earthquake hazards reduction efforts and provides guidance for developing proposed activities for funding. The activities for which States may apply for funding fall into six major categories or program elements: State seismic advisory boards, hazard identification, vulnerability assessments, preparedness and response planning, mitigation planning, and public awareness/education.

The vehicle used by FEMA for providing financial and technical assistance to States is a Comprehensive Cooperative Agreement (CCA) with the State department of emergency management or another agency designated by the Governor as having responsibility for such a project. Funding is usually not provided by FEMA directly to local units of government. If it is determined through negotiations or other discussions with State and/or local officials that FEMA funding is to be provided to a local jurisdiction, the funding will generally be passed through the appropriate State agency to the local government. This will facilitate the coordination required to assure that local efforts are consistent with State requirements, policies, and related projects.

The following high-risk States have been identified by FEMA through the NEHRP as being eligible for earthquake hazards reduction financial assistance: California, Washington, Alaska, Hawaii, Utah, Massachusetts, South Carolina, New York, the Central United States (Arkansas, Mississippi, Tennessee, Kentucky, Illinois, Indiana, and Missouri), Puerto Rico and the Virgin Islands. This high-risk designation is determined by applying technical information generated by the NEHRP in the context of the following factors: Seismic risk (including the historic occurrence of damaging earthquakes and probable seisimic activity); total population and major urban concentrations in the risk area; and the presence of industrial facilities, vital natural resources, or other factors related to the national interest, in the risk area. It is important to note that a seismic risk area, and, hence, the project area for earthquake hazards reduction activities, may not necessarily include an entire State, although for convenience the name of the State will often be used to designate a particular earthquake hazards reduction project.

FEMA is presently focusing available earthquake hazards reduction funding on these seventeen high-risk States in order to obtain the greatest benefit in earthquake hazards reduction for the available funds. FEMA recognizes that many States are subject to low or moderate earthquake risk. As the NEHRP continues to generate technical data, FEMA realizes that additional States may be defined as high risk, and will, therefore, consider their eligibility accordingly. Because of the limited funding available, FEMA must give priority in the allocation of its earthquake hazards reduction assistance to those States with the greatest vulnerability.

The purpose of this rule is to formalize FEMA's program of State assistance for earthquake hazards reduction by providing criteria for State eligibility, defining those activities eligible for funding, and providing criteria for formal cost sharing with the States. This rule supersedes that portion of 44 CFR 300.6 which pertains to earthquake preparedness.

Cost sharing is being initiated to foster commitment within the States to ongoing earthquake hazards reduction efforts. State and local governments have the initial, direct responsibility for the protection of lives and property from earthquakes, as part of their overall responsibilities related to public health, safety, and welfare. It is, therefore, FEMA's policy to support and encourage development at the State level of an institutionalized capability in earthquake hazards reduction. This will also help assure that there will exist at the State level an infrastructure able to utilize, disseminate, and adapt the various products made available through the other elements of the NEHRP (e.g., seismic design provisions, and awareness/education materials). The success of these products is dependent upon a demonstrated commitment of State and local governments to utilize and implement them. FEMA believes that having States share the cost of their federally supported projects is an effective way of developing and sustaining their commitment to earthquake hazards reduction.

Cost sharing will be on a voluntary basis in Fiscal Year (FY) 1988. Cost share requirements will be formally initiated in FY 1989, with criteria designed to minimize disruption of ongoing State earthquake hazards reduction projects. In FY 1990 and beyond, however, the requirements for cost sharing will be increased. This rule is being published at this time so as to provide the States with sufficient notice to enable them to obtain the matches that FEMA will require in FY 1989 and beyond.

In FY 1988, FEMA will continue to fund State earthquake hazards reduction projects, with State matching only on a voluntary basis. Of course, those States that have already planned to cost share in FY 1988, and/or have been sharing the costs with FEMA of their earthquake hazards reduction projects in previous years are encouraged to continue to do so.

In FY 1989, FEMA will require a minimum of a 25 percent non-Federal contribution to the cost of earthquake hazards reduction projects. FEMA prefers that this contribution be cash, but an in-kind match is acceptable. A further condition of eligibility for FEMA earthquake funds for FY 1989 is documentation by the States, during the negotiation process, of the progress they are making towards obtaining the funds that will be required for FY 1990. This will provide FEMA with an accurate assessment of continued State participation in the earthquake program, enhancing sound program management. Beginning in FY 1990, cost sharing will be required on the basis of a minimum non-Federal contribution of 50 percent to the total cost of a State's earthquake hazards reduction project. This contribution must be cash; in-kind matching will no longer be acceptable.

On July 6, 1987, FEMA published in the **Federal Register** a proposed rule governing Criteria for Earthquake Hazards Reduction Assistance to State and Local Governments, with a 30 day comment period. In response to this notice of proposed rulemaking, seven comments were received from States or other governmental agencies. In preparing this final rule, FEMA has carefully considered these comments. As a result, several changes have been made in the Supplementary Information

and the rule itself. These are described below. One of the commenters objected to the reduction in the comment period from the usual 60 days to 30 days. Under the provisions of 44 CFR 1.4(e), it is within the authority of the Director of FEMA to make an exception to the 60 days normally allowed for comments on proposed rules. The reasons for this exception are required to be, and were, stated in the preamble to the notice of proposed rulemaking.

The remaining comments were substantive, and are addressed in the following paragraphs. Where comments have resulted in changes from the proposed rule to the final rule, these are indicated.

Four commenters expressed strong concern that implementation of cost sharing requirements in FY 1988, as established in the proposed rule, would threaten the objectives of the NEHRP. This is because those States unable to meet the requirements would be denied FEMA funds, without which they could not continue earthquake hazards reduction activities. FEMA acknowledges that the timetable required to implement cost sharing in FY 1988 would be prohibitive for some States, and has therefore deferred initiation of mandatory cost sharing until FY 1989. Accordingly, § 361.3(f) of the rule and relevant language in this Supplementary Information section have been appropriately amended.

Two comments expressed the view that FEMA's initiation of mandatory cost sharing represents a significant change in policy, contravenes Congressional intent in enacting the National Earthquake Hazards Reduction Act of 1977, and undermines the progress being made by States in their earthquake hazards reduction projects. FEMA disagrees with these contentions. It must be remembered that FEMA is not proposing to discontinue its financial support for State earthquake hazards reduction projects. While a cost share requirement for FY 1988 may have been prohibitive for some State projects, the decision to defer implementation of required cost sharing until FY 1989 (and allow in-kind matching for that year) should help prevent such occurrences. The major objective of FEMA's State assistance is to increase the capability of States and local governments to prepare for, respond to, and mitigate the effects of severe earthquakes; thus contributing to the purpose of the Act, which is to "reduce the risks of life and property from future earthquakes * * * through an effective earthquake hazards reduction program." Congress did not, however, envision a program completely supported by the Federal government. One of its findings and declarations, in section 2(3) of the Act, is that "An expertly staffed and adequately financed earthquake hazards reduction program, based on Federal, State, local and private research, planning, decisionmaking, and contributions would reduce the risk of such loss * * *." Congress also recognized, in section 2(8), that the reduction of earthquake losses "will depend on the actions of * * * governmental units at Federal, State, and local levels."

Another comment questioned why this rule is being applied only to programs administered by FEMA, and not to NEHRP programs managed by the United States Geological Survey and the National Science Foundation. FEMA has no authority over the programs of these other Federal agencies, its lead agency role in the NEHRP notwithstanding.

Two comments were received which pertained to the list of high risk areas in the Supplementary Information discussion. In response to these, FEMA has changed this list by deleting references to specific cities and including only States.

One local unit of government provided comments on the proposed rule, recommending that FEMA provide direct assistance to substate areas with particularly high population, urban, and industrial concentrations. Technical assistance, in the form of publications, audiovisual materials, curricula, workshops, etc. already is, and will continue to be, available from FEMA. Provision of financial assistance directly to local units of government, in addition to that provided to States, is, however, beyond FEMA's budgetary capability. FEMA believes that in order to obtain maximum benefits from the funds that are available, from a national perspective, it should work through State governments. If it should be determined during the course of routine discussions or more formal negotiations that the earthquake hazards reduction activities of one or more particular local jurisdictions should receive funding from FEMA, then, as indicated previously in this Supplementary Information section, such funding would be passed through the State, in order to facilitate coordination and consistency.

Two comments on the rule addressed the issue of the apportionment of FEMA's earthquake hazards reduction funds to the States. This is a complex issue, in that the rule defines criteria by which States are determined to be eligible for such assistance, as well as criteria that are used in determining States' target allocations. It was commented that the precise method, or formula, for calculating the amount that each State receives was not described in the rule. FEMA has, however, shared the methodology with the States through another document, and is responding to comments on it. It remains FEMA's intent not to include the methodology within the rule. While the initiation of cost sharing is clearly regulatory in nature, FEMA believes that the methodology by which it apportions its funds is more appropriately an administrative determination. FEMA recognizes that the state of the art of earthquake risk assessment is continually evolving; as new technical information becomes available, risk areas as well as their relative risk assessments will change. This is a significant factor in the complexity of the administering the State financial assistance element of the NEHRP. FEMA has only recently had sufficient experience with this element to be able to establish both criteria and a forumla for allocating funds. Consequently, in order to allow for periodic refinement of the apportionment approach, FEMA made the deliberate decision to only include the overall criteria for eligibility and target allocations in the rule, and to leave out the parameters for apportionment. FEMA plans to work with the States each year to adjust the methodology as circumstances warrant.

One set of detailed comments covered a number of issues related to the funding eligibility criteria outlined in the rule. In a number of cases, these comments overlap the apportionment issue. In discussing eligibility for FEMA State assistance under the NEHRP, § 361.3(c), concern was expressed about the high cost of "doing business" in certain States, due to salaries, goods and services. Another concern that falls into the same category related to increased costs due to "service distance and transportation network." This argument was that the State in question has an extraordinarily large planning area to serve, much of which lacks roads and must therefore be serviced via air. These concerns are more properly addressed through the apportionment process rather than eligibility criteria as described in this rule.

Another point made by this commenter was that there are factors other than simply the three (seismic risk, total population and urban concentrations, and industrial concentrations) included in § 361.3(c) that should be considered in determining eligibility for State assistance under the NEHRP. In response to this point, FEMA has

amended this section of the rule to list seismic risk, total population and urban concentrations (the major objective of the National Earthquake Hazards Reduction Act being reduction of loss of lives from earthquakes), and other factors, the loss, damage, or disruption of which would have serious national implications or impact upon national security, such as significant concentrations or occurrences of natural resources.

This commenter also made the point that FEMA appears to give no consideration to the prior performance of a State that has previously received State assistance in its determination of eligibility (§ 361.3(c)). The criteria for eligibility listed in the rule are reasonably self-evident and objective, and appropriate for the administration of a National program. FEMA believes, however, that the issue of prior performance is most appropriately addressed through the annual negotiations that occur between FEMA and each eligible State. Accordingly, FEMA has added a new section, § 361.3(i), to the rule to reflect its consideration of a State's prior performance in the determination of continued funding.

A major concern of this commenter pertained to the issue of what FEMA calls "collateral hazards." Collateral hazards are hazards in addition to ground shaking or movement along a fault which occur as a result of an earthquake. Examples are tsunamis, liquefaction, and flooding due to dam failures. The specific objection of this commenter was to the absence of any consideration of the tsunami hazard (which is a significant aspect of the seismic risk of this particular State) in FEMA's determination of the State's target allocation. This is a very complex problem. While FEMA does not dispute the seriousness of the tsunami hazard to this particular State, it has no choice but to also recognize that virtually every area or State subject to seismic risk is consequently also subject to one or a combination of collateral hazards. Because there is no known methodology for comparing these risks on a standardized, nationwide basis, FEMA will not consider collateral hazards at this time. The actual seismic risk can be, and therefore is, used because scientific information currently exists which can measure and compare this risk on a nationwide basis.

The requirement of § 361.3(g) in the proposed rule that at least 15 percent of the total State assistance allocation, as well as a matching amount from the State, must be spent for mitigation activities was the subject of another comment. FEMA continues to believe that mitigation activities hold out the best prospects, over the long term, and on a nationwide basis, for reducing the loss of life and property from future earthquakes. Hazard mitigation, whether for earthquakes or any other hazard, is a complex strategy involving many disciplines, economic and political choices, and the participation of the public and private sectors and the academic and scientific communities. Often, the short term costs may appear to exceed the benefits, and the benefits may not be apparent for a long time, or until an earthquake occurs. For these reasons, States are often reluctant to initiate mitigation programs, and tend to focus on preparedness, response, and public information efforts, all of which are vital, and for which it is generally easier to document short term progress.

FEMA's purpose in writing § 361.3(g) was to require those States that have not begun to develop or implement a program of earthquake hazard mitigation to do so. FEMA recognizes that in some States, one or more State agencies already are involved in mitigation activities, and that in a few cases substantial State resources are being devoted to this effort. FEMA administers a national program, however, and believes that the requirement is necessary from a national perspective. In order to lessen its burden on State resources, the provision has been changed by deleting the requirement that 15 percent of the State match (in addition to the 15 percent of State assistance) be dedicated to mitigation activities. The revised requirement is that at least 15 percent of the total State project (combined Federal and State funds, per cost sharing requirements) be used for mitigation activities.

The final comment pertains to § 361.8, "Ineligible Expenditures," specifically the restriction on the purchase or rental of equipment such as radio/telephone communications equipment, warning systems, and computers and related information processing equipment. The commenter believes that this is an unreasonable restriction, and that no such categorical exclusion should be made. The current Federal regulation requiring prior approval of equipment purchases exceeding $10,000 seems adequate to the commenter. FEMA disagrees.

The Agency is within its authority in imposing more stringent criteria for the expenditure of its NEHRP funds than the general Federal financial management criterion of $10,000. The first reason for its doing so is that the objective of FEMA's program of assistance to States for earthquake hazards reduction is to encourage the development of capability within the high risk States to deal with those aspects of preparedness, response, mitigation and recovery that are unique to earthquakes. Other Federal programs exist, both within and outside of FEMA, to assist States in developing more general emergency management capabilities, as well as capabilities in other specific hazards. Some of these programs pay for the type of equipment that the proposed rule restricted.

Regarding the existing Federal allowance of $10,000 for purchase of equipment, the amount of earthquake State assistance available to most States is so limited that, in almost every case, $10,000 is a substantial portion of the entire State program. FEMA believes the expenditure of such a proportion of available resources on equipment would be detrimental to the objectives of its earthquake assistance program. It is essential to spend these limited funds so as to most effectively contribute to the capability to deal with those aspects of emergency management most specific to the earthquake hazard, and use other funding sources to purchase equipment which may be utilized for a variety of purposes. FEMA realizes, of course, that such equipment may also be utilized in support of earthquake hazards reduction, and understands the desire of States for the flexibility to purchase what they need.

In order to be responsive to States regarding this issue, FEMA has modified the restriction in § 361.8 by permitting a State to apply funds from its match to the purchase of such equipment. The use of FEMA's State assistance funds for this purpose is still prohibited. If a State chooses to use some of its matching funds to purchase equipment, it must document how this equipment will support its earthquake hazards reduction activities (described in § 361.7(a)). Further, if the equipment will also be utilized for activities other than earthquake preparedness, only that proportion of its use that is dedicated to earthquake preparedness may be credited to the State's match.

Government-Wide Common Rule

On June 9, 1987, FEMA and other Federal agencies published a notice of proposed rulemaking in the **Federal Register**, Vol. 52, No. 110, pp. 21820–21862. The purpose of this proposed rulemaking is to reflect the update and revision of Office of Management and Budget (OMB) Circular A–102, "Uniform Requirements for Assistance to State

and Local Governments," which establishes, among other things, the basic Federal administrative standards for implementing cost sharing in Federal assistance programs. (The standards of A–102 are referenced in § 361.5 of this earthquake assistance rule). FEMA and the other agencies plan to codify the proposed rule in each's portion of the Code of Federal Regulations, and publish it in final form in the **Federal Register** in March 1988, to become effective later in the same year. The effect of that action will be to rescind all grants and cooperative agreement administration provisions in program regulations, and supersede all grants administration provisions of noncodified program manuals, handbooks and other materials, which are inconsistent with the proposed rules, except to the extent they are required by legislation or approved after these rules are final as a deviation by OMB. At that time, those administrative aspects of FEMA's earthquake State assistance program element that are currently governed by A–102 will henceforth be governed by the new regulation.

Information Collection Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* and has assigned OMB control numbers 3067–0123 and 3067–0142.

Environmental Considerations

Based on an Environmental Assessment prepared by FEMA, it has been determined that this action is not a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement will be prepared. The Environmental Assessment and a finding of no significant impact are included in the formal docket file and are available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Regulatory Flexibility Act

The Agency has determined that this rule is not a major rule under Executive Order 12291, and I certify that the rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, so no regulatory impact analysis will be prepared.

List of Subjects in 44 CFR Part 361

Disaster assistance, Grant programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 44, Chapter 1 of the Code of Federal Regulations is amended by adding a new Part 361 as follows:

PART 361—CRITERIA FOR EARTHQUAKE HAZARDS REDUCTION ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Sec.

Authority: Reorganization Plan Number 3 of 1978; 42 U.S.C. 7701 *et seq.*, E. O. 12148 and 12381, and Earthquake Hazards Reduction Act of 1977 (Pub. L. 95–124) and amendments (Pub. L. 96–472).

§ 361.1 Purpose.

This part prescribes the policies to be followed by the Federal Emergency Management Agency (FEMA) and States in the administration of FEMA's earthquake hazards reduction assistance program, and establishes criteria for cost sharing.

§ 361.2 Definitions.

(a) "Cash Contribution" means the State cash outlay, including the outlay of money contributed to the State by other public agencies and institutions, and private organizations and individuals.

(b) "Cost Sharing" and "Matching" represent that portion of project costs not borne by the Federal Government.

(c) "Eligible Activities" are activities for which FEMA may provide funding to States on a cost-shared basis. They include specific activities and/or projects related to earthquake hazards reduction which fall into one or more of the following general categories: State seismic advisory boards, hazard identification, vulnerability assessments, preparedness and response planning, mitigation planning, and public awareness/education. The activities that will actually be funded shall be determined through individual negotiations between FEMA and the States (see criteria in § 361.3(e)).

(d) "In-kind Contributions" represent the value of noncash contributions provided by the States and other non-Federal parties. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the States' earthquake hazards reduction projects.

(e) "Project" means the complete set of earthquake hazards reduction activities undertaken by a State, or other jurisdiction, on a cost-shared basis with FEMA in a given fiscal year.

(f) "Project Period" is the duration of time over which an earthquake hazards reduction project is implemented. This generally corresponds to the Federal fiscal year, i.e., it begins on the first day of a given fiscal year (or as soon as that year's funds are obligated by FEMA to the State) and ends on the last day of that fiscal year. The project period may extend beyond the end of the fiscal year for which the funds are appropriated, as long as FEMA obligates all that year's funds to the State before the end of that year.

(g) "State" means one or more of the States of the United States of America, and includes Puerto Rico and the Virgin Islands. It also means local units of government and/or substate areas that include a number of local government jurisdictions.

(h) "State Assistance" means the funding provided by FEMA under the National Earthquake Hazards Reduction Program (NEHRP) to States to conduct projects and activities specifically related to earthquake hazards reduction. The term also includes assistance to local units of government and/or substate areas, such as a group of several counties.

(i) "Target Allocation" is the maximum amount of FEMA earthquake program funds available to a given high risk State in a fiscal year. It is based primarily upon the total amount of State assistance funds available to FEMA annually, the number of high risk States, and a nationally standardized comparison of these States' seismic risk and population-at-risk. The target allocation is not necessarily the amount of funding that a State will actually receive from FEMA. Rather, it represents a planning basis from which a State can develop its scope of work for the next year's effort. This scope of work then becomes the basis of negotiations between the State and its FEMA Regional Office which will ultimately determine the actual amount of earthquake State assistance to be provided by FEMA.

§ 361.3 Project description.

(a) An objective of the Earthquake Hazards Reduction Act is to develop, in areas of seismic risk, improved understanding of and capability with

respect to earthquake-related issues, including methods of controlling the risks, planning to prevent such risks, disseminating warnings of earthquakes, organizing emergency services, and planning for post-earthquake recovery. To achieve this objective, FEMA has implemented an earthquake hazards reduction assistance program for State and local governments in seismic risk areas.

(b) This assistance program provides funding for earthquake hazards reduction activities which are eligible according to the definition in § 361.2(c). The categories, or program elements, listed therein comprise a comprehensive earthquake hazards reduction project for any given seismic risk area. Key aspects of each of these elements are as follows:

(1) *State seismic advisory boards* provide State and local officials responsible for implementing earthquake hazards reduction projects with expert advice in a variety of fields. Boards can identify short- and long-term needs, and provide for interdisciplinary discussion of related topics and issues, in addition to developing a consistent statewide approach to earthquake hazards reduction at the local government level.

(2) *Hazard identification* defines the potential for earthquakes and their related geological hazards in a particular area. It may include:

(i) A presumed specific magnitude earthquake at a specified location, and

(ii) A description of the ground shaking, fault rupture, landslides, liquefaction, and other geologic hazards resulting from that magnitude event.

(3) *Vulnerability assessments,* also known as loss estimation studies, provide information on the impacts and consequences of an earthquake on an area's resources, as well as on opportunities for earthquake hazards mitigation. As such, they are necessary to the development of both preparedness and response plans, and mitigation strategies. They may include estimates of parameters such as:

(i) The number of people killed, injured, or left homeless by an earthquake,

(ii) Damage to critical facilities, lifelines, utilities, and transportation systems,

(iii) Medical needs and available resources,

(iv) Damages to structures and buildings, and

(v) Secondary impacts (fire, dam or levee failures, hazardous material spills, toxic releases, etc.)

(4) *Preparedness/response/planning* are closely related and usually considered as one comprehensive activity. They do differ, however, in that preparedness planning involves those efforts undertaken before an earthquake to prepare for and/or improve capability to respond to the event, while response planning can be defined as the planning necessary to implement an effective response once, the earthquake has occurred. Preparedness/response planning usually consider functions related to the following:

(i) Rescue and fire services,

(ii) Medical services,

(iii) Damage assessments,

(iv) Communications,

(v) Security,

(vi) Restoration of lifeline and utility services,

(vii) Transportation,

(viii) Sheltering,

(ix) Public health and information services,

(x) Post-disaster recovery and the return of economic-stability,

(xi) Secondary impacts, such as dam failures, toxic releases, etc., and

(xii) Organization and management.

(5) *Mitigation planning* involves developing and implementing strategies for reducing losses from earthquakes by incorporating principles of seismic safety into public and private decisions regarding the siting, design, and construction of structures; and regarding buildings' nonstructural elements, contents and furnishings. Mitigation also involves developing plans for identifying and retrofitting existing structures that pose threats to life or would suffer major damage in the event of a serious earthquake. Mitigation planning also may involve facilities other than buildings, e.g., dams, hazardous material storage sites, industrial plants, etc.

(6) *Public awareness/earthquake education* activities are designed to increase public awareness of earthquakes and their associated risks, and to stimulate behavioral changes to foster a self-help approach to earthquake preparedness, response, and mitigation. Audiences that may be targeted for such efforts include:

(i) The general public,

(ii) School populations (administrators, teachers, students and parents),

(iii) Special needs groups (e.g., elderly, disabled, non-English speaking),

(iv) Business and industry,

(v) Engineers, architects, builders,

(vi) The media, and

(vii) Public officials.

(c) State eligibility for FEMA State assistance under the NEHRP is based on a combination of the following criteria:

(1) Seismic risk, including the historic occurrence of damaging earthquakes, as well as probable seismic activity,

(2) Total population and major urban concentrations exposed to such risk, and

(3) Other factors, the loss, damage, or disruption of which by a severe earthquake would have serious national implications or impacts upon national security, such as industrial concentrations, concentrations or occurrences of natural resources, financial/economic centers and national defense facilities.

(d) Each fiscal year, FEMA will establish a target allocation of earthquake program funds for each eligible State.

(e) The specific activities, and the distribution of funds among them, that will be undertaken with this assistance will be determined during the annual Comprehensive Cooperative Agreement (CCA) negotiations between FEMA and the State, and will be based upon the following:

(1) The availability of information regarding identification of seismic hazards and vulnerability to those hazards,

(2) Earthquake hazards reduction accomplishments of the State to date,

(3) State and Federal priorities for needed earthquake hazards reduction activities, and

(4) State and local capabilities with respect to staffing, professional expertise, and funding.

(f) All State assistance will be cost shared. Cost sharing will be phased in over three years, beginning with Fiscal Year (FY) 1988. The full cost sharing requirements will be implemented in FY 1990. The sequence is as follows:

(1) For FY 1988, cost sharing will be voluntary. FEMA will continue to provide State assistance without requiring a State match, as it has done in the past. Those States that have previously cost shared with FEMA, or are able to in FY 1988, are encouraged to do so (on either a cash or in-kind basis).

(2) For FY 1989, the minimum acceptable non-Federal contribution is 25 percent of the total project cost.

(i) While FEMA prefers the State match to be cash, in-kind matching is acceptable.

(ii) States are encouraged to add cash to or increase the proportion of cash in their match, and to increase their total match to 50 percent (or more, if possible) of the total project.

(iii) A further condition of eligibility for State assistance in FY 1989 will be documentation by each State of its progress, through FY 1988, in securing the matching funds that will be required

to meet the full cost sharing requirements to be implemented in FY 1990.

(3) In FY 1990, full cost sharing will be implemented, requiring a minimum of a 50 percent non-Federal contribution to a State program, with this share required to be cash. In-kind matching will no longer be acceptable. Thus, every dollar FEMA provides to a State must be matched by one dollar from the State. States that can contribute an amount greater than that required by the match are permitted and encouraged to do so. State assistance will, however, not exceed the established target allocation.

(g) As a condition of receiving FEMA funding, at least 15 percent of the amount of the total State project (FEMA State assistance, combined with the State match) must be spent for activities under the Mitigation Planning element.

(h) The State match may be distributed among the eligible activities in any manner that is mutually agreed upon by FEMA and the State in the CCA negotiations.

(i) Negotiations between FEMA and the State regarding the scope of work and the determination of the amount of State assistance to be awarded shall consider earthquake hazards reduction activities previously accomplished by the State, as well as the quality of their performance.

§ 361.4 Matching contributions.

FEMA prefers that the State match be cash, although in FY 1988 and FY 1989 in-kind matches will be acceptable. Starting in FY 1990, however, a cash match will be required. The State contribution need not be applied at the exact time of the obligation of the Federal funds. However, the State full matching share must be obligated by the end of the project period for which the State assistance has been made available for obligation under an approved program or budget.

§ 361.5 Criteria for matching contributions.

(a) The value of any resources accepted as a matching share under one Federal agreement or program cannot be counted again as a contribution under another.

(b) The State seeking the match shall submit documentation sufficient for FEMA to determine that the contribution meets the following requirements. The match shall be:

(1) Necessary and reasonable for proper, cost-effective and efficient administration of the project, allocable solely thereto, and except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State and local governments;

(2) Verifiable from the recipient State's records;

(3) Not allocable to or included as a cost of any other Federally financed program in either the current or a prior period;

(4) Authorized under State law;

(5) Consistent with any limitations or exclusions set forth in these regulations, Federal laws or other governing limitations as to types or amounts of cost items;

(6) Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(7) Provided for in the approved budget/workplan of the State; and

(8) Consistent with OMB Circular A–87, "Cost Principles for State and Local Governments," and with OMB Circular A–102, "Uniform Requirements for Assistance to State and Local Governments," as revised or amended.

§ 361.6 Documentation of matching contributions.

(a) The statement of work provided by the State to FEMA describing the specific activities comprising its earthquake hazards reduction project, including the project budget, shall reflect a level of effort commensurate with the total of the State and FEMA contributions.

(b) The basis by which the State determines the value of an in-kind match must be documented and a copy retained as part of the official record.

(c) The State shall maintain all records pertaining to matching contributions for a three (3) year period after the date of submission of the final financial report required by the CCA, or date of audit, whichever date comes first.

§ 361.7 General eligible expenditures.

(a) Expenditures must be for activities described in the statement of work mutually agreed to by FEMA and the State during the annual negotiation process, or for activities that the State agrees to perform as a result of subsequent modifications to that statement of work. These activities shall be consistent with the definition of eligible activities in § 361.2(c).

(b) The following is a list of eligible expenditures. When items do not appear on the list they will be considered on a case-by-case basis for policy determinations, based on criteria set forth in § 361.5. All costs must be reasonable, and consistent with OMB Circular A–87.

(1) Direct and indirect salaries or wages (including overtime) of employees hired specifically for carrying out earthquake hazards reduction activities are eligible when engaged in the performance of eligible work.

(2) Reasonable costs for work performed by private contractors on eligible projects contracted for by the State.

(3) Travel costs and per diem costs of State employees not to exceed the actual subsistence expense basis for the permanent or temporary activity, as determined by the State's cost principles governing travel.

(4) Nonexpendable personal property, office supplies, and supplies for workshops; exhibits.

(5) Meetings and conferences, when the primary purpose is dissemination of information relating to the earthquake hazards reduction project.

(6) Training which directly benefits the conduct of earthquake hazards reduction activities.

§ 361.8 Ineligible expenditures.

(a) Expenditures for anything defined as an unallowable cost by OMB Circular A–87.

(b) Federal funds may not be used for the purchase or rental of any equipment such as radio/telephone communications equipment, warning systems, and computers and other related information processing equipment. If a State wishes to use its matching funds for this purpose, it must:

(1) Document during the annual negotiation process with FEMA how this equipment will support the earthquake hazards reduction activities in its scope of work (see § 361.7(a)), and

(2) Claim as credit for its match, if the equipment is to be used for purposes in addition to support of earthquake hazards reduction activities, only that proportion of costs directly related to its earthquake hazards reduction project.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

Date: August 24, 1987.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 543

[Docket No. T85-02; Notice 2]

Petitions for Exemption from the Vehicle Theft Prevention Standard

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

ACTION: Final rule.

SUMMARY: This final rule is issued under Title VI of the Motor Vehicle Information and Cost Savings Act. Title VI provides that passenger motor vehicle manufacturers may petition the agency for an exemption from the parts marking requirements of the vehicle theft prevention standard for passenger motor vehicle lines whose standard equipment includes an antitheft device. In order for this agency to exempt a line, it must determine that the line's antitheft device is likely to be as effective as parts marking in reducing and deterring motor vehicle theft.

Part 543 currently sets out procedures for manufacturers to follow in preparing and submitting petitions for exemption for model year 1987 car lines from the parts-marking requirements. It also sets forth procedures which the agency will follow in processing those petitions and determining whether they should be granted. This final rule extends the Part to subsequent model years, while making minor changes to its provisions.

DATES: This final rule is effective on October 8, 1987. Petitions for reconsideration must be received within 30 days of the date of publication of this notice.

ADDRESS: Any petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Kurtz, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4807).

SUPPLEMENTARY INFORMATION:

Statutory Background

The Motor Vehicle Theft Law Enforcement Act of 1984, Pub. L. 98-547 (Theft Act), added Title VI to the Motor Vehicle Information and Cost Savings Act (Cost Savings Act). Under Title VI, by delegation from the Secretary of Transportation, NHTSA promulgated a vehicle theft prevention standard for high theft lines of passenger motor vehicles. On October 24, 1985, the agency published a final rule (49 CFR Part 541) that, among other things, set out performance requirements for making certain major originial equipment and replacement parts on high theft passenger vehicles with permanent identification numbers. 50 FR 43166.

Section 605 of Title VI permits a manufacturer of a high theft line to petition NHTSA to exempt it from the parts-marking requirements. NHTSA may grant such a petition if the petitioner installs an antitheft device (also called a "device" or "antitheft system") as standard equipment on the entire line for which it seeks an exemption, and if NHTSA determines that the antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as complying with the parts-marking requirements.

Section 605 allows the agency to grant an exemption for not more than two lines of any manufacturer for the initial model year to which the vehicle theft prevention standard applies. (Under the October 1985 final rule, the standard first applies to model year 1987.) For each subsequent model year, the agency may exempt not more than two additional lines of any manufacturer. Thus, it is possible for a manufacturer to receive two exemptions for model year 1987, two more for model year 1988 for a total of four, and so forth.

Section 605 contains these further provisions. First, a manufacturer must file an exemption petition with NHTSA not later than eight months before beginning production of the line for the first model year covered by the petition. Second, NHTSA may grant a petition in whole or in part. Third, the agency must grant or deny a petition within 120 days after the date the petition is filed. If the agency fails to make a determination within the specified time, section 605 states that the petition shall be considered approved, and the manufacturer shall be exempt from the standard's requirements for the subsequent model year. Fourth, section 605 allows the agency to terminate a manufacturer's exemption if NHTSA determines that the manufacturer's antitheft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking standard.

On January 7, 1986, (51 FR 706), NHTSA published an interim final rule setting forth the procedures for obtaining an exemption from the theft prevention standard for model year 1987. NHTSA also published a notice of proposed rulemaking (NPRM) on January 7, 1986, (51 FR 715) that principally did two things. First, the Notice set out procedures for manufacturers to follow in preparing and submitting antitheft exemption petitions for model years after 1987. Second, it set out procedures the agency would follow in processing those petitions and determining whether to grant an exemption request. These procedures essentially were the same as those NHTSA established for the 1987 model year.

The procedures proposed in the January, 1986 NPRM specified the basic information and data which manufacturers must set out in their petitions. The required information included the identity of the line or lines for which exemption is sought, a detailed description of the standard equipment antitheft device, the means and processes by which the device is activated and functions, the reasons for the manufacturer's belief that the antitheft device would reduce and deter motor vehicle theft, and the manufacturer's reasons for believing that the agency should determine that the device would be as effective as compliance with Part 541 in reducing and deterring motor vehicle theft. The notice also proposed the agency's procedures for processing exemption petitions, and for modifying or terminating an existing exemption.

Nine vehicle manufacturers, one law enforcement group, an automobile dealers' association, and an aftermarket antitheft device manufacturers' association commented on these notices.

Continued Use of Model Year 1987 Procedures

In the 1986 NPRM, the agency requested public comment on using the model year 1987 procedures for subsequent model years. AMC/Renault objected primarily because the company was concerned that NHTSA's decisions on specific exemptions for model year 1987 would prejudice decisions for future years. AMC/Renault believed that the decision to grant or deny a petition would be based on the relative merits of the antitheft device described in one petition, compared with devices described in other petitions.

Carrying over the 1987 procedures to subsequent years will not prejudice any petitions made in those later years. Under section 605, the agency's decision whether to grant an exemption petition rests on NHTSA's determining that an antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as complying with

the parts-marking requirements. To determine whether an antitheft device meets the statutory test, the agency believes that the principal considerations are the petitioner's description of its device, any other data submitted in support of the petition, and the agency's engineering assessment of the device and supporting data. However, in making an exemption decision, the agency believes that it may also be helpful to consider the relative merits of various devices.

If one manufacturer petitions for an exemption asserting that its device is the same as a device for which the agency already has granted an exemption, it is evident that NHTSA must assess the information in the new petition in conjunction with information respecting the device to which the petitioner claims sameness. The agency already has granted an exemption for one manufacturer based on just such an assertion.

In other instances, a petitioner may note the similarity between its system and one for which the agency already has granted an exemption request. Such a circumstance not only invites comparison among systems, but necessitates it. At least one manufacturer has made such a comparison in giving its reasons why NHTSA should grant its exemption request.

Finally, if the agency is to apply the exemption provisions consistently, it must be conscious of what design and performance features previously led it to conclude that any given device would likely be as effective in reducing and deterring theft as the parts-marking requirements. NHTSA hopes to allay fears that a decision respecting the efficacy of one system will rest entirely on the merits of that system relative to another. On the other hand, the agency believes that factors such as those just described may make it necessary to compare devices, or may recommend that practice. In either event, the agency has the engineering expertise to use comparison appropriately, always giving primary consideration to the merits of the device under its scrutiny.

Public Comment on Petitions

In the 1986 NPRM, the agency sought comment on the desirability of changing the exemption process after model year 1987 to include publishing notice of receipt of petitions and providing a brief period for public comment on them. NHTSA contemplated the possibility of providing a similar opportunity for petitions to modify or terminate exemptions. At the same time, the agency noted its concern that making a petition's details publicly available in turn might make it easier for vehicle thieves to get information that would aid in disarming an antitheft system.

The agency received comments on this issue from AMC/Renault, Chrysler, the National Automobile Dealers Association (NADA), Ford, General Motors (GM), and Volkswagen of America (VWoA). The commenters expressed a belief that if seeking public comment resulted in even limited data disclosure, the disclosure could harm owners and manufacturers of high theft cars because even carefully edited data might inadvertently contain clues for disarming and defeating an antitheft device. Such a result would undermine the basic purpose of the Theft Act: to reduce and deter motor vehicle theft. Further, they noted that Congress did not require that NHTSA publish a notice and request public comment on each exemption petition it received.

VWoA stated that if the agency granted manufacturer requests for confidential treatment of antitheft data, there would be little information on which the public could comment because the information NHTSA could make public would be severely limited. One company said that releasing detailed information would shorten the life of any device, because the manufacturer would be obliged to alter the device after release, in order to ensure effectiveness in reducing and deterring motor vehicle theft.

The agency finds merit in these comments and notes that it never intended to release detailed information concerning antitheft systems. Indeed, in **Federal Register** notices granting model year 1987 exemption petitions, the agency endeavored to disclose as little as possible about the design specifications for a given antitheft device so that a potential thief would learn nothing of value about the device. The agency has decided against inviting public comment on exemption petitons because soliciting comments based on the general type of information released in the past would yield little of value, and soliciting comments based on more detailed information potentially could jeopardize the statutory purpose of reducing and deterring vehicle theft.

Exemption Status Statement on Certification Labels

Another issue on which NHTSA asked for comment in the NPRM was the value of requiring manufacturers to include on the vehicle certification label a statement of the vehicle's status relative to the parts-marking requirements. If the agency adopted such a requirement, a manufacturer would be required to print up different certifications for its various car lines to reflect the vehicle's status as subject to the antitheft standard, exempted from the standard, or not subject to the standard.

The agency received eight comments on certification label statements reflecting the exempt status of high theft vehicles. The respondents were AMC/Renault, Austin Rover, Chrysler, Ford, GM, VWoA, NADA, and the National Automobile Theft Bureau (NATB). Seven commenters opposed requiring such a statement, making three principal arguments. The first argument was that including this information on the certification label would be of little value to the primary audience for certification labels; i.e., the ultimate consumer. The second was that these labels might encourage schemes in which an unscrupulous person would remove a label indicating compliance, and replace it with a label indicating exemption. The Commenters noted that this practice would hamper law enforcement authorities in policing vehicle and equipment theft.

The third argument against requiring an exemption statement on the vehicle certification label was the one that these commenters generally found most compelling. That was that requiring a manufacturer to produce different labels for its product lines adds a cost to the manufacture of a vehicle by creating an obligation for which there is no apparent need. These commenters argued that the principal reason for the entire antitheft plan is to assist law enforcement organizations in vehicle theft investigations. They concluded, therefore, that NHTSA's Appendix A (to 49 CFR Part 541), published annually in the **Federal Register**, will supply law enforcement officials with a current list of high theft lines. NATB added further that they, along with the International Associations of Automobile Theft Investigators (IAATI), also circulate information to help vehicle theft investigators identify antitheft lines.

Of the eight commenters, only NADA endorsed requiring "a label noticing that a vehicle is exempt from the parts marking standard." NADA asserted that the agency's Appendix A may be inaccurate, less timely, and more burdensome to use than "properly marked certification labels." The Association further stated that an "exempt status certification label" would help people who repair cars to determine quickly whether the vehicle has an antitheft device installed.

After having considered these comments, NHTSA concludes that it is

unnecessary to require a statement on the certification label respecting the exemption status of high theft vehicles. First, the agency recognizes that there are a number of sources from which law enforcement groups can obtain data to update lists of exempt high theft lines. The commenters mention two such sources: NATB and IAATI. The agency believes that, taken together with these other sources of information, Appendix A serves the purpose of disseminating information to aid theft investigations with reasonable efficiency. Second, with respect to NADA's comment concerning facilitating repair, the agency assumes that exempt vehicle manufacturers will notify their dealers which lines are exempt; the dealer then will know that an antitheft system is among the car's standard features.

Direct Importers

In its interim final rule, NHTSA determined that a direct importer cannot apply for an exemption from the parts-marking requirements, and gave its reasons in support of this position. However, the agency made a further determination that there are some circumstances where a direct importer may have some parts-marking responsibilities. The agency considered the following scenario.

A manufacturer has an exemption for a given line of cars classified as high-theft vehicles, and makes some of these cars for sale in the United States, and some for sale outside this country. A direct importer wants to import a number of the cars that were manufactured for sale outside the United States, and that consequently do not have an antitheft device.

The agency stated that the direct importer would have to mark these vehicles according to antitheft parts-marking standard. NHTSA noted that there would exist a line of cars available for sale in the U.S., some of which were marked under parts-marking standard, and some of which were equipped with antitheft devices. NHTSA sought comments on the effects of this practice.

In response to the agency's discussion, BMW of North America and the National Automobile Dealers Association (NADA) stated that NHTSA should include language in the theft exemption rule explicitly stating that direct importers cannot apply for an antitheft exemption. These commenters asserted that without this language, Part 543 might permit a direct importer to petition for an exemption.

NHTSA restates its position that in order for a manufacturer to be exempted under Part 543, the manufacturer must be capable of installing an antitheft system as standard equipment on an entire vehicle line. (*See* 51 FR 706, 707.) A direct importer cannot install an item as standard equipment on a line because he does not control an entire line. Therefore, NHTSA concludes that it is unnecessary to amend Part 543 to state a prohibition against direct importers applying for an exemption. However, the agency has included language in §§ 543.6 and 543.7 that should alleviate the concerns of these commenters.

NADA made additional comments respecting direct importers. First, it stated that NHTSA should prohibit direct importers from installing " 'standard equipment antitheft devices' on exempt line automobiles which are not originally intended for sale in America." The agency believes that it lacks the authority to prohibit the installation of antitheft devices on such vehicles, including devices identical to those installed as standard equipment on other vehicles. There is nothing in Title VI that restricts a direct importer, or any other retail business, from retrofitting cars with antitheft systems. However, as implied above, a direct importer's installation of an antitheft device on a car not originally intended for sale in this country will not relieve that importer of the obligation of marking the parts of that car.

NADA also believes that if direct importers could install "standard equipment antitheft devices in exempted lines," this fact somehow would make design data more available to potential car thieves. NHTSA does not understand this comment. The agency discusses confidentiality at length in another part of this document. Suffice it to say here that if a manufacturer submits design data in support of a request for exemption, he may request confidential treatment for the data under 49 CFR Part 512. If the agency determines to grant such a request, the agency will treat the manufacturer's data consistent with the determination, and will restrict data access and dissemination. In any event, prohibiting or circumscribing a direct importer's ability to install an antitheft system is a matter outside the scope of agency authority.

Finally, with respect to direct importers, BMW stated that it should be impermissible for these importers to market more than two lines of exempt vehicles. The company stated that if NHTSA viewed a direct importer as a manufacturer, the agency should apply the same restrictions to a direct importer as it applied to an original manufacturer. BMW alluded to section 605 of Title VI in support of its position.

The agency disagrees. First, NHTSA recognizes in the preamble to the interim final rule and in this document that an exemption may only be sought by a manufacturer capable of installing an antitheft device on all cars in the exempted line. Direct importers cannot install standard equipment and are not likely to be able to persuade an original manufacturer to install such equipment on vehicles which the direct importer seeks to sell in this country. Second, section 605 does not prohibit any seller, including any direct importer, from marketing vehicles from more than two exempt lines at a time. The restriction is that not more than two model lines per manufacturer may be exempted for a given model year.

Confidential Information

NHTSA requested comment on whether, under 49 CFR Part 512, the agency properly may afford confidential treatment to all data a manufacturer might submit in connection with an exemption petition. More specifically, NHTSA asked whether there may be a class of "drawings and other information" that a manufacturer would have to submit in support of its antitheft petition, and that may be sensitive information without being protectable under Appendix B. Comments were received from five manufacturers, i.e., Austin Rover, Chrysler, Ford, GM, and Toyota. Three of these, i.e., Austin Rover, Chrysler, and Toyota, suggested that until the manufacturer introduces the exempt car line to the public, NHTSA should treat as confidential all data submitted in support of an antitheft exemption request.

Ford suggested that if the agency is concerned whether it might be compelled to disclose some exemption data to potential vehicle thieves, NHTSA could expand § 512.5, *Substantive standards for affording confidential treatment*, "to embrace the broader definition of confidentiality set forth in recent judicial opinions." Specifically, the company suggested amending § 512.5 by stating that NHTSA would withhold information as confidential if disclosing the information might harm a specific governmental or private interest Congress sought to protect under the Freedom of Information Act, 5 U.S.C. 552(b)(4), and if the information met other criteria set out in § 512.4.

GM expressed concern that neither NHTSA's confidentiality rules, nor the FOIA provision cited above, would justify the agency's withholding the kind of information most valuable to an auto thief.

The agency has considered these comments with substantial care because theft deterrence and reduction is at the heart of the antitheft standard, and because NHTSA wishes to avoid any practice that will encourage or assist a potential thief. With respect to Ford's suggested amendment to § 512.5, the agency notes that Part 512 is primarily a procedural mechanism for protecting information under section 552(b)(4) of the Freedom of Information Act. The agency is aware of the breadth of judicial opinions articulating what kinds of material a Federal agency may withhold under Exemption (b)(4). In particular, the agency is aware of the case law stating that Federal agencies may withhold information under Exemption (b)(4) in order to protect a governmental interest. NHTSA plans to examine § 512.5 and consider the need to make appropriate changes in a separate rulemaking.

Regarding GM's concern, the agency observes that many manufacturers who submitted information in connection with model year 1987 petitions for exemption requested confidential treatment for that information. The agency is withholding much of this information, having determined that disclosing it would result in commercial harm to the manufacturer. Further, before product introduction, the agency may withhold all exemption data from disclosure as "future model specific product plans" under 49 CFR Part 512, Appendix B.

When a manufacturer introduces a product subject to an antitheft exemption, NHTSA anticipates that the manufacturer itself will eventually disclose general information about the system in brochures and in the owner's manual. Other information concerning the device may become available through reverse engineering or studying a standard equipment antitheft device. The agency believes that it cannot withhold any information that becomes publicly available by any legitimate method when the manufacturer introduces its product.

If NHTSA has more detailed information such as wiring diagrams or blueprints, the agency can withhold these data under Appendix B provided that the manufacturer properly asserts a claim for confidential treatment. On the other hand, even data like a detailed diagram cannot be withheld once the diagram becomes publicly available because the manufacturer includes it in a service manual, or because the diagram otherwise is legitimately disclosed.

In letters to the agency concerning their petitions for exemption for model year 1988, several manufacturers raised concerns about the agency's timing in releasing the nameplate of a carline to be introduced in that model year. The manufacturers urged that NHTSA release the nameplates when the manufacturer introduced the exempt model rather than at the time the agency granted an exemption petition. The agency believes that these concerns have merit, but believes further that they must be balanced against the need of law enforcement agencies to know which carlines will be required to be marked under the theft prevention standard. If a manufacturer can show that it has not released a new model's nameplate either to dealers or to any other portion of the public, NHTSA will treat the nameplate as confidential until the June 1 immediately preceding the model year in which the model will be introduced. Then, NHTSA will release the nameplate to inform law enforcement agencies of those models that must be marked under the theft prevention standard.

Standardized Tests

In the preamble to the interim final rule, NHTSA discussed a proposal to require that a manufacturer give his reasons for believing in the theft reduction and deterrence capabilities of his system. The manufacturer must support his petition by discussing any information which underlies his belief that the antitheft device will be effective in reducing and deterring vehicle theft. That information may include theft data, demonstrations, and test results.

After stating that test information would be useful in helping the agency to make an exemption decision, the agency asked for comment on the feasibility of developing a standardized test or test subject to evaluate the efficacy of antitheft systems, and whether information based on nonstandardized tests would be of value in exemption deliberations.

The five manufacturers who responded, i.e., AMC/Renault, Chrysler, Ford, Toyota, and VWoA, all essentially argued that developing and applying a standardized test for the efficacy of antitheft devices is not feasible. Each of these manufacturers argued that there are a number of variables involved in car theft, e.g., the theft's skill and the sophistication of tools. Consequently, a test evaluating a given device probably will be reliable only for the device tested, and under the specific test circumstances. Chrysler commented further that standardizing tests might inhibit a manufacturer's developing independent antitheft systems and tests to evaluate those systems. That kind of a result, Chrysler stated, is inconsistent with NHTSA's assertion in the preamble to the interim final rule that the agency does not intend to specify a particular design.

With respect to the question of whether nonstandardized test data would be valuable in helping the agency reach an exemption decision, none of the commenters specifically addressed the point. Ford stated that the agency might find evaluating components more useful than a standardized test in determining the reduction and deterrence properties of an antitheft device. VWoA believed that comparing data for exempt devices with data for devices subject to a new petition "should be sufficient to determined effectiveness." VWoA also suggested that "the requirement to submit data from a test subject should be made optional and not mandatory as the preamble suggests."

On the matter of developing a standardized test or test subject for evaluating antitheft devices, NHTSA concludes that developing a test or test subject is not now feasible because, as the commenters assert, it may not be possible now to develop a test protocol that will produce valid and reliable results. However, this conclusion does not relieve the petitioner of its responsibility to demonstrate the relevant properties of his system under Parts 541 and 543.

NHTSA notes that it did not intend to require a petitioner to submit raw test data on the efficacy of a device in connection with an exemption petition. Rather, what NHTSA contemplated was that a manufacturer would submit a discussion showing how that test data objectively supported his belief in the deterrence and reduction properties of his system.

Diagrams

Ford and GM questioned NHTSA's use of the term "diagram" in § 543.6(a)(1) of the interim final rule. Ford inquired about the level of detail that would be required in a diagram. GM expressed particular concern about "the level of detail" that a manufacturer must submit when it seeks an exemption "for a new theft deterrent system(s)." The company stated that service manuals and other general information may not be available for a new system when a manufacturer petitions for an exemption. What GM fears apparently is the following situation: in lieu of such general information, a manufacturer submits sensitive imformation on its system, a thief requests that information under FOIA, and because of the

limitations seen by GM in 49 CFR Part 512, NHTSA releases the sensitive information. (As discussed in the section of this preamble on "Confidentiality," the agency's opinion is that under Appendix B, it can withhold data submitted in connection with an exemption petition.)

NHTSA's experience with exemption petitions for model year 1987 leads the agency to conclude that it does not need detailed component design specifications to make a finding on the capabilities of an antitheft system. On the other hand, the agency needs a diagram showing where the system components are, as well as information on what the manufacturer expects these components to do. The agency underscores its intent in proposed § 543.6 to require a petitioner to submit material naming each system component, and diagraming the location of those components within the vehicle. Therefore, to clarify its intent, the agency has revised § 543.6 to require petitioners to name each antitheft system component, and submit a diagram showing the location of those components within the vehicle. The agency retains the requirement that a petitioner, submit a narrative describing it antitheft system relative to types of functions mentioned in § 543.6.

Antitheft Device Attributes

GM and the National Automobile Theft Bureau (NATB) commented on NHTSA's discussion of certain antitheft device attributes that agency experience shows notably contribute to an antitheft system's effectiveness. These attributes are automatic activation of the antitheft device; an audible or visual signal that is tied to the hood, door, and trunk and draws attention to vehicle tampering; and a disabling mechanism designed to prevent a thief from moving a vehicle under its own power without a key.

GM stated that two attributes, i.e., automatic system activation and disabling mechanisms, "are truly important attributes." On the other hand, the manufacturer believed that NHTSA placed "undue emphasis on * * * the need for an alarm system and control of underhood access." GM stated that it was unaware of evidence demonstrating whether an alarm and hood access control made an antitheft system more effective.

In the preamble to the interim final rule, NHTSA discussed design features mentioned in GM's comment, and explained that most manufacturers incorporate such features in an antitheft device. However, § 543.6(a) does not require a specific design for any antitheft device. Instead, the section lists five functions that most system designs address, and requires petitioners to discuss any design feature that would facilitate those functions. A pettioner should discuss any feature of its system that forms the basis for his belief in the theft reduction and deterrent properties of the system.

NATB noted that among the attributes the agency should consider in evaluating how well a system will perform its function is whether the system inhibits moving the vehicle by towing or pushing. The Bureau asserted that these methods are among those commonly used to steal automobiles, and suggested that NHTSA add language to proposed § 543.6(a)(2) ((a)(3) in the final rule) specifically requiring a petitioner to describe system attributes that would deter these methods of vehicle theft.

The agency's consideration of an antitheft system is not limited to those elements expressly set out in paragraph (a)(3), and NHTSA does not believe the industry perceives the language so narrowly. Evidence of this is provided by the fact that the agency already has granted a BMW exemption petition for an antitheft system that included a description of motion sensors to inhibit theft by towing or pushing. (51 FR 36333.) The agency declines to incorporate NATB's suggestion because the language in § 543.6(a)(3) does not restrict NHTSA in its consideration of antitheft system design elements, and already requires the manufacturer to describe all of the means and processes by which a theft device is activated and functions. If new information and technology indicate that it is appropriate to expand this list to expressly require discussion of specific design elements, the agency will consider revising this list as NATB suggests.

Device Effectiveness

Section 605 of Title VI requires that a petition include "the reasons for the manufacturer's conclusion that such device will be effective in reducing and deterring theft of motor vehicles." In the first clause of proposed § 543.6(c), the agency proposed that a petition include the "reasons for the manufacturer's belief that the antitheft device will reduce and deter theft of passenger motor vehicles." Ford commented that NHTSA should make the language in the regulation conform to that in the statute. The company believed that the statutory language "suggests an element of cooperation between the antitheft device and other vehicle systems to reduce and deter theft," while parallel language in the regulation does not. Ford did not say specifically how its language showed a greater "element of cooperation" than the language NHTSA proposed.

NATB also suggested that the agency rephrase language in the first clause of proposed § 543.6(b) to avoid "confus(ing) the criterion with the class of motor vehicles which may be exempted (from the antitheft standards)." Therefore, the Bureau suggested, the agency should change the words "theft of passenger motor vehicles" to "motor vehicle theft." (For this same reason, the Bureau also suggested we add the words "motor vehicle theft" to the second sentence in proposed § 543.7(b), and to change the term "passenger motor vehicle theft" to "motor vehicle theft" in proposed § 543.9(f) (1) and (2).)

NHTSA never intended § 543.6(b) or any Part 543 provision impose any requirement inconsistent with the Cost Savings Act, nor does the agency believe that the language in the interim final rule had that effect. However, the agency has no objection to bringing the language in the regulation closer to that in the statute, and has amended § 543.6(b) and other provisions referenced above, to conform more nearly to the statutory language.

Ford also suggested that the agency modify the second clause of proposed § 543.6(b). In the interim final rule, that clause read: "including any data, including theft data and results of demonstrations and tests, which show that the antitheft device will be effective in reducing and deterring motor vehicle theft." Ford suggested that it is confusing to use the word "including" twice in such close proximity, and asked that the agency delete the second "including," and substitute "such as." The company further suggested that the agency insert "which are reasonably available to the manufacturer and," after "demonstrations and tests." This change would eliminate any suggestion that NHTSA arbitrarily would "require manufacturers to produce data which are not reasonably available to them." Finally, Ford suggested NHTSA insert the words "tend to" between "which show," because those words would show that a manufacturer may produce evidence beyond that described in proposed § 543.6(b) in demonstrating the deterrence and reduction properties of an antitheft system.

The agency has a number of responses. First, NHTSA substantially redrafted proposed § 543.6(b) to state simply what data the agency expects a petitioner to discuss in supporting the reduction and deterrence properties of its system. In the redraft, the second clause reads "including any theft data

and other data that are available to the petitioner and form a basis for that belief." This redrafted clause reflects each of Ford's concerns. The word "including" appears once.

On the matter of requiring a manufacturer to submit only "reasonably available" data, the agency repeats its statement in the preamble to the interim final rule of NHTSA's awareness that there may be no "empirical data bearing directly on the effectiveness of the antitheft devices" that are the subjects of these early petitions. On the other hand, to the extent that such data are available, the agency wants to encourage full use of this material to support a manufacturer's assertion that his device deters and reduces theft. However, the agency would not require a manufacturer to produce unavailable data, or to assume an undue burden in getting data. For that reason, the agency includes the word "available" in its redraft of proposed § 543.6(b).

In the redrafted § 543.6(b), NHTSA permits a petitioner to include a discussion of any data that form the basis of petitioner's belief in the deterrence and reduction properties of an antitheft system. While NHTSA chose against using the words "tend to" as Ford suggested, the agency finds the new language responsive to Ford's concern that a petitioner have the freedom to include data beyond that set out in proposed § 543.6(b) to support petitioner's belief in the properties of its system.

Toyota commented that NHTSA should not require the submission of statistical data because motor vehicle manufacturers do not have access to such data on their own. The company asserts that manufacturers must get theft data either from the insurance industry, from groups like the Highway Loss Data Institute, and from the Federal Bureau of Investigation. Toyota concludes that NHTSA will obtain statistical information from the FBI when the agency reviews and exemption petition, and therefore, that requiring a manufacturer to submit this data is redundant.

The agency has used the FBI's National Crime Information Center (NCIC) data base to make some high-theft designations, and probably will continue to use that data in assessing whether the entire antitheft program reduces and deters motor vehicle theft. However, NHTSA is uncertain why the manufacturer believes the agency will consult the FBI in the regular course of reviewing an exemption petition. In any event, the agency emphasizes that it is the manufacturer's burden to persuade NHTSA of the efficacy of an antitheft device relative to the criteria set out in the Cost Savings Act. This is a burden a petitioning manufacturer voluntarily assumes. NHTSA questions how a manufacturer can make any creditable showing of the deterrent properties of its device if the manufacturer fails to collect any available data comparing the theft rate for its line with the same or similar lines not equipped with an antitheft system.

Again, NHTSA appreciates that initially, there will not be a great deal of data given the newness of both the parts-marking and exemption programs. However, the agency finds it a reasonable requirement that a petitioner for an exemption discuss and such available data as a manufacturer may acquire.

With respect to proposed § 543.6(c), Ford suggested that the agency change language in the first clause from "will be as effective" to "is likely to be as effective." The agency agrees that this change will reflect the determination the statute requires NHTSA to make in comparing the efficacy of parts-marking and antitheft devices, and so changes the language in the final rule. At Ford's suggestion, and for the same reason, the agency also amends the phrase "which are not equipped with the device" to read "which have parts marked in compliance with (49 CFR) Part 541." Because section 605 requires only that vehicles equipped with an antitheft device be likely to be as effective as vehicles marked in compliance with Part 541, the agency is revising § 543.6(c) to provide for the submission of data showing the device-equipped vehicles to have a theft rate less than or equal to that of marked vehicles.

Filing and Processing Petitions

Section 605 of Title VI has two statutory deadlines. The first requires a manufacturer to file an exemption petition not later than eight months before commencing production for the first model year covered by the petition. The second statutory deadline gives NHTSA 120 days after the date on which the petition is filed to determine whether to grant it. As the agency explained in the interim final rule for model year 1987 (51 FR at 709), NHTSA's administrative practice is to consider the date on which it receives a manufacturer's complete petition as the filing date. Section 543.7(a) of the interim final rule reflects this position.

Ford commented that the agency should amend proposed § 543.7 to state that irrespective of whether it is complete, a petition is filed on the date NHTSA receives it, and therefore that the 120 day statutory limit for deciding the petition starts on the date of receipt. The company argued that to follow the practice NHTSA set out in proposed § 543.7(a) is to deny the manufacturer's submission "the status of a 'petition'." This result, Ford asserted, would be "unduly harsh," because if the agency were to declare a submission incomplete within the eight months before a car line's scheduled production, the manufacturer would lose the possibility of exemption for an entire model year.

The company argued further that filing a petition for exemption is analogous to a situation the U.S. Court of Appeals for the Third Circuit faced in *Dunn v. United States*, 775 F.2d 99 (1985). In *Dunn*, the Third Circuit reversed a district court ruling dismissing a petition for award of counsel fees in a class action for lack of subject matter jurisdiction. The statute under which the class petitioned for attorney's fees required, among other things, that the party apply for fees "within thirty days of final judgment in an action," and submit its attorney's itemized fee statement. The parties filed the petition before the 30-day deadline, but supplied the itemized fee statement after that deadline.

The court of appeals first stated that it must read the time bar in context with other language in the provision to determine what Congress intended to accomplish. The court found that requiring a party to file within a certain time serves to inform parties whether they can rely on the finality of an action. Once a claim is timely filed, the pleading requirements serve to "(flesh) out the details." As the adverse party, the government experiences no prejudice if these details come after the claim is filed, and the court has no interest in promptly receiving details because it will refrain from acting until the government responds. On the other hand, there is a strong interest in permitting "some degree of flexibility" in pleading because preparing these documents requires great care, and because the issue of fee awards frequently is hotly contested. The court concluded that a failure to file a complete pleading within 30 days could not be a jurisdictional bar.

NHTSA takes issue with Ford's assertion that the facts in *Dunn* are analogous to the facts the agency and a manufacturer face in an administrative proceeding to grant an exemption. An exemption petition is more than a document that serves to give the agency notice of a manufacturer's resolve to request an exemption. The petition is itself supposed to contain the detailed

matter that should objectively support the manufacturer's technical conclusions about the theft reduction and deterrence capabilities of its device. Much of the information that may provide substantial evidence for granting a petition is uniquely within the manufacturers competence to supply, and without that information, the agency can not exercise its responsibility. Further, unlike an adjudicatory proceeding resolving claims among competing parties, the time within which the agency must act is not open-ended.

If the agency were to accept Ford's argument, conceivably a manufacturer could give the barest notice that it was requesting an exemption, and then late in the 120-day period give NHTSA the necessary technical documentation to support the efficacy of the device. The agency then would have insufficient time to act. The agency does not interpret section 605 of the Cost Savings Act as contemplating this result.

On the other hand, the agency believes that having two statutory deadlines impacts upon processing exemption petitions in ways that neither the agency, nor most of the commenters gave particular attention in the January 1986 rulemaking proceedings. Having a clearer standard of whether an incomplete submission is a "petition," or whether an incomplete petition is a "filed" petition would facilitate processing exemption requests. Therefore, the agency will propose amendments to Part 543 that will focus specifically on what it means to "file" a "petition." In the meantime, the procedures set out in the final rule published today are in effect.

On the subject of the 120-day period for NHTSA to make its determination, VWoA commented that the agency should respond within 60 days of the filing date. The company remarked that while its petition is pending, a manufacturer will not know whether he can install an exempt device, or must comply with the parts-marking standard. If the manufacturer had to do the latter, he would need at least three months before production to process and set up assembly line stations.

NHTSA notes that after full consideration of the subject matter, Congress selected 120 days as the period for agency response. Although the agency does not expect to use the full amount of time allowed to process each petition, it has been necessary to use most of it in the early phase of implementing the exemption provisions. The agency anticipates that the processing time will decrease as the experience of the manufacturers and the agency increases. Further, manufacturers can ensure that final action is taken on their petitions three or more months in advance of a model year by submitting the petitions early enough so that the 120-day period is completed by that time.

One commenter objected to a manufacturer's having to file a petition eight months before beginning production. Because the 8-month requirement is statutory, the agency cannot consider changing it.

Finally, Ford commented that the agency should amend proposed § 543.7(d) (paragraph 543.7(e) in the final rule) to state that an exemption becomes effective on the date of issuance instead of the date on which the agency publishes notice of the exemption in the **Federal Register**. Ford argued that occasionally, there may be a substantial delay between issuing and publishing a document, and that the date of issuance would be the better reference date. The company stated that keying the reference date to issuance (which is earlier than publication) helps a manufacturer with product planning, and does not prejudice the agency or the public because NHTSA's deliberations are complete when it issues an exemption, and because the statute requires exemption decisions to be made not later than four months before the production run of an exempt car line.

The agency notes that the usual delay between issuing a document and publishing it in the **Federal Register** is three working days. However, having considered Ford's comment and the language set out in the proposed rule keying the effective date of an exemption to **Federal Register** publication, the agency agrees that publication is not the appropriate reference for an exemption's effective date. The agency has addressed this concern by amending the final rule to key the effective date either to issuance or to the date stated in the notice of exemption.

Terminating or Modifying an Exemption

Once NHTSA grants and exemption for a vehicle line, that exemption remains in effect unless the agency grants a petition to modify or terminates the exemption, or until the manufacturer stops manufacturing the exempted vehicle line. Under § 543.9, NHTSA may initiate a proceeding to terminate or modify and exemption granted under Part 543 either on the agency's motion, or in response to the petition of an interested person. The rules provide a manufacturer with an opportunity to present his views once a proceeding concerning him has been commenced. Ford commented that the agency should expand a manufacturer's procedural rights under proposed § 543.9. The company suggested that NHTSA provide a manufacturer with a copy of any petition to terminate or modify his exemption, a written statement of the agency's reasons for initiating a proceeding, and an opportunity to present orally its position during a meeting with the agency.

With respect to Ford's first two suggestions, the agency notes that its intention was to provide these procedural opportunities, even though it did not explicitly state them. The agency has addressed these matters expressly in the final rule. On the other hand, a decision whether to terminate or modify an exemption will depend on data showing the theft rate for the vehicle line in question before and after installing an antitheft device, and on other technical data regarding effectiveness. The agency thinks that data will be persuasive in these proceedings, and that, because of its technical nature, the data will be most effectively discussed in written submissions. Therefore, NHTSA declines to provide in § 543.9 for an opportunity to make an oral submission to the agency.

Proposed § 543.9(f) states that NHTSA will publish a notice in the **Federal Register** if the agency terminates or modifies an exemption. If NHTSA terminates an exemption, section 605 of the Cost Savings Act states that the termination is not effective until six months after the manufacturer receives a written termination notice. Ford suggests the agency include an express statement that it will notify a manufacturer in writing of any decision either to modify or terminate an exemption. The agency believes that this suggestion has merit. Therefore, the introductory language of § 543.9(f) has been amended to incorporate it. Similarly, NHTSA amends § 543.9(g)(1)(ii) to state expressly that a decision to terminate an exemption is effective no earlier than six months after the manufacturer receives written notice. This is a statutory condition, but the agency has no objection to incorporating it into the regulations.

AMC/Renault objected to the provision under which NHTSA could terminate an exemption. The agency declines to change this provision. Section 605 provides for termination, reflecting a legislative determination not to continue sanction of an antitheft device that proves to be less effective than parts-marking in reducing and deterring vehicle theft for a high theft line.

The company further commented that when NHTSA wholly grants an exemption and later terminates it, there will exist a supply of unmarked replacement parts that but for the exemption, would have been subject to the parts-marking standard. These unmarked parts will remain in commerce, and later manufactured replacement parts will be marked. AMC/Renault asserts that such a circumstance will compromise "the enforceability of the system." The company asks the agency to limit termination to instances where an exemption rests on incorrect or misrepresented data. NADA also expressed a concern about parts-marking in the wake of terminating an exemption, and suggested that NHTSA require parts-marking for all high theft vehicle replacement parts.

The agency is sympathetic to the commenters' concerns that if NHTSA were to terminate an exemption, there would be a residual supply of unmarked parts. That supply could enable a suspected thief to argue that the part in question came either from a pre-termination vehicle or replacement parts inventory.

Nevertheless, NHTSA cannot accommodate these concerns. First, section 602(d)(2)(A) of Title VI states that the vehicle theft prevention standard can not require "identification of any part which is not designed as a replacement for a major part *required to be identified* under such standard." (Emphasis added.) As long as a manufacturer is producing a car line under an exemption granted *in whole*, there is no requirement to identify major parts otherwise subject to the theft standard; therefore, NHTSA can not require marking replacement parts.

Second, the agency does not believe it would be appropriate to decide never to use its authority to terminate an exemption upon a negative finding on the theft deterrence and reduction properties of the system.

Granting Exemptions in Part

NATB noted that under section 605, the agency may grant an exemption petition "in whole or in part," and that no antitheft device will be "100% effective." The Bureau proposed that when NHTSA determines to grant an antitheft exemption, the agency should grant *all* such exemptions in part, and continue to require parts-marking for engines and transmissions. NATB reasoned that because parts for these systems are interchangeable among car lines, "the prospect of non-identifiable engines and transmissions in exempt lines would actually serve as an incentive for the theft of these vehicles."

While NHTSA appreciates the commenter's concern, the agency is aware of its authority to grant a partial exemption, and will do so where the evidence in support of an exemption petition so indicates. Further, neither the Cost Savings Act nor the regulations issued under it contemplate that any theft deterrent practice will be 100 percent effective. The criterion that must be satisfied is not the absolute efficacy of a device, but rather a likelihood that the petitioner's device will be as effective as parts-marking in reducing and deterring theft.

NATB also commented that some vehicles exempt from the parts-marking standard may have parts interchangeable with high theft lines that are subject to parts-marking. The organization asserts that granting a partial exemption is a way to address this circumstance. NATB suggests that when a petitioner seeks an exemption under Part 543 for a line that has two (or more, presumably) parts interchangeable with a line subject to the part-marking standard, NHTSA should require the petitioner to mark the interchangeable parts. The agency restates its position that it will grant partial exemptions where appropriate under the standards of the Cost Savings Act.

One commenter suggested that NHTSA require statements of intention from manufacturers regarding their plans to continue any voluntary parts identification techniques. The agency has no authority to require such statements.

Maintaining, Modifying, and Replacing Antitheft Devices

In connection with a comment on whether direct importers can petition for antitheft exemptions (discussed earlier in this preamble), NADA urged the agency to focus on proper installation, maintenance, and repair of antitheft devices. The Association stated that an improperly installed, maintained, or repaired device will be ineffective. It concluded that "each NHTSA petition review will be inadequate to the extent that someone other than the petitioner is allowed to attempt jerry-rigged retrofits of these devices."

The agency observes that exemptions are granted under section 605 only for installing antitheft devices as original standard equipment, and not for retrofitting such devices. Further, the continued application of exemptions would be premised upon the antitheft devices being so installed on the exempted cars. However, the agency has no authority to prohibit the retrofitting of a vehicle with an antitheft device. As to maintaining and repairing original standard equipment or retrofitted antitheft devices, such actions are outside the scope of this rulemaking, and beyond the agency's authority.

The Vehicle Security Association (VSA) commented that if an aftermarket antitheft system performs as well as or better than an original manufacturer-installed antitheft device, a retailer of a high theft vehicle line should be able to install or modify the original equipment system. Installing an antitheft device on an unexempted vehicle would contribute to the purposes of Title VI. However, with respect to an exempted car line, substituting a different or modified device for the standard equipment antitheft device on that line would eviscerate the legislative requirement that the entire line have the standard equipment device. The continued application of exemptions rests on the premise that antitheft devices will be standard on the exempted cars. Further, the substituted or modified device might or might not perform as well as the standard equipment device. Therefore, NHTSA cannot endorse such a practice.

Reliance on an Exemption for a Portion of a Model Year

In connection with several exemption petitions, an issue has arisen concerning the permissibility of a manufacturer marking an exempted line for a portion of a model year, and then ceasing marking and instead installing an antitheft device on the line for the balance of the year. Such practice is not permissible since if an antitheft device is to be installed in lieu of marking for any given model year, the device must be installed as standard equipment for the entire model year.

Other Comments

One manufacturer suggested that the agency amend proposed § 543.5(a) to state that a manufacturer could petition NHTSA for exemptions from parts-marking requirements for not more than two *addtional* lines after model year 1987. The agency declines to make this change because the request assumes that any manufacturer seeking an exemption for a car line for model year 1988 and thereafter will first have sought an exemption for another car line for model year 1987. However, some manufacturers may first submit a exemption petition for a later model year.

Fiat suggested that "Part 543 be re-examined to exempt from counting.

those lines presenting a theft rate under 10 or 20 cars per annum." This manufacturer produces some specialty car lines with low production levels where a small absolute number of thefts may determine whether the line becomes high-theft. Fiat reasoned that with so small a number of thefts, any vehicle theft data would be statistically unreliable. The agency understands this comment as suggesting that where the theft rate for a car line is 10 to 20 cars per year, NHTSA grant the car line exempt status without the manufacturer's having to petition under Part 543. The agency notes that it may grant exemptions only under the exemption process in section 605. The agency cannot excuse a manufacturer from this process if he seeks an exemption from parts-marking requirements.

Effective Date

This final rule will become effective 30 days after publication in the **Federal Register.**

Impacts

A. Costs and Benefits to Manufacturers and Consumers

This rule specifics the process by which a manufacturer of a high theft vehicle line may petition the agency for an exemption from the theft prevention standard. This is a voluntary process. No manufacturer is required to install antitheft devices in any vehicles. Therefore, the rule itself imposes no major costs on the passenger motor vehicle industry or consumers. In light of these facts, NHTSA determines that this rule is not a major rule under Executive Order 12291 because the rule will not have an effect on the economy of $100 million or more; will not result in a major increase in costs or prices for consumers, industries, government agencies, or geographic regions; and will not have significant adverse effects on competition, investment, productivity, or innovation.

The Administrator has determined that because the rule implicates none of the concerns set out in Department of Transportation publication "Improving Government Regulations," (44 FR 11034), the rule is not significant within the meaning of Department policies.

Any manufacturer of a high theft line must mark certain parts under Part 541, or obtain an exemption from the parts-marking requirements and install an antitheft device as standard equipment on the line. In the final rule establishing the vehicle theft prevention standard (50 FR 43166, October 24, 1985), NHTSA estimated that it costs less than the $15.00 per vehicle statutory limit (*see* section 604 of title VI) to comply with Part 541.

The agency has prepared a final regulatory evaluation which sets out the manufacturers' suggested retail price for an optional antitheft device on a model year 1985 passenger motor vehicle. The estimated cost of antitheft devices substantially exceeds the cost of parts marking. Most of these optional antitheft devices work only in conjunction with power door locks. The prices range from $159 to $360 for an antitheft device on a car already equipped with power door locks. From past experience, the agency is aware that there is no standard formula to relate manufacturing cost or the price of standard equipment to the price of optional equipment. Thus, the price that would be charged if antitheft devices were installed as standard equipment cannot be derived from the optional equipment price. However, the manufacturing cost and retail price of high-volume standard equipment generally is substantially less than the cost and price of low-volume optional equipment.

The agency has performed a teardown study to determine the consumer price of an antitheft device installed as standard equipment on a car line, and placed that study in the docket. The price estimates are based on the assumption that the system would be factory-installed as standard equipment on models with production volumes of 300,000 vehicles per year. Under the preceding conditions, NHTSA estimates that the consumer price would be about $70.00 per vehicle for an antitheft device with an alarm activated by sensors in the doors, trunk and hood, and a disabling device.

Increased vehicle production costs and consumer prices resulting from voluntarily installing a standard equipment antitheft device ultimately depend on the number of vehicle lines exempted and the production volume of these lines. For model year 1987, the agency granted seven exemption petitions covering 12 vehicle lines. For model year 1988, the agency has granted two exemptions covering three car lines. The agency has no way to estimate the total number of lines it may exempt for subsequent model years.

B. Small Business Impacts

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Because the rule is merely procedural, I certify that this rule will not have a significant economic impact on a substantial number of small entities. The installation of standard equipment antitheft devices may decrease the potential market for aftermarket antitheft devices. However, the decision to supply an antitheft device would not be an agency decision, but a voluntary manufacturer decision, and will not likely be affected by this rule or the theft prevention standard since antitheft devices are much more expensive than parts-marking. Therefore, no regulatory flexibility analysis has been prepared.

C. Environmental Impacts

As is required under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of the rule and determined that this rule will not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

The requirement that manufacturers desiring an exemption submit a petition containing the information set forth in this rule is considered to be an information collection requirement, as OMB defines that term in 5 CFR Part 1320. OMB approved this requirement through September 30, 1989, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501) *et seq.*) (OMB# 2127–0542).

List of Subjects in 49 CFR Part 543

Administrative practice and procedure, National Highway Traffic Safety Administration, Reporting requirements.

In consideration of the preceding, Part 543 of Title 49 of the Code of Federal Regulations is revised to read as follows:

PART 543—EXEMPTION FROM VEHICLE THEFT PREVENTION STANDARD

Sec.

Authority: 15 U.S.C. 2025, delegation of authority at 49 CFR 1.50.

§ 543.1 Scope.

This part establishes procedures under section 605 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025) for filing and processing petitions to exempt lines of passenger motor vehicles from Part 541 of this

chapter, and procedures for terminating or modifying an exemption.

§ 543.2 Purpose.

The purpose of this part is to specify the content and format of petitions which may be filed by manufacturers of passenger motor vehicles to obtain an exemption from the parts-marking requirements of the vehicle theft prevention standard for passenger motor vehicle lines which include, as standard equipment, an antitheft device if the agency concludes that the device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. This part also provides the procedures that the agency will follow in processing those petitions and in terminating or modifying exemptions.

§ 543.3 Application.

This part applies to manufacturers of high-theft passenger motor vehicles; and to any interested person who seeks to have NHTSA terminate an exemption.

§ 543.4 Definitions.

(a) *Statutory terms.* All terms defined in sections 2, 601, and 605 of the Motor Vehicle Information and Cost Savings Act are used in accordance with their statutory meanings unless otherwise defined in paragraph (b) of this section.

(b) *Other definitions.*

"Line" or "car line" means a name which a manufacturer applies to a group of motor vehicles of the same make which have the same body or chassis, or otherwise are similar in construction or design. A "line" may, for example, include 2-door, 4-door, station wagon, and hatchback vehicles of the same make.

"NHTSA" means the National Highway Traffic Safety Administration.

§ 543.5 Petition: General requirements.

(a) For each model year, a manufacturer may petition NHTSA to grant exemptions for up to two lines of its passenger motor vehicles from the requirements of Part 541.

(b) Each petition filed under this part for an exemption must—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590;

(3) State the full name and address of the petitioner, the nature of its organization (individual, partnership, corporation, etc.), and the name of the State or country under the laws of which it is organized;

(4) Be submitted at least 8 months before the commencement of production of the lines specified under paragraph (5) of § 543.5(b) for the first model year in which the petitioner wishes those lines to be exempted, and identify that model year;

(5) Identify the passenger motor vehicle line or lines for which exemption is sought;

(6) Set forth in full the data, views, and arguments of the petitioner supporting the exemption, including the information specified in § 543.6; and

(7) Specify and segregate any part of the information and data submitted which the petitioner requests be withheld from public disclosure in accordance with Part 512, *Confidential Business Information*, of this chapter.

§ 543.6 Petition: Specific content requirements.

(a) Each petition for exemption filed under this part must include:

(1) A statement that an antitheft device will be installed as standard equipment on all cars in the line for which an exemption is sought;

(2) A list naming each component in the antitheft system, and a diagram showing the location of each of those components within the vehicle;

(3) A discussion that explains the means and process by which the device is activated and functions, including any aspect of the device designed to—

(i) Facilitate or encourage its activation by motorists,

(ii) Attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key,

(iii) Prevent defeating or circumventing the device by an unauthorized person attempting to enter a vehicle by means other than a key,

(iv) Prevent the operation of a vehicle which an unauthorized person has entered using means other than a key, and

(v) Ensure the reliability and durability of the device;

(4) The reasons for the petitioner's belief that the antitheft device will be effective in reducing and deterring motor vehicle theft, including any theft data and other data that are available to the petitioner and form a basis for that belief;

(5) The reasons for the petitioner's belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of Part 541 in reducing and deterring motor vehicle theft, including any statistical data that are available to the petitioner and form a basis for petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or a similar, line which have parts marked in compliance with Part 541.

(b) Any petitioner submitting data under paragraph (a) (4) or (5) of this section shall submit an explanation of its belief that the data are sufficiently representative and reliable to warrant NHTSA's reliance upon them.

§ 543.7 Processing an exemption petition.

(a) NHTSA processes any complete petition. If a manufacturer submits a petition that does not contain all the information required by this part, NHTSA informs the manufacturer of the areas of insufficiency and advises the manufacturer that the agency does not process the petition until it receives the required information.

(b) The agency grants a petition for an exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

(c) The agency issues its decision either to grant or deny an exemption petition not later than 120 days after the date on which a complete petition is filed.

(d) Any exemption granted under this part applies only to the vehicle line or lines that are the subject of the grant, and are equipped with the antitheft device on which the line's exemption was based.

(e) An exemption granted under this part is effective for the model year beginning after the model year in which NHTSA issue the notice of exemption, unless the notice of exemption specifies a later model year.

(f) NHTSA publishes a notice of its decision to grant or deny an exemption petition in the **Federal Register**, and notifies the petitioner in writing of the agency's decision.

§ 543.8 Duration of exemption.

Each exemption under this part continues in effect unless it is modified or terminated under § 543.9, or the manufacturer ceases production of the exempted line.

§ 543.9 Terminating or modifying an exemption.

(a) On its own initiative or in response to a petition, NHTSA may commence a proceeding to terminate or modify any exemption granted under this part.

(b) Any interested person may petition the agency to commence a

proceeding to terminate or modify an exemption.

(c)(1) In a petition to terminate an exemption, the petitioner must:

(i) Identify the vehicle line or lines that are the subject of the exemption;

(ii) State the reasons for petitioner's belief that the standard equipment antitheft device installed under the exemption is not as effective as compliance with the parts-marking requirements of Part 541 in reducing and deterring motor vehicle theft;

(iii) Comply with § 543.5, paragraphs (b) (1) through (3) and (7).

(2) In a petition to modify an exemption, the petitioner must:

(i) Identify the vehicle line or lines that are the subject of the exemption;

(ii) Request permission to use an antitheft device similar to, but different from the standard equipment antitheft device which is installed under the exemption;

(iii) Comply with § 543.5, paragraphs (b) (1) through (3) and (7); and

(iv) Provide the same information for the modified device that is required under § 543.6 for a new device, except that the information specified by § 543.6(a)(3) need by provided only to the extent that the modified device differs from the standard equipment antitheft device installed under the exemption.

(d) NHTSA processes any complete petition. If a person submits a petition under this section that does not contain all the information required by it, NHTSA informs the manufacturer of the areas of insufficiency and advises the manufacturer that the agency does not process the petition until it receives the required information.

(e) If NHTSA denies a petition requesting a proceeding to terminate or modify an exemption, the agency notifies the petitioner by letter.

(f) If NHTSA commences a termination proceeding on its own initiative or in response to a petition, the agency provides the manufacturer of the exempted line with a copy of the petition, if any, a written statement of NHTSA's reasons for commencing the proceeding, and an opportunity to present its written views.

(g)(1) The agency terminates an exemption if it determines that the antitheft device installed under the exemption has not been as effective as parts-marking in reducing and deterring motor vehicle theft.

(2) Except as provided in paragraph (g)(3) of this section, a decision to terminate an exemption under this section takes effect on the later of the following dates:

(i) The last day of the model year in which NHTSA issues the termination decision, or

(ii) Six months after the manufacturer receives written notice of the termination.

(3) If a manufacturer shows good cause why terminating its exemption effective on a date later than the one specified in paragraph (g)(2) of this section is consistent with the public interest and the purposes of the Act, the agency may set such later date.

(h)(1) The agency modifies an exemption if it detemines, based on substantial evidence, that the modified antitheft device described in the petition is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

(2)(i) Except as provided in paragraph (h)(2)(ii) of this section, a decision to modify an exemption under this section takes effect on the first day of the model year following the model year in which NHTSA issued the modification decision.

(ii) If a manufacturer shows good cause why modifying its exemption effective on a date earlier than the one specified in paragraph (h)(2)(i) of this section is consistent with the public interest and the purposes of the Act, the agency may set such earlier date.

(i) [Reserved]

(j) NHTSA publishes notice in the **Federal Register** of any agency decision terminating or modifying an exemption, and notifies the affected manufacturer in writing.

Issued on: September 1, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-20568 Filed 9-3-87; 10:22 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket Number 70885-7185]

Pacific Halibut Fisheries

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

ACTION: Notice of final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery. These regulations are intended to allow full harvest, within conservation constraints, of available Pacific halibut stocks in the northern Pacific Ocean.

EFFECTIVE DATE: September 2, 1987.

FOR FURTHER INFORMATION CONTACT: J. Craig Hammond, Special Agent in Charge, Law Enforcement, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, telephone 907-586-7225; or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, WA 98105, telephone 206-624-1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), under the convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (signed at Ottawa Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has promulgated new regulations governing the Pacific halibut fishery. These regulations have been approved by the Secretary of State of the United States and by the Governor-General of Canada. On behalf of the IPHC, these regulations are published in the **Federal Register** to provide notice of their effectiveness and to inform persons subject to the regulations of their restrictions and requirements.

The current IPHC regulations (52 FR 16268, May 4, 1987), are amended by establishing a new twelve-hour commercial fishing season, beginning at 6:00 p.m. Alaska Daylight Time (ADT) on September 2, 1987, and ending at 6:00 a.m. ADT on September 3, 1987, in Regulatory Area 3B in the Gulf of Alaska. A trip limit of 25,000 pounds per vessel is also established for this opening. Under the current IPHC regulations, an amount of halibut up to the remaining unharvested combined quota for Areas 3A and 3B may be harvested in Area 3B.

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, *Jensen* v. *National Marine Fisheries Service,* 512 F.2d 1189 (9th Cir. 1975), 5 U.S.C. 553 of the Administrative Procedure Act, Executive Order 12291, and the Regulatory Flexibility Act do not apply to this notice of the effectiveness and content of the regulations.

These regulations do not contain collection of information requirements subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties, Reporting and recordkeeping requirements.

Dated: September 1, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR 301 is amended as follows:

PART 301—[AMENDED]

1. The authority citation for Part 301 continues to read as follows:

Authority: 5 U.S.T. 5; T.I.A.S. 2900, 16 U.S.C. 773–773K.

2. In § 301.5, a new paragraph (f) is added to read as follows:

§ 301.5 Fishing periods.

* * * * *

(f) Notwithstanding paragraph (c) of this section, the 9/02–9/03 fishing period for Area 3B specified in paragraph (a) of this section shall begin at 1800 hours Alaska Daylight Time on September 2 and terminate at 0600 hours Alaska Daylight Time on September 3.

3. In § 301.8, paragraph (d) is revised and a new paragraph (i) is added to read as follows:

§ 301.8 Catch limits.

* * * * *

(d) If the Commission determines that the catch limit specified in paragraph (a) of this section would be exceeded in a 24-hour fishing period in any regulatory area, the catch limit for that area shall be considered to have been taken, except as provided in paragraph (i) of this section.

* * * * *

(i) If the Commission determined that the catch limit specified in paragraph (a) of this section would be exceeded in a 12-hour fishing period in Regulatory Area 3B, the catch limit for that area shall be considered to have been taken.

4. Section 301.9 is revised as follows:

§ 301.9 Trip limits.

(a) Vessels fishing in Area 4C shall be limited to a maximum catch of 10,000 pounds (4.5 metric tons) of halibut per fishing period until 25 percent (150,000 pounds) of the catch limit specified in § 301.8(a) has been taken.

(b) Vessels fishing in Regulatory Area 3B during a fishing period of less than 24-hours' duration shall be limited to a maximum catch of 25,000 pounds (11.34 metric tons) of halibut.

[FR Doc. 87–20555 Filed 9–2–87; 4:00 pm]

BILLING CODE 2510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 173
Tuesday, September 8, 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

Agricultural Marketing Service

7 CFR Part 945

[Amdt. No. 2]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Proposed Change in Handling Regulations To Limit Inspection Certificate Validity

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on the length of time for which inspection certificates required by the Federal marketing order for Idaho-Eastern Oregon potatoes shall be valid. Currently, there is no limit on the length of time for which inspection certificates remain valid for purposes of the handling regulation issued pursuant to the marketing order. Under certain circumstances, the condition of potatoes can deteriorate rapidly. The proposal would require handlers to obtain another inspection on potatoes not shipped from the production area within four days of the issuance of an inspection certificate. The purpose of this requirement is to help assure the condition of potatoes in the marketplace. This proposal is based on a unanimous recommendation of the Idaho-Eastern Oregon Potato Committee. The committee works the Department in administering the marketing order.

DATE: Comments must be received by September 28, 1987.

ADDRESS: Written comments concerning this proposal should be submitted in triplicate to the Docket Clerk, USDA, AMS, F&V Division, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, USDA, AMS, F&V Division, P.O. Box 96458, Room 2523–S, Washington, DC 20090–6456; telephone 202–447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as a "non-major" rule under criteria contained therein.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601 through 674), 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.

It is estimated that approximately 71 handlers of Idaho-Eastern Oregon potatoes will be subject to regulation under this marketing order during the coming season. In addition, there are about 3,400 producers in the production area. The majority of these handlers and producers may be classified as small entities as defined by the Small Business Administration (SBA). The SBA defines agricultural service firms, which would include handlers, as those whose gross annual receipts are less than $3.5 million and small agricultural producers as those having average annual gross revenues for the last three years of less than $100,000 (13 CFR 121.2).

This proposed rule is being issued under the maketing agreement and Marketing Order No. 945, both as amended, regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon (the order). The proposal would provide that inspection certificates for potatoes shipped outside the production area would not be valid for meeting the requirements of the handling regulation unless the inspection certificate is issued within four days of shipment of such potatoes. The industry has experienced some problems with poor condition potatoes arriving in the marketplace. This proposal is intended to improve the condition of potatoes in the marketplace. Shipments of consistently good quality and condition potatoes improve industry returns by increasing buyer confidence. Experience has shown that less desirable potatoes drive the price down for all shipments regardless of quality and condition. The authority for the proposal is contained in § 945.65(c) of the order, which provides that for purposes of the inspection and certification requirements of the order, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

The condition of potatoes can deteriorate rapidly after they are removed from a controlled temperature and moisture environment and exposed to extreme cold or hot temperatures. Condition defects are defects which are subject to change during shipment and storage, such as discoloration, bruising, and firmness. According to the committee, potatoes sometimes sit on shippers' loading docks outside of controlled storage waiting for transportation for up to 10 days after they are inspected and certified as meeting order quality and condition requirements. Currently, such potatoes do not have to be inspected and certified again as meeting the condition requirements established under the order even though the condition of the potatoes may deteriorate.

A time limitation on the validity of inspection certificates for potatoes being shipped from the production area would help prevent the shipment of potatoes which have deteriorated in condition after inspection, and thereby help assure the condition of potatoes in the marketplace. This should help provide potatoes that are more appealing and desirable to the consumer. The end result would provide greater economic returns to growers and handlers of Idaho-Eastern Oregon potatoes.

Exemptions to the inspection and certification requirements of the order

would continue to be available to handlers. Shipments of potatoes for canning, freezing, and other processing are exempt from such requirements. Also, each handler may ship up to five hundredweight of potatoes, except yellow fleshed Finnish-type potatoes, any day without regard to the quality, maturity, pack, inspection and assessment requirements of the program. Handlers of yellow fleshed Finnish-type potatoes may ship up to 200 hundredweight per day of such potatoes free from the inspection, quality, maturity and pack requirements of the order. Exemptions to the maturity requirements also are authorized under certain circumstances.

On the basis of the foregoing, the impact of this change on growers and handlers is expected to be positive and benefit the Idaho-Eastern Oregon potato industry as a whole. Additional costs will be incurred for new inspections when potatoes are not shipped within four days from the date of the original inspection. However, the anticipated benefits of assuring good quality and condition potatoes and thus increasing consumer confidence in the product should outweigh the potential additional costs of this proposal.

A 20-day comment period is deemed appropriate because the 1987 harvest and shipment of Idaho-Eastern Oregon potatoes already has begun, and it is important that any changes resulting from this rulemaking be in effect for as much of the current season as possible. Furthermore, handlers in the production area are already aware of this committee recommendation and are prepared to operate in accordance therewith.

List of Subjects in 7 CFR Part 945

Marketing agreements and orders, Potatoes, Idaho, Oregon.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 945 be amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR Part 945 continues to read as follows:

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

2. Section 945.341 is amended by adding paragraph (d)(3) to read as follows:

§ 945.341 Handling regulation (Amendment No. 2).

* * * * *

(d)* * *

(3) Inspection certificates for potatoes to be shipped outside the area of production which are required by this section must be issued within four days of such shipment. Otherwise, such potatoes can only be shipped outside the area of production if another inspection is performed and the potatoes are certified as meeting the minimum grade, size, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section and if the potatoes are then shipped within the four day period specified above.

* * * * *

Dated: September 1, 1987.

William J. Doyle,

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

[FR Doc. 87–20516 Filed 9–4–87; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 245

Revision of "Family" Definition To Include Certain Institutionalized Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend Part 245, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, to revise the definition of "family" to include children that have been placed in the residential institution by the family. Currently, the definition of "family" excludes persons who are residents of an institution or boarding house. Further, Part 245 specifies that a child who is not a member of a family (e.g., an institutionalized child) shall be considered a "family of one." As a result, most children in residential child care institutions (RCCIs) are eligible for and receive free meals regardless of the financial need of their families. Under this proposal, a determination of family need would be required if free or reduced price meals/milk are desired for an institutionalized child that was placed in the institution by the family. The Department is proposing this rule as part of an ongoing effort to more effectively direct free and reduced price benefits to those most in need.

DATE: To be assured of consideration, comments must be postmarked no later than November 9, 1987.

ADDRESSES: Comments should be sent to Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 509, 3101 Part Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Pastura at the address listed above or call (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and has been classified not major. We anticipate that this proposal will not have an impact on the economy of more than $100 million. No major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions is anticipated. This proposal is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would affect the School Breakfast, National School Lunch, and Special Milk Programs which are listed in the Catalog of Federal Domestic Assistance under 10.553, 10.555 and 10.556. These programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This proposal has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of FNS has certified that this proposal will not have a significant economic impact on a substantial number of small entities.

This proposed action would impose no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3520).

Background

Currently, § 245.2(b) of 7 CFR Part 245 defines "family" as "a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit." This definition has remained the same since Part 245 was first established in 1970. Under this

definition, institutionalized children, whether or not supported by their families, are not considered to be family members. On the other hand, students who are enrolled in boarding schools are considered to be family members. Free or reduced price meal or free milk eligibility for boarding school students or for other schoolchildren is based on family size and income in accordance with income eligibility guidelines prescribed by the Department or on the family's current receipt of food stamps or aid to families with dependent children (AFDC). In determining family income, no deductions are allowed for the support of any institutionalized children.

In 1975, the National School Lunch and Child Nutrition Acts were amended by Pub. L. 94–105 to allow public and licensed nonprofit private residential child care institutions (RCCIs) to participate in the National School Lunch, School Breakfast and Special Milk Programs. In implementing this legislation, the Department amended the definition of "school" in Parts 210, 215 and 220 to include RCCIs. In addition, § 245.3(c) was amended in 1976 to provide that when a child is not a member of a "family" as defined in Part 245, the child shall be considered a "family of one." Thus, children in RCCIs are treated as families of one with free or reduced price eligibility determinations based only on income received directly by these children. As a result, most children who reside in RCCIs are eligible for free meals or milk.

At the time the "family of one" concept was adopted by the Department, it was felt that the vast majority of children residing in eligible RCCIs were indigent. This is evidenced by the types of RCCIs that were used as examples when the definition of "school" was broadened in 1976 to cover RCCIs. Under that definition, RCCIs included but were not limited to: "Homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long term care facilities for chronically ill children; and juvenile detention centers." It was generally felt that, for the most part, these institutions served children that were either wards of the State or were indigent in their own right as in the case of abused or runaway children. Thus, the "family of one" concept was adopted to facilitate free or reduced price eligibility determinations for these children within existing law, regulations and procedures which required such determinations on a family size and income basis.

While the Department still feels that the majoity of the Nation's institutionalized children are not supported by their families, it acknowledges that some children in residential child care facilities are supported by their families. Furthermore, the Department believes that the number of such children has been increasing since 1976 due to the growing number of nonprofit private teenage drugs and alcohol rehabilitation centers and other similar institutions specializing in the psychiatric treatment and care of emotionally disturbed or unmanageable children. The high cost of elective treatment and care in such institutions makes them available primarily to middle or upper income families. However, under current regulations, these institutions are eligible to participate in the school nutrition prgrams and may receive Federal free meal or milk reimbursements for most meals or milk served to resident children since all are considered to be "families of one." Recent publicity concerning institutions of this type has focused attention on the free and reduced price eligibility determinations process for RCCI residents generally. The Department has reviewed that process and now feels that universal application of the "family of one" concept to RCCI residents can no longer be justified.

This proposed rule would revise the definition of "family" in § 245.2(b) to include a child that has been placed in a residential institution by the family and is being supported by the family. The "family of one" concept would continue for children who are *not* included in the "family" definition. Under this proposal, if a child is placed in an institution by a family, and continues to be supported by the family, the child would be considered a member of the family for purposes of determining free or reduced price eligibility.

Institutionalized children who are wards of the State or are otherwise not members of a family, as in the case of runaway children, would continue to be considered as "families of one" as would children who are placed in juvenile detention centers by the courts.

To implement this proposal, the Department is considering defining "supported by the family" to mean that the family provides, either directly or indirectly, at least fifty percent of all costs associated with the maintenance, care, treatment, education, etc. of the child. The Department would appreciate comments on this approach.

This proposal would require RCCIs to follow the same procedures as other schools in determining eligibility for free or reduced price meals or free milk. Free or reduced price eligibility determinations based on family size and income information or on appropriate food stamp or AFDC information would be required for each child for whom Federal reimbursement for free or reduced price meals or free milk is desired.

As in the case of private schools, RCCIs that have the necessary eligibility information in file as part of their enrollment or registration process could use such information to determine free or reduced price eligibility. Otherwise, a separate free and reduced price application would be completed by the family or, in the case of a child who is a "family of one," by the institution. Institutions that do not charge separately for meal service could also elect not to do free or reduced price eligibility determinations. However, RCCIs electing this option would only be eligible to receive the paid rate of Federal reimbursement for each eligible meal or half pint of milk served.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs—Social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Accordingly, Part 245 is amended as follows:

1. The authority citation for Part 245 continues to read as follows:

Authority: Secs. 3, 4, and 10, 80 Stat. 885, 886, 889, as amended (42 U.S.C. 1772, 1773, 1779); secs. 2–10, 60 Stat. 230, as amended (42 U.S.C. 1751–60), unless otherwise noted.

2. In § 245.2, paragraph (b) is revised as follows:

§ 245.2 Definitions.

* * * * *

(b) "Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit, except that, a child that has been placed in a residential child care institution by a family and is being supported by the family shall be considered a member of that family.

* * * * *

Dated: September 1, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87-20579 Filed 9-4-87; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-143-86]

Income Tax; Continuation Coverage Requirements of Group Health Plans; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the requirement that a group health plan offer continuation coverage to people who would otherwise lose coverage as a result of certain events.

DATES: The public hearing will begin at 10:00 a.m. on Tuesday, November 4, 1987, and continue, if necessary, at the same time on Wednesday, November 5, 1987. Outlines of oral comments must be delivered or mailed by Friday, October 9, 1987.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-143-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Angela D. Wilburn of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW. Washington, DC 20224, (202) 566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 106 (b), 162 (i) (2), and 162 (k) of the Internal Revenue Code of 1986. The proposed regulations conform the regulations to section 10001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (100 Stat. 222) and to section 1895 (d) of the Tax Reform Act of 1986 (100 Stat. 2936), which made technical corrections to the COBRA provisions. The proposed regulations appeared in the Federal Register for Monday, June 15, 1987 (52 FR 22716).

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, October 9, 1987, an outline of the oral testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

James J. McGovern,

Director, Employee Plans and Exempt Organization Division.

[FR Doc. 87-20587 Filed 9-4-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-87-058]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, NC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the U.S. Army Corps of Engineers, Wilmington, North Carolina, the Coast Guard is considering a change to the regulations governing the drawbridges across the Atlantic Intracoastal Waterway at mile 113.8 in Fairfield and at mile 157.2 in Hobucken, North Carolina, by restricting the number of bridge openings during the boating season. This proposal is being made to reduce were on the two 50 year old bridges and their machinery. This action should accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before October 23, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, Room 609, between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, at (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Person submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, project officer, and CDR Robert J. Reining, project attorney.

Discussion of Proposed Regulations

The U.S. Army Corps of Engineers has requested that the drawbridges be regulated to open on the hour and half hour, daily, between 7:00 a.m. and 7:00 p.m., from April 1 through November 30. This request is being made as a result of the steady increase of pleasure craft traffic on the AICWW since 1983, resulting in excessive draw openings, which are causing excessive wear and tear to the draws and their machinery on the two 50 year old bridges.

Mechanical engineers for the U.S. Army Corps of Engineers routinely inspect these bridges and they have made it clear that the bridge machinery is nearing the end of its reliability and machinery failures are becoming more frequent with the constant "on demand" openings. In order to prolong the life of the bridge and its machinery, the drawbridges should be regulated. These bridges have outlived their expected design life and have been slated for urgent replacement by the Corps of Engineers since prior to 1967. The requestor feels this change to the regulation will reduce the number of

machinery failures until a replacement bridge can be constructed.

From April through November 1983, the average monthly bridge openings for the drawbridge at Fairfield was 654 and at Hobucken it was 859.9. During the same months in 1985 the average drawbridge opening, at Fairfield was 689.4, and at Hobucken it was 942.5.

As part of this proposal the regulations for all of the drawbridges along the Atlantic Intracoastal Waterway within North Carolina will be consolidated in one section, 33 CFR 117.821. The common provision relating to opening the draws for public vessels, commercial vessels, and vessels in an emergency will be consolidated in paragraph (a). Paragraph (b) will contain the proposed regulations for the Fairfield and Hobucken bridges, as well as, the provisions relating to the reduced frequency of openings for pleasure vessels during certain times of the year for the Core Creek, Atlantic Beach, Surf City, and Wrightsville Beach bridges. The common provision permitting the delay of openings for ten minutes if a pleasure vessel approaching the bridge cannot reach the draw on the hour or half hour when there are restricted openings will be consolidated in paragraph (c).

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the proposed regulation will have no effect on commercial navigation, or on any industries that depend on waterborne transportation. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 449; 49 CFR 1.46; 33 CFR 1.05(g).

2. Section 117.821 is revised to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Wrightsville Beach, North Carolina.

(a) The drawbridges over the Atlantic Intracoastal Waterway in North Caroline shall open on signal for public vessels of the United States, state and local government vessels, commercial vessels, and any vessel in an emergency involving danger to life or property.

(b) The drawbridges over the Atlantic Intracoastal Waterway in North Carolina shall open on signal for pleasure vessels, except that the following drawbridges may remain closed to pleasure vessels during the specified periods if they open on signal for waiting pleasure vessels at the times specified:

(1) S.H. 94 bridge, mile 113.8, at Fairfield, NC, from April 1 to November 30, between 7:00 a.m. and 7:00 p.m., must open if signaled on the hour and half hour.

(2) S.R. 304 bridge, mile 157.2, at Hobucken, NC, from April 1 to November 30, between 7:00 a.m. and 7:00 p.m., must open if signaled on the hour and half hour.

(3) S.R. 101 bridge, mile 195.8, at Beaufort (Core Creek), NC, from April 1 to November 30, between 6:00 a.m. and 7:00 p.m., must open if signaled on the hour and half hour.

(4) S.R. 58 bridge, mile 206.7, at Atlantic Beach (Bogue Sound), NC, from March 15 to October 15, between 8:00 a.m. and 8:00 p.m., must open if signaled on the hour.

(5) S.R. 50 bridge, mile 260.7, at Surf City, NC, from May 1 to October 31, between 7:00 a.m. and 7:00 p.m., must open if signaled on the hour.

(6) S.R. 74 bridge, mile 283.1, at Wrightsville Beach, NC, between 7:00 a.m. and 7:00 p.m., must open if signaled on the hour.

(c) If a pleasure vessel is approaching a drawbridge, which is only required to open on the hour or on the hour and half hour, and cannot reach the draw on the hour or half hour, the drawtender may delay the required opening up to 10 minutes past the hour or half hour.

Dated: August 19, 1987.

R.M. Polant,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 87-20540 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

Management of Municipal Watersheds

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: As required by Executive Order 12291, the Forest Service has reviewed its existing regulation at 36 CFR 251.9 governing agreements for the management of municipal watersheds. As a result of the review, the agency proposes to revise the rule to conform with changes in legislation and administrative procedures occurring since promulgation of the existing rule. The proposed regulation would transfer the approval authority for special management of municipal watersheds from the Chief to Regional Foresters, would integrate the management of municipal watersheds with regulations governing forest planning at 36 CFR Part 219, and would require special use authorizations when land use restrictions are imposed for management of municipal watersheds.

DATE: Comments must be received November 9, 1987.

ADDRESS: Send written comments to F. Dale Robertson, Chief (2500), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090

The public may inspect comments received on this proposed rule in the office of the Director, Watershed and Air Management Staff, Room 1210, Rosslyn Plaza E, 1621 North Kent Street, Rosslyn, Virginia, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Rhey Solomon, Watershed and Air Management Staff, (703) 235-8163.

SUPPLEMENTARY INFORMATION: The existing regulation at 36 CFR 251.9 was issued September 11, 1942, to provide guidance for implementing the Domestic Water Supply Act of 1940 (16 U.S.C. 552a). The regulation provides for the Chief of the Forest Service to enter into formal agreements with municipalities for the protection of watersheds on National Forests that provide municipal water supplies. The existing regulation anticipated mutual action (e.g.

enforcement assistance) by the municipality and the Forest Service for protection of municipal water supplies. The regulation states requirements to be contained in agreements, including the kinds of uses to be restricted, the nature and extent of restrictions, and special protective measures which may be necessary. The regulation also requires that any payment to compensate the United States for losses of revenue resulting from restrictions be clearly defined in agreements.

Since 1942, two significant laws were enacted which directly affect management of municipal watersheds: The National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).

The Federal Land Policy and Management Act repealed a part of section 1 of the Domestic Water Supply Act of 1940 (16 U.S.C. 552a), which authorized the President to set aside National Forest lands from all forms of location and entry. The National Forest Management Act requires comprehensive land resource management plans for units of the National Forest System. These plans provide the detailed on-the-ground direction to guide the integrated management of the resources of these lands. Therefore, management of municipal watersheds must be reflected in and governed by these plans; not in separate formal agreements, the concept for which predates passage of the National Forest Management Act.

In addition, rules at 36 CFR Part 219 were developed to guide agency compliance with the planning requirements of the National Forest Management Act. These planning rules delegate approval of land and resource management plans to Regional Foresters. This creates a conflict between the forest plan approval authority delegated to the Regional Forester by 36 CFR 219.4, and the approval authority for municipal watershed agreements assigned to the Chief by 36 CFR 251.9. To provide consistency, the proposed regulation makes it clear that forest plans and special use authorizations—not formal agreements—are the primary mechanisms for managing municipal water supplies that originate on National Forest System lands. The proposed rule eliminates the requirement for the Chief's approval of municipal watershed agreements, thereby effectively delegating to the Regional Forester, as part of forest plan approval, the authority to approve special uses and land use restrictions related to municipal watersheds. This delegation will remove one level of administrative approval and better integrate decisions for management of municipal watersheds with other land use decisions made as part of forest planning.

The existing rule is unclear as to whether special use authorizations are required to effect municipal watershed agreements. This has led to inconsistent handling of these agreements. Many existing municipal watershed agreements are not accompanied by special use authorizations although the rules governing special uses—36 CFR part 251; Subpart B—clearly require such authorization. Therefore, the proposed rule makes it clear that special use authorizations are required (1) for all municipal watersheds where the local agency desires to impose restrictions on the use of the land and (2) for construction and maintenance of any facilities on National Forest System lands.

The stipulation in the existing regulation for reimbursement to the United States for revenues foregone is based on section 3 of the Domestic Water Supply Act (16 U.S.C. 552c) and was intended to be applied solely to National Forest System lands formally withdrawn by the President for exclusive use as municipal watersheds. Several water suppliers who offered comments on the existing rule have asked that this provision be removed. In reviewing this provision, we find that the language of the existing rule is flawed and has led to inconsistent application of the reimbursement stipulation. We agree that this provision to base fees on revenues foregone should be removed. However, it is important to retain the requirement that when use of forest land and multiple resources are substantially restricted to benefit a local group of users, the United States may be compensated for granting such a privilege. Therefore, the text of § 251.9 is proposed to be amended to clarify that a fee may be charged based on the rights and privileges granted.

This proposed rule has been reviewed under Executive Order 12291 and procedures of the Department of Agriculture. It has been determined that this is not a major rule. The regulation will have little or no effect on the economy since the changes are technical and administrative. Moreover, the Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities, because it is principally a procedural, conforming regulation and does not substantially alter the existing regulation.

This proposal removes an administrative level of approval and integrates the protection and management of municipal watersheds with existing planning mechanisms. This should result in more efficient planning for municipal watersheds and reduce paperwork in connection with formal agreements.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. The delegation of authority from the Chief to Regional Foresters, the requirements for the integration of municipal watersheds with forest planning, and the clarification for the requirement of a special use authorization, in and of themselves, will not result in any additional environmental impact on the watersheds. Therefore, this action is categorically excluded from any requirement for documentation in an environmental assessment or environmental impact statement (40 CFR 1508.4).

List of Subjects in 36 CFR Part 251

Environmental protection, National forests, Water resources, Watersheds.

Therefore, for the reasons set forth in the preamble, it is proposed to amend Subpart A of Part 251 of Title 36 of the Code of Federal Regulations as follows:

PART 251—LAND USES

Subpart A—Miscellaneous Land Uses

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

Authority: 7 U.S.C. 428a, 1011; 16 U.S.C. 460p–460p–5, 406q–460q–9, 460r–460r–5, 460v–460v–8, 485, 486, 513–519, 551, 552, 678a, 1131–1136, 1241–1249, 1271–1287; Pub. L. 76–867, 54 Stat. 1197.

2. Revise § 251.9 to read as follows:

§ 251.9 Management of municipal watersheds.

(a) The Forest Service shall manage National Forest watersheds that supply municipal water under multiple use prescriptions in forest plans (36 CFR Part 219). When a municipality desires special protection needs that exceed the level of protection provided in the forest plan, the municipality must apply to the Forest Service for a special use authorization (36 CFR 251.54). A special use authorization may allow the municipality to use the subject lands and restrict public access and resource uses within the watershed and may

provide special requirements of management for National Forest System lands producing the water.

(b) In any special use authorizations issued to protect municipal water supplies the authorized forest officer should describe the types of uses, if any, to be restricted, the nature and extent of any restrictions, any special land management protective measures and/or any necessary standards and guidelines, as well as any resources that are to be provided by the municipality.

(c) Special use authorizations issued pursuant to this section are subject to the same fees, conditions and procedures applicable to all other special uses as set forth in Subpart B of this part.

(d) Any municipal watershed management requirements and/or restrictions implemented through special use authorizations shall be consistent with forest plans.

George S. Dunlop,

Assistant Secretary, Natural Resources and Environment.

Dated: August 13, 1987.

[FR Doc. 87-20518 Filed 9-4-87; 8:45 am]

BILLING CODE 3410-11-M

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36 CFR Part 251

Petersburg Watershed, Alaska

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: As required by E.O. 12291, the Forest Service has reviewed its existing regulation at 36 CFR 251.35 governing access into the Petersburg watershed in the Tongass National Forest, Alaska. As a result of the review, the Agency proposes to revise the rule to address concerns identified in the review and to conform with events that have occurred since the rule was originally promulgated.

DATE: Comments must be received by November 9, 1987.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2500), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this proposed rule in the office of the Director, Watershed and Air Management Staff, Room 1210, Rosslyn Plaza E, 1621 North Kent Street, Rosslyn, Virginia, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Rhey Solomon, Watershed and Air Management Staff, (703) 235-8163.

SUPPLEMENTARY INFORMATION: The existing regulation governing access to the Petersburg watershed within the Tongass National Forest in Alaska, 36 CFR 251.35, was issued January 3, 1941, to implement the provisions of the Act of October 14, 1940 (54 Stat. 1197). That act authorized protection of the municipal water supply for the town of Petersburg, Alaska. The existing regulation permits Federal and territorial officials and employees of the town of Petersburg to enter the watershed to operate, maintain, and improve the town's water system. The regulation prohibits all other access within the watershed without a permit that has been approved by an official of the town of Petersburg and countersigned by a forest officer. The regulation also permits the removal of timber from the watershed, but only under such conditions as will adequately safeguard the town's water supply.

Since promulgation of the rule in 1941, Alaska has become a State, and Petersburg is now denominated as a city.

Therefore, the reference to "territorial" officials should be changed to "State" officials and reference to "town" should be changed to "city".

As a result of years of experience under the rule, forest officers and city officials have found that the requirement to issue individual permits for all public recreation uses within the watershed is burdensome for administrators and the public. Accordingly, the proposed rule would authorize public access of the Raven's Roost Trail for travel to the Raven's Roost public recreation cabin and the Alpine Recreation Area without the need for a permit. The review also revealed the possibility of interpreting the present language as prohibiting access by Forest Service officials and agents unless they obtain a permit; therefore, the proposed rule removes any interpretive ambiguity by expressly acknowledging the right of access by Forest Service and other Federal officials and their agents in the conduct of their official duties.

Because the rule prohibits unauthorized use, the proposed rule incorporates a penalty provision so that the public is fully aware of the penalties for violation of the rule. The penalty is not new; it has merely been incorporated into the rule to provide full disclosure to the public. Finally, the contextual sequence and the language of the regulation have been revised for ease of understanding and reference.

This proposed rule has been reviewed under E.O. 12291 and procedures of the Department of Agriculture. It has been determined that this is not a major rule. The regulation will have little or no effect on the economy since the changes are technical and administrative. Moreover, the Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities, since it essentially affects only one community, Petersburg, Alaska, and it is principally a procedural conforming regulation that does not substantially alter the existing regulation.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. The removal of the permit requirement for entrance to public recreation areas and the conformance of the timber removal provision to subsequent legislation will not, in and of themselves, result in any additional impacts on the watershed or management direction for the area. Therefore, this action is categorically excluded from any requirement for documentation in an environmental assessment or environmental impact statement (40 CFR 1508.4).

List of Subjects in 36 CFR Part 251

Environmental protection, National forests, Water resources, Watersheds.

For the reasons set forth in the preamble, it is proposed to amend Subpart A of Part 251 of Title 36 of the Code of Federal Regulations as follows:

PART 251—LAND USES

Subpart A—Miscellaneous Land Uses

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

Authority: 7 U.S.C. 428a, 1011; 16 U.S.C. 460p–460p–5, 460q–460q–9, 460r–460r–5, 460v–460v–8, 485, 486, 513–519, 551, 552, 678a, 1131–1136, 1241–1249, 1271–1287; Pub. L. 76–867, 54 Stat. 1197.

2. Revise § 251.35 to read as follows:

§ 251.35 Petersburg Watershed.

(a) Except as authorized in paragraphs (b) and (c) of this section, access to lands within the Petersburg watershed, Tongass National Forest, as described in the Act of October 17, 1940 (54 Stat. 1197), is prohibited.

(b) Access to lands within the Petersburg watershed is hereby authorized, without further written approval, for the following routine purposes:

(1) The discharge of official duties related to management of the Tongass National Forest by Federal employees, holders of Forest Service contracts, or Forest Service agents;

(2) The operation, maintenance, and improvement of the municipal water system by Federal and State officials and employees of the City of Petersburg; and

(3) Public recreational use of the Raven's Roost Trail for access to and from the Raven's Roost public recreation cabin and the Alpine Recreation Area.

(c) Any person who wishes to enter upon the lands within the watershed for purposes other than those listed in paragraph (b) of this section must obtain a permit that has been signed by the appropriate city official and countersigned by the District Ranger.

(d) Unauthorized entrance upon the lands within the watershed is subject to punishment by a fine of not more than $500 or imprisonment for not more than six months or both pursuant to 16 U.S.C. 551.

(e) The Forest Supervisor of the Stikine Area of the Tongass National Forest may authorize the removal of timber from the watershed under the regulations governing disposal of national forest timber (36 CFR Part 223). In any removal of timber from the watershed, the Forest Supervisor shall provide adequate safeguards for the protection of the Petersburg municipal water supply.

George S. Dunlop,

Assistant Secretary, Natural Resources and Environment.

Date: August 13, 1987.

[FR Doc. 87-20517 Filed 9-4-87; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

[A-3-FRL-3233-4; EPA Docket No. AM606PA]

40 CFR Part 52

Disapproval of State Implementation Plan Revision; Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove a September 23, 1985 State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania pertaining to changes in the emissions inventory for sources of volatile organic compound (VOC) emissions in the southeastern part of the State (Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR). This proposed disapproval action is based on the fact that the Commonwealth has not adequately demonstrated progress toward meeting the 44 percent VOC emission reduction requirement stipulated in the June 30, 1982 Pennsylvania ozone and carbon monoxide SIP revision. The majority of the purported emissions reductions are not enforceable and, therefore, can not be relied upon in any demonstration of attainment. Ambient ozone levels resulting from Philadelphia area emissions are still well above the ozone standard, indicating that the standard will not be met by the December 31, 1987 statutory date or any date in the near term after 1987.

The proposed disapproval would not require any emission reductions beyond the 44 percent reduction requirement already stipulated in the 1982 SIP revision. That reduction requirement has been determined to be necessary in order for the ozone standard to be met in the areas affected by Philadelphia area emissions. This notice discusses the results of EPA's review of the Commonwealth's September 23, 1985 submittal and solicits public comments on the submittal and EPA's proposed disapproval action.

DATE: Comments must be submitted on or before October 8, 1987.

ADDRESSES: Copies of the submitted SIP revision proposal and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary Triplett

All comments on the proposed disapproval that are submitted within 30 days of publication of this notice will be considered and should be directed to Denis Lohman, Acting Chief of the PA/WV Section at EPA, Region III, 841 Chestnut Bldg., Philadelphia, PA 19107, EPA Docket No. AM606PA.

FOR FURTHER INFORMATION CONTACT: Larry Budney (3AM11) at the EPA, Region III address above or call (215) 597-0545.

SUPPLEMENTARY INFORMATION: In response to provisions of the 1977 Amendments to the Clean Air Act, the Commonwealth of Pennsylvania submitted to EPA several revisions to its SIP for ozone and carbon monoxide. EPA approved some of these revisions on May 20, 1980. However, because the Commonwealth requested and received an extension to December 31, 1987 for the attainment of the ozone standard in the Philadelphia, Pittsburgh, and Allentown-Bethlehem-Easton areas, and until June 30, 1983 in Philadelphia, and until December 31, 1985 in Pittsburgh for the attainment of the carbon monoxide standard, the Commonwealth was required to submit another SIP revision by July 1, 1982.

The Commonwealth submitted the required revisions to its ozone and carbon monoxide SIP on June 30, 1982. For the Philadelphia area (Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR), that SIP revision acknowledged a 5.5 percent shortfall in planned VOC emission reductions needed to attain the ozone standard there, i.e., a 38.5 percent reduction was projected, contrasted with the 44 percent reduction predicted to be necessary to attain the ozone standard.

The ozone standards (National Ambient Air Quality Standards) are specified in 40 CFR Part 50. The primary (and secondary) standard is defined to be violated when the annual average expected number of daily exceedances of the standard (0.12 parts per million (ppm), one hour average ozone concentration) is greater than 1.0. A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 ppm.

Due to certain deficiencies in the 1982 SIP revision, including the 5.5 percent shortfall in planned VOC emission reductions, on February 3, 1983 (48 FR 5096), EPA proposed to disapprove certain portions of the 1982 SIP revision for the Philadelphia area.

In a letter dated July 26, 1983, the Secretary of the Pennsylvania Department of Environmental Resources reaffirmed the Commonwealth's commitment to achieve the 44 percent VOC emission reduction requirement stipulated in the 1982 SIP revision. On October 24, 1983, the Commonwealth submitted a SIP revision correcting the deficiencies noted in the February 3, 1983 **Federal Register** proposed disapproval.

Among the actions to correct the deficiencies in the October 24, 1983 SIP revision, the Commonwealth committed to adopt and implement sufficient additional emission reduction measures to achieve the full 44 percent emission reduction requirement by December 31, 1987. The Commonwealth listed several potential new emission reduction measures under consideration, and

committed to implement the appropriate measures by March 15, 1985. Given the above actions by the Commonwealth, on February 26, 1985 (50 FR 7772), EPA approved the June 30, 1982 and October 24, 1983 SIP revisions.

On September 23, 1985, the Commonwealth submitted a proposed revision (Supplement No. 2) to its 1982 ozone and carbon monoxide SIP. Supplement No. 2 is the subject of today's notice. It contains an update to the point source emission inventory and projected (1987) total point, area and mobile source emissions inventory for the Pennsylvania portion (Bucks, Montgomery, Philadelphia, Chester and Delaware Counties) of the Metropolitan Philadelphia Interstate AQCR. It identifies specific VOC point sources and respective emissions for each year from 1980 through 1983 and revised source-specific emission projections for 1987. Supplement No. 2 suggests that there is no longer any need to implement additional control measures to make up the 5.5 percent VOC emission reduction shortfall projected in the 1982 SIP revision. That conclusion is based on a revised projection of 1987 VOC emissions, which the Commonwealth is using as the basis for its claim that control measures already implemented and planned, without any additional measures, will be sufficient to make up the shortfall. The revised projection is primarily based on the fact that VOC emissions between 1980 and 1983 are estimated to have decreased much more than originally anticipated.

EPA asked the Commonwealth to document the emission reductions cited in Supplement No. 2 and to demonstrate that they are due to permanent enforceable measures. It is important to document source-specific emission control measures that have been or are being implemented, along with specific reductions attributable to each measure. That is necessary in order to have reasonable assurance that any claimed emission reductions can be relied upon to continue beyond 1987, and to give creedance to the proposed SIP revision and the 1987 emission projection contained therein.

For the majority of the claimed emission reductions, the Commonwealth has failed to demonstrate that they result from permanent enforceable measures. It appers that most of the claimed reductions are based on production decreases and other factors that do not constitute permanent enforceable measures. The consequence is that there is nothing to prevent emissions from increasing as economic conditions and other factors change. Therefore EPA cannot approve the proposed SIP revision.

Proposed Action

EPA is proposing to disapprove the September 23, 1985 SIP revision submitted by the Commonwealth of Pennsylvania relating to control of VOC emissions in the southeastern part of the State. The consequence of this action is that the Commonwealth is still required to make up the VOC emission reduction shortfall through implementation of additional control measures.

Interested parties are invited to submit comments on this action. EPA will consider comments received within 30 days of publication of this notice.

Under 5 U.S.C. 605(b), I certify that this disapproval will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709) because it imposes no new regulations.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons.

Authority: 42 U.S.C. 7401–7642.

Date: March 31, 1987.

James M. Seif,

Regional Administrator.

[FR Doc. 87–20546 Filed 9–4–87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

46 CFR Parts 38, 54, 98, and 151

[CGD 85–061]

Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the regulations that govern internal inspection and hydrostatic test intervals for pressure vessel cargo tanks on barges that transport liquefied gaseous cargoes and Grade A flammable liquids. This proposal originated from industry requests that the Coast Guard review and amend existing inspection requirements. If this proposal is adopted, industry's compliance costs would decrease due to the lengthening of inspection intervals. The present level of safety is maintained by the incorporation into the standards of more sophisticated examination technologies.

DATES: Comments must be received on or before December 7, 1987.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/21), U.S. Coast Guard Headquarters, Washington, DC 20593. Comments will be available for inspection or copying at the Marine Safety Council (G–CMC/21), Room 2110, 2100 2nd Street, SW., Washington, DC 20593–0001, between 7:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. A draft regulatory evaluation and environmental assessment have been prepared and placed in the rulemaking docket. The draft regulatory evaluation may be inspected or copied at the same location referred to in **ADDRESSES.** Copies may also be obtained by contacting LCDR Powers (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: LCDR Geoffrey D. Powers, Standards Development Branch, Office of Marine Safety, Security, and Environmental Protection, telephone (202)–267–1045. Normal working hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday except federal holidays.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each comment should include the name and address of the commenter, reference the docket number (CGD 85–061) and the specific section of the proposal to which each comment applies, and the reason for each comment.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requests in writing are received from interested persons raising genuine issues and desiring to comment orally at a public hearing and the Coast Guard determines that the opportunity to make oral presentations will aid in the rulemaking process.

If an acknowledgment is desired, a stamped, self-addressed postcard or envelope should be enclosed.

Drafting Information

The principal persons involved in drafting this proposal are: LCDR Geoffrey D. Powers, Project Manager, and Mr. Stanley Colby, Project Counsel, Office of Chief Counsel.

Background

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) in the December 3, 1985 issue of the **Federal Register** (50 FR 49563) requesting information on the effects of extending the intervals between internal examinations and hydrostatic tests of barge pressure vessel cargo tanks that carry liquefied gaseous cargoes or Grade A flammable liquids at ambient temperatures. Eight comments were received in response to the ANPRM. Also, at the meeting of the Towing Safety Advisory Committee (TSAC) on February 27, 1986 (of which the public was notified in the January 30, 1986 issue of the **Federal Register** (51 FR 3874)), participants expressed a desire that any rulemaking resulting from the ANPRM include a change in the inspection intervals for barges with pressure vessel tanks that are authorized to carry anhydrous ammonia under refrigerated conditions.

In preparing this proposal, the Coast Guard also considered ten comments which were submitted circa 1982 in response to a Coast Guard questionnaire which solicited from the members of the Chemical Transportation Advisory Committee (CTAC) information similar to the information sought by the ANPRM. Additionally, the Coast Guard reviewed existing rail car regulations and existing and proposed tank truck regulations as well as various industry standards in preparing this proposal.

Discussion of Comments

Information and comments were received on the following issues raised in the ANPRM.

Comments were received addressing the range of cargo temperatures the regulations would affect. Existing regulations in 46 CFR Part 151, for example, allow anhydrous ammonia to be carried at ambient temperatures under pressure, refrigerated in gravity tanks, or at some design condition between these two extremes. The Coast Guard has decided that the proposed inspection intervals could be applied to unmanned barges carrying liquefied compressed gases at temperatures warmer than −55°C (−67°F) without adversely affecting safety; however, the Coast Guard's concern with thermally induced cracking precluded it from proposing to amend the inspection intervals for tanks carrying cargoes at temperatures colder than −55°C. The proposed language in § 38.25–1(a)(1)(i), § 98.25–95(a)(1)(i), and § 151.04–5(b)(3)(i) reflects this decision.

Comments were received concerning the appropriate intervals for conducting internal inspections on pressure vessel cargo tanks. All but one party agreed that internal inspection intervals could be safely extended from the present requirement of 8 years and proposed intervals ranging from 10 to 15 years. The one party that disagreed recommended a 3 year interval. The Coast Guard experience in inspecting these tanks has shown that a 3 year interval is unnecessarily restrictive and the recommendation was rejected. In addition to considering those comments, the Coast Guard has considered DOT requirements for both rail and highway transportation of hazardous substances in pressure tanks. The Coast Guard has also reviewed the following standards: API 510 "Pressure Vessel Inspection Code—1985" and ANSI/NB–23 "National Board Inspection Code—1985". Those standards state that the maximum period between internal inspections of pressure vessels should not exceed one-half the remaining corrosion rate life or 10 years, whichever is less. Therefore, after considering the standards and the comments as well as the experience gained by allowing, on a case-by-case basis, some pressure vessel cargo tanks to remain in service up to 12 years before the first internal inspection, the Coast Guard is proposing in §§ 38.25–1(a)(1)(i), 98.25–95(a)(1)(i), and 151.04–5(b)(3)(i), to allow many pressure vessel cargo tanks to remain in service up to 10 years between internal inspections. This would allow the internal inspections to coincide with drydockings.

The Coast Guard is proposing in §§ 38.25–1(a)(3) and 98.25–95(a)(2) to amend the requirement for the removal of sufficient insulation from lagged tanks to permit spot external examination of the tank so that this procedure occurs at the same time as the tank internal inspection.

Tanks carrying cargoes which exhibit corrosive behavior or cargoes capable of forming corrosive by-products when contaminated by water will continue to be inspected more frequently than 10 years. Included are lined pressure vessel tanks carrying inorganic acids. Accordingly, there is no proposed change to these requirements.

Comments addressed the issue of the increased attention necessary to ensure that older pressure vessel cargo tanks are suitable to remain in service. One party stated that although it is the practice to increase the inspection frequency in proportion to the age of non-pressure tank rail cars carrying corrosive cargoes, the practice is not justified. One party stated that the inspection frequency for all pressure vessels should increase with age. This party also stated that the National Board Inspection Code contains a formula for calculating this frequency. The Coast Guard is not proposing to extend inspection intervals for tanks that carry corrosive cargoes. Present regulations allow the OCMI to require internal inspection more frequently than the intervals specified in the event that corrosion becomes a problem in a particular tank. In those cases where corrosion becomes a problem, the Coast Guard will consider using the recommended formula as a guide in determining inspection frequency.

One party stated that the Coast Guard should consider the service experience of the pressure vessel when establishing inspection frequencies. The Coast Guard agrees and has considered the service experience by reviewing the available inspection records for barges with pressure vessel cargo tanks, to ensure that the proposals would not affect safety.

One party stated that ultrasonic testing is useful in determining tank condition. This party further recommended that to be most effective such testing should be concentrated on locating potential problem areas. One party stated that ultrasonic testing is a useful aid but not a substitute for an internal inspection. One party stated that an adequate visual inspection supplemented by nondestructive testing procedures (NDT) can better requalify a tank than any number of hydrostatic tests. One party recommended careful external inspections supplemented by ultrasonic thickness measurements as viable alternatives to more frequent internal inspections as a vessel ages. The Coast Guard agrees with the recommendations to supplement the internal inspection with NDT and is proposing, in §§ 38.25–1(a)(5), 98.25–95(a)(3), and 151.04–5(k), to require each cargo tank subject to a 10 year internal inspection cycle be subject to NDT when it reaches twenty-five years after the date of delivery and at 5 year intervals thereafter. This NDT requirement is proposed for older vessels rather than proposing shorter internal inspection interval. In order to maximize the efficacy of NDT while containing costs, the proposed rules would require the owner to submit a proposed test procedure to the OCMI when NDT is required. If the proposed NDT is accepted by the OCMI, it would be required that the proposal be rigidly followed.

One party stated that the hydrostatic test made sense in the days of riveted tanks where leaks could occur in the luting material used to seal the seams or where rivets could work loose during service. This party further stated that hydrostatic testing now is valid only as a proof test after initial construction or welded repairs and that the number of tanks failing these proof tests is insignificant. The commenter felt a thorough internal inspection can better determine the quality of the tank in service, and questionable areas could be further evaluated by NDT methods. This party further recommended that the Coast Guard recognize the inability of hydrostatic tests to be requalify cargo tanks and emphasize proven NDT technology coupled with adequate visual examination. Two parties stated that requirements for periodic hydrostatic testing are unrealistic and that this test should only be required after initial construction, after repairs or when there is a question of the physical condition of the tank. The Coast Guard agrees and is not proposing a hydrostatic testing requirement as a condition for continued service, except for those instances when the marine inspector considers it necessary to determine the tank's condition.

Comments were received concerning the inspection of tanks carrying cargoes which are required to be periodically hydrostatically tested under present requirements (propylene oxide, ethylene oxide, chlorine, and sulfur dioxide). One party recommended that the required hydrostatic test of tanks in propylene oxide service be eliminated as it provides little benefit at substantial cost. One party stated that Coast Guard operational requirements for an inert pad gas and commercial product purity requirements for propylene oxide combine to prevent the buildup of rust in these tanks and minimize the danger of polymerization. The inspection record for these tanks supports this contention. One party stated that rail service tanks that carry ethylene oxide must be constructed from specific materials but no such limitations are placed on tanks carrying propylene oxide. The Coast Guard originally treated propylene oxide as equivalent to ethylene oxide, which is far more dangerous, and required that acetylide forming metals be kept to a minimum for both cargoes. Based on the above facts, documented inspections over the past 8 years, the comments received concerning the utility of the hydrostatic test, and an evaluation of the chemical hazards, the Coast Guard is proposing to increase the internal inspection interval for tanks in dedicated propylene oxide service from 4 years to 10 years by amending Table 151.05. The hydrostatic test requirement for tanks that carry propylene oxide would be removed. The hydrostatic test requirement would remain for ethylene oxide.

The Chlorine Institute recommended that the Coast Guard consider allowing the owner of a tank vessel to perform and certify the hydrostatic test and relief valve tests instead of having those tests witnessed by a Coast Guard inspector. The Coast Guard rejected this recommendation because of comments on the ANPRM which indicate that there have been problems with relief valves in rail service primarily due to stress corrosion cracking in the valve spring. One chlorine carrier stated that the hydrostatic test is the most effective method of proving tank integrity but recommended extending the interval to 3 years. One party indicated that hydrostatic testing is probably the biggest cause of tank deterioration. This party recommended extending the inspection test interval for chlorine tanks to 4 years. Since water is used to clean chlorine tanks, increasing the interval would reduce tank deterioration. The Coast Guard does not dispute the validity of this argument but is reluctant to propose regulatory requirements that are less stringent than existing industry standards and has not proposed changes in this area.

Ethylene oxide and sulfur dioxide are two other cargoes for which current regulations require hydrostatic testing of the tanks. No comments concerning these products were submitted and the Coast Guard is not proposing any changes to the current requirements.

One party recommended that the Coast Guard retain the authority of the Officer in Charge Marine Inspection to require a hydrostatic test when, in his opinion, tank conditions require it. The Coast Guard agrees and is proposing to clarify the present text in Part 38 and Part 151 that authorizes the marine inspector to require hydrostatic test or NDT if necessary to determine the tank's conditions.

Several comments were received concerning the relative advantages and disadvantages of various NDTs. One party stated that the American Society for Testing and Materials (ASTM) has an extensive bibliography of NDT standards. One party recommended the combined use of American Society for Non-destructive Testing (SNT-TC-1A), Section V of the ASME Code, and the National Board Inspection Code as being the most effective in locating accident producing discontinuities. The Coast Guard considered the comments and is proposing to incorporate the test methods and procedures of Section V of the ASME Code and SNT-TC-1A into the regulations by reference in § 38.25-3, § 98.25-97 and § 151.04-7.

One party stated that most NDTs, except acoustic emission testing, may either identify or miss an existing defect. The Coast Guard is proposing NDT requirements that should maximize the chance of locating a critical defect. These are preferable to hydrostatic pressure testing, which generally will not locate such defects. Acoustic emission testing is an option left open to the owner or operator; however defects detected would still need to be evaluated using other NTD methods. One party stated that NDT acceptance criteria are found in Sections V and VIII of the ASME Code. Although Sections V and VIII of the ASME Code contain acceptance criteria, they are acceptance criteria for new construction of a pressure vessel. It is generally recognized that fatigue will cause such defects to grow in service. Acceptance of a particular defect in existing construction may have to be evaluated on a case by case basis. The Coast Guard solicits further comment of this issue.

The Coast Guard is proposing to delete § 151.50-32(h) because it is redundant with § 151.04-5(c), and to delete § 151.50-35 because it is redundant with § 151.50-84.

The comments to the ANPRM that concerned failures of pressure vessel cargo tanks, and potential problems with these tanks were used as source material in developing the proposals in this notice. One party had experienced three separate failures on tank barge built for coastwise service but which was later modified and reclassed for ocean service. One failure involved a nozzle which sheared off at the tank penetration, which was attributable to rough weather and possibly excessive towing speed as evidenced by broken frames in the hull and broken hold down straps. Another failure involved a 12 inch crack of the cargo tank near the horn of one of the tank support saddles. A pinhole was also found which may have existed since the tank was fabricated. Both defects were repaired and the design of the saddle was modified to reduce stresses. There have been no recurrence of failure during the five years since the barge resumed service.

The above information supports the proposal in § 54.20-3(f)(2) to require full penetration welds at nozzles and other tank attachments. The saddle horn area

on the tank which had the twelve inch crack is a known high stress area. This supports Coast Guard proposals to require increased emphasis on nondestructive testing (NDT) in areas where local stresses and the probability of tank failure is highest.

The Coast Guard is proposing three modifications of the design and fabrication requirements for new pressure vessel cargo tanks. The first, proposed in § 54.25–8(c), would require class II and III pressure vessel welds to be spot radiographed. All intersections would need to be radiographed for a distance of 10 thicknesses from the intersection. Present regulations and the ASME Code are permissive in their radiography requirements for classes II and III pressure vessels with material thicknesses less than 1¼ inches. Radiography is not required if lower joint efficiencies are used in the design calculations. A review of DOT regulations for other transportation modes indicates that spot or full radiography is required for cargo tanks containing liquefied compressed gases. The second modification, proposed in § 54.20–3(f)(2), would require categories C and D welds to be full penetration welds. Presently, figures UW–13.2, UW–16, and appendix 2 of section VIII, division 1 of the ASME code permits partial penetration welds for nozzles, corner joints, and flanges for categories C and D joints. Partial penetration welds have an inherent crack which acts as a stress raiser, magnifying the local stresses. A review of pressure vessel cargo tanks built over the last 30 years showed that spot radiography was routinely performed and that all categories C and D joints had full penetration welds. Since the extended internal inspection intervals being proposed were based, in parts, upon the service experience of these same tanks, the Coast Guard feels that spot radiography and full penetration welds for categories C and D joints should be required for new tanks.

The third modification, proposed in § 54.25–10(d), would require material to have a nil-ductility transition temperature of at least −20 °F. Currently, Part 54 does not require toughness testing for pressure vessels operating at ambient temperatures. The proposed NDT temperature of −20 °F results from research conducted in fracture mechanics and industry trends over the past 15 years to require toughness consideration for low ambient temperatures. The ASME Boiler and Pressure Vessel Committee is considering adopting toughness criteria in the ASME Code.

Regulatory Evaluation

The proposed regulations are considered by the Coast Guard to be non-major under Executive Order 12291. In addition, these proposed regulations are considered to be non-significant under DOT regulatory policies and procedures [44 FR 11034; February 26, 1979]. A draft evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations [DOT Order 2100.5, dtd May 22, 1980]. The economic inpact analysis was based on information supplied in response to the 1982 CTAC questionnaire and information provided in response to the ANPRM.

The annual savings for the barge industry is estimated to be $96,013 (in 1986 dollars). Persons interested in submitting information concerning the costs associated with meeting these inspection requirement are invited to do so. This information will be used in preparing the final evaluation.

The proposed design and fabrication regulation modifications (contained in Part 54) will also affect any self-propelled vessels that may be built with pressure vessel type tanks carrying cargoes at ambient temperatures. However, there are no existing vessels in this category, nor is it likely that any will be build in the foreseeable future. Therefore, the Coast Guard does not consider the economic impact on self-propelled vessels to be significant.

Environmental Assessment

The Coast Guard has assessed the environmental impacts of these proposed regulations and has determined that they will not be significant. Reduced tank cleaning will result in a slight reduction in air and water pollution. Due to the small number of barges that would be affected by these proposed regulations, this slight reduction is considered insignificant when compared to other potential sources of environmental pollution. The proposed use of more sophisticated examination methods on older cargo tanks is expected to decrease the probability of catastrophic tank failure and improve the reliability of these tanks. This effect is more important as a safety benefit because an uncontrolled release of the type of cargo generally carried in these tanks presents an immediate threat to life but the gases tend to rapidly dissipate, thereby posing no persistent environmental threat.

Paperwork Reduction Act

These proposed regulations would contain information collection requirements in 46 CFR 38.25–3, 98.25–97 and 151.04–7 (submission to the Coast Guard of proposed NDT methods, procedures and results). Requests have been submitted to the Office of Management and Budget (OMB) for approval of these requirements under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Persons desiring to comment on these information collection requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under **ADDRESSES.**

Regulatory Flexibility Act

These proposed regulations would affect all companies that own or operate barges within the scope of this rulemaking, some of which may be small entities. For this proposal, the Coast Guard considers a small entity to be a company operating a single barge. The proposed amendments would provide an economic benefit to these barge owners and operators by reducing the frequency of costly inspections. The Coast Guard does not consider this economic impact to be significant. The estimated cost savings of $686 per barge per year represents about 1 or 2 days revenue for this type of barge. The Coast Guard has identified ten companies as small entities and the cost savings associated with these proposals would not be significant. Accordingly, the Coast Guard certifies that these proposed regulations will not have a significant impact on a substantial number of small entities.

List of Subjects

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Marine safety.

46 CFR Part 54

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Parts 38, 54, 98, and 151, of Chapter I, Title 46, Code of Federal Regulations, as follows:

PART 38—[AMENDED]

1. The authority citation for Part 38 is revised to read as follows:

Authority: 46 U.S.C. 3703, 49 CFR 1.46(n)(4).

2. By adding § 38.01–3 to read as follows:

§ 38.01–3 Incorporation by reference.

(a) In this part, portions or the entire text of certain standards are incorporated by reference as the governing requirements for materials, equipment, tests, or procedures to be followed. The standards and specification requirements specifically referred to in this part are the governing requirements for the subject matters covered, unless specifically limited, modified, or replaced by the regulations.

(b) These materials are incorporated by reference into this part under 5 U.S.C. 552(a) with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the ones listed in paragraph (c) of this section, notice of change must be published in the **Federal Register** and the material made available. All approved material is on file and available for examination at U.S. Coast Guard Headquarters, Room 1400, 2100 2nd St., SW., Washington, DC 20593–0001. Copies may be obtained from the sources indicated in paragraph (c) of this section.

(c) The materials approved for incorporation by reference in this part are:

American Society for Nondestructive Testing (ASNT), P.O. Box 21142, Columbus, OH, 43221

SNT–TC–1A "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification" (1986).

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017

ASME Boiler and Pressure Vessel Code Section V, Nondestructive Examination (1986).

3. By amending § 38.25–1 by revising paragraphs (a)(1), (a)(3) and (b), and by adding paragraphs (a)(4), (a)(5), and a note to follow paragraph (b) to read as follows:

§ 38.25–1 Tests and inspections—TB/ALL.

* * * * *

(1) An internal inspection of the tank is conducted within—

(i) Ten years after the last internal inspection if the tank is a pressure-vessel type cargo tank on an unmanned barge carrying cargo at temperatures of −67°F (−55°C) or warmer; or

(ii) Eight years after the last internal inspection if the tank is of a type other than that described in paragraph (a)(1)(i) of this section.

* * * * *

(3) The owner shall ensure that the amount of insulation deemed necessary by the marine inspector is removed from insulated tanks during each internal inspection to allow spot external examination of the tanks and insulation, or the thickness of the tank may be gauged by an nondestructive means accepted by the marine inspector without the removal of insulation.

(4) If required by the OCMI, the owner shall conduct nondestructive testing of each tank in accordance with § 38.25–3.

(5) If the tank has an internal inspection interval of 10 years, the owner shall conduct nondestructive testing of each pressure vessel cargo tank in accordance with § 38.25–3, during the 25th year after the date of delivery and during each fifth year thereafter.

(b) If the marine inspector considers a hydrostatic test necessary to determine the condition of the tank, the owner shall conduct the hydrostatic test at 1½ times the maximum allowable pressure, as determined by the safety relief valve setting. When cargo tanks operate at maximum allowable pressures reduced below the design pressure in order to satisfy special mechanical stress relief requirements, the owner shall conduct the hydrostatic test at a pressure of 1–½ times the design pressure.

Note.—See § 54.30–10 of Subchapter F (Marine Engineering) of this chapter for information on design pressure.

* * * * *

4. By adding § 38.25–3 to read as follows:

§ 38.25–3 Nondestructive testing—TB/ALL.

(a) Before nondestructive testing can be conducted to meet § 38.25–1(a)(4) and (a)(5), the owner shall submit a proposal to the OCMI that includes—

(1) The test methods and procedures to be used, all of which must meet section V of the ASME Boiler and Pressure Vessel Code (1986);

(2) Each location on the tank to be tested; and

(3) The test method and procedure to be conducted at each location on the tank.

(b) If the OCMI rejects the proposal, the OCMI informs the owner the reasons why the proposal is rejected.

(c) If the OCMI accepts the proposal, then the owner shall ensure that—

(1) The proposal is followed; and

(2) Nondestructive testing is performed by personnel meeting the "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification," SNT–TC–1A (1986).

(d) Within 30 days after completing the nondestructive test, the owner shall submit a written report of the results to the OCMI.

PART 54—[AMENDED]

5. The authority citation for Part 54 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

6. In § 54.01–1, Table 54.01–1(a) is amended by changing the entry "USC–6" to read "UCS–6", "USC–56" to read "UCS–56", "USC–57" to read "UCS–57, UNF–57, UHA–33 and UHT–57", and "USC–65" to read "UCS–65" under the column heading "Paragraphs in Section VIII, ASME Code [1] and disposition".

54.01–5 [Amended]

7. In § 54.01–5, Table 54.01–5(b) is revised to read as follows:

TABLE 54.01-5(B)—PRESSURE VESSEL CLASSIFICATION [8]

Class and service contents	Class limits on pressure and temperature	Joint requirements [1 6 7]	Radiography requirements, section VIII, ASME Code [3 7]	Post weld heat treatment required [5 7]	Shop inspection required	Plan approval required
I:						
(a) Vapor or gas	Over 600 p.s.i. or 700 °F.	(1) For category A; (1) or (2) For category B. All categories C and D must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.	Full on all butt joints regardless of thickness. Exceptions listed in Table UCS-57 of ASME Code do not apply.	For carbon or low alloy steel, in accordance with Table UCS-56, regardless of thickness. For other materials, in accordance with section VIII, ASME Code.	Yes [4]	Yes.[4]
(b) Liquid	Over 600 p.s.i. or 400 °F.					
(c) Hazardous materials [2].						
I-L low temperature:						
(a) Vapor or gas	Over 250 p.s.i. and service temperature below 0 °F.	(1) For categories A and B. All categories C and D must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall. No backing rings or strips left in place.	Full on all butt joints regardless of thickness. Exceptions listed in Table UCS-57 of ASME Code do not apply.	For carbon or low alloy steel, in accordance with Table USC-56, regardless of thickness. For other materials, in accordance with section VIII, ASME Code.	Yes	Yes.
(b) Liquid	Over 250 p.s.i. and service temperature below 0 °F.					
(c) Hazardous materials [2].						
II:						
(a) Vapor or gas	30 through 600 p.s.i. or 275 °F through 700 °F.	(1) or (2) for category A. (1), (2) or (3) for category B. Categories C and D in accordance with UW-16 of ASME Code.	Spot, unless exempted by UW-11(c) of ASME Code.	In accordance with section VIII of ASME Code.	Yes [4]	Yes.[4]
(b) Liquid	200 through 600 p.s.i. or 250 °F through 400 °F.					
(c) Hazardous materials [2 3 6].						
II-L low temperature:						
(a) Vapor or gas	0 through 250 p.s.i. and service temperature below 0 °F.	(1) For category A; (1) or (2) for category B. All categories C and D must have full penetration welds extending through the entire thickness of the vessell wall or nozzle wall.	Spot. The exemption of UW-11(c) of ASME Code does not apply.	Same as for I-L except that mechanical stress relief may be substituted if allowed under Subpart 54.30 of this chapter.	Yes [4]	Yes.[4]
(b) Liquid	0 through 250 p.s.i. and service temperature below 0 °F.					
(c) Hazardous materials [2].						
III:						
(a) Vapor or gas	Under 30 p.s.i. and 0 °F through 275 °F.	In accordance with Section VIII of ASME Code.	Spot, unless exempted by UW-11(c) of ASME Code.	In accordance with Section VIII of ASME Code.	Yes	Yes.
(b) Liquid	Under 200 p.s.i. and 0 °F through 250 °F.					
(c) Hazardous materials [2 3 6].						

[1] Welded joint categories are defined under UW-3 of the ASME Code. Joint types are described in Table UW-12 of the ASME Code, and numbered "(1)," "(2)," etc.
[2] See § 54.20-2.
[3] See § 54.25-8(c) and § 54.25-20(d).
[4] See §§ 54.01-15 and 54.10-3 for exemptions.
[5] Specific requirements modifying Table UCS-56 of the ASME Code are found in § 54.25-7.
[6] See § 54.20-3 (c) and (f).
[7] Applies only to welded pressure vessels.
[8] Does not include special requirements for heat exchanger. Section 54.01-2 contains an explanation of those special requirements.

8. By amending § 54.01-5 by revising paragraph (d)(2) to read as follows:

§ 54.01-5 Scope (modifies U-1 and U-2).

* * * * *

(d) * * *

(2) Meet § 54.01-35, § 54.20-3(c) and § 54.25-3 of this part;

* * * * *

9. By revising § 54.05-6 to read as follows:

§ 54.05-6 Toughness test temperatures.

Each toughness test must be conducted at temperatures not warmer than −20 °F or 10 °F below the minimum service temperature, whichever is lower, except that for service at or below −320

°F, the tests may be conducted at the service temperature in accordance with § 54.25–10(a)(2).

10. By amending § 54.20–3 by adding paragraphs (c) and (f) to read as follows:

§ 54.20–3 Design (modifies UW–9, UW–11(a), UW–13, and UW–16).

* * * * *

(c) A butt welded joint with one plate edge offset, as shown in Figure UW–13.1(k) of the ASME Code, may only be used for circumferential joints of Class II and Class III pressure vessels.

* * * * *

(f) Joints in Class II or III pressure vessel cargo tanks must meet the following:

(1) Category A and B joints must be type (1) or (2).

(2) Category C and D joints must have full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.

11. By amending § 54.25–8 by revising the heading and adding paragraph (c) to read as follows:

§ 54.25–8 Radiography (modifies UW–11(a), UCS–57, UNF–57, UHA–33, and UHT–57).

* * * * *

(c) Each butt welded joint in a Class II or III pressure vessel cargo tank must be spot radiographed, in accordance with UW–52, regardless of diameter or thickness, and each weld intersection or crossing must be radiographed for a distance of at least 10 thicknesses from the intersection.

12. By amending § 54.25–10 by revising the paragraph that follows the formula in paragraph (a)(2), and by adding paragraph (d) and Table § 54.25–10(d) to read as follows:

§ 54.25–10 Low temperature operation—ferritic steels (replaces UCS–65 through UCS–67).

(a) * * *

(2) * * * Only temperatures due to refrigerated service usually need be considered in determining the service temperature, except pressure vessel type cargo tanks operating at ambient temperatures must meet paragraph (d) of this section. "Refrigerated service", for the purposes of this paragraph means a service in which the temperature is controlled by the process and not by atmospheric conditions.

* * * * *

(d) Weldments and all materials used in pressure vessel type cargo tanks operating at ambient temperatures and constructed of materials listed in Table UCS–23 must pass Charpy impact tests in accordance with UG–84 at a temperature of −20 °F or colder, except as provided by paragraphs (d)(1), (d)(2), and (d)(3) of this section. The average impact energies for each set of three Charpy specimens must not be less than the impact energy shown in Table 54.2510(d). Only one specimen in a set may have an impact energy below the average shown in the table and its impact energy must not be less than 75% of the average shown in the table.

(1) Charpy impact tests are not required for any of the following ASTM materials if the thickness for each is ⅝ inch or less, unless otherwise indicated.

(i) A–182, normalized and tempered.

(ii) A–302, Grades C and D.

(iii) A–336, Grades F21 and F22 that are normalized and tempered.

(iv) A–387, Grades 21 and 22 that are normalized and tempered.

(v) A–442, Grade 55 with a nominal thickness of 1" or less.

(vi) A–516, Grades 55 and 60.

(vii) A–553, Grades B anc C.

(viii) All other plates, structural shapes and bars, and other product forms, except for bolting, if produced to a fine grain practice and normalized.

(2) Charpy impact tests are not required for any of the following ASTM materials if the thickness for each is 1¼ inch or less:

(i) A–203.

(ii) A–442, produced to a fine grain practice and normalized.

(iii) A–508, Class 1.

(iv) A–516, normalized.

(v) A–524.

(vi) A–537.

(vii) A–612, normalized.

(viii) A–662, normalized.

(ix) A–724, normalized.

(3) Charpy impact tests are not required for any of the following bolt materials:

(i) A–193, Grades B5, B7, B7M, and B06.

(ii) A–307, Grade B

(iii) A–325, Type 1.

(iv) A–449.

TABLE 54.25–10(d)

[Charpy V-notch impact requirements for full size (10 x 10 mm) specimens]

Yield strength [1]	Nominal thickness of material [1] (in inches)	Charpy V-notch impact energy, foot-pounds, average for 3 specimens
<38,000 psi	<2⅜	15
	>3	18
45,000 psi	<1⅝	15
	>3	22.5
50,000 psi	<1⅜	15
	>3	26

TABLE 54.25–10(d)—Continued

[Charpy V-notch impact requirements for full size (10 x 10 mm) specimens]

Yield strength [1]	Nominal thickness of material [1] (in inches)	Charpy V-notch impact energy, foot-pounds, average for 3 specimens
55,000 psi	<1¾	20
	>3	30
>65,000 psi	<1¼	20
	>3	36.5

[1] For intermediate values, interpolate between yield strength and nominal thickness of material.

PART 98—[AMENDED]

13. The authority citation for Part 98 is revised to read as follows:

Authority: 46 U.S.C. 3703, 49 CFR 1.46(n)(4).

14. By revising the title of Subpart 98.01 to read as follows:

Subpart 98.01—General

15. By revising the title of § 98.01–1 to read as follows:

§ 98.01–1 Applicability.

16. By adding § 98.01–3 to read as follows:

§ 98.01–3 Incorporation by reference.

(a) In this part, portions or the entire text of certain standards are incorporated by reference as the governing requirements for materials, equipment, tests or procedures to be followed. These standards and specification requirements specifically referred to in this part are the governing requirements for the subject matters covered, unless specifically limited, modified, or replaced by the regulations.

(b) These materials are incorporated by reference into this part under 5 U.S.C. 552(a) with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the ones listed in paragraph (c) of this section, notice of change must be published in the Federal Register and the material made available. All approved material is on file and available for examination at U.S. Coast Guard Headquarters, Room 1400, 2100 2nd Street, SW., Washington, DC, 20593–0001. Copies may be obtained

from the sources indicated in paragraph (c) of this section.

(c) The materials approved for incorporation by reference in this part are:

American Society for Nondestructive Testing (ASNT), P.O. Box 21142, Columbus, OH, 43221, SNT-TC-1A "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification" (1986).

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017, ASME Boiler and Pressure Vessel Code Section V, Nondestructive Examination (1986).

17. By amending 98.25–95 by revising paragraph (a) to read as follows:

§ 98.25–95 Tests and inspections.

(a) Each tank shall be subjected to the tests and inspections described in this section in the presence of a marine inspector, except as otherwise provided in this part.

(1) An internal inspection of the tank is conducted within—

(i) Ten years after the last internal inspection if the tank is a pressure-vessel type cargo tank on an unmanned barge described under § 151.02–25(c) of this chapter and carrying cargo at temperatures of −67°F (−55°C) or warmer; or

(ii) Eight years after the last internal inspection if the tank is of a type other than that described in paragraph (a)(l)(i) of this section.

(2) An external examination of unlagged tanks and the visible parts of lagged tanks is made at each biennial inspection. The owner shall ensure that the amount of insulation deemed necessary by the marine inspector is removed from insulated tanks during each internal inspection to allow spot external examination of the tanks and insulation, or the thickness of the tanks may be gauged by a nondestructive means accepted by the marine inspector without the removal of insulation.

(3) If required by the OCMI, the owner shall conduct nondestructive testing of each tank in accordance with § 98.25–97.

(4) If the tank has an internal inspection interval of 10 years, the owner shall conduct nondestructive testing of each pressure vessel cargo tank in accordance with § 98.25–97, during the 25th year after the date of delivery and during each fifth year thereafter.

* * * * *

18. By adding § 98.25–97 to read as follows:

§ 98.25–97 Nondestructive testing.

(a) Before nondestructive testing can be conducted to meet § 98.25–95(a) (3) and (4), the owner shall submit a proposal to the OCMI that includes-

(1) The test methods and procedures to be used, all of which must meet section V of the ASME Boiler and Pressure Vessel Code (1986);

(2) Each location on the tank to be tested; and

(3) The test method and procedure to be conducted at each location on the tank.

(b) If the OCMI rejects the proposal, the OCMI informs the owner the reasons why the proposal is rejected.

(c) If the OCMI accepts the proposal, then the owner shall ensure that—

(1) The proposal is followed; and

(2) Nondestructive testing is performed by personnel meeting "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification," SNT-TC–1A (1986).

(d) Within 30 days after completing the nondestructive test, the owner shall submit a written report of the results to the OMCI.

PART 151—[AMENDED]

19. The Authority citation for Part 151 is revised to read as follows:

Authority: 46 U.S.C. 3703, 49 CFR 1.46(n)(4).

20. By adding § 151.01–2 to read as follows:

§ 151.01–2 Incorporation by reference.

(a) In this part, portions or the entire text of certain standards are incorporated by reference as the governing requirements for materials, equipment, tests or procedures to be followed. These standards and specification requirements specifically referred to in this part are the governing requirements for the subject matters covered, unless specifically limited, modified, or replaced by the regulations.

(b) These materials are incorporated by reference into this part under 5 U.S.C. 552(a) with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the ones listed in paragraph (c) of this section, notice of change must be published in the **Federal Register** and the material made available. All approved material is on file and available for examination at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20593–0001, and at U.S. Coast Guard Headquarters, Room 1400, 2100 2nd Street, SW., Washington, DC 20593–0001. Copies may be obtained from the sources indicated in paragraph (c) of this section.

(c) the materials approved for incorporation by reference in this part are:

American Society for Nondestructive Testing (ASNT), P.O. Box 21142, Columbus, OH 43221, SNT-TC-1A "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification" (1986).

American Society of Mechanical Engineers, United Engineering Center, 3345 East 47th Street, New York, NY 10017, ASME Boiler and Pressure Vessel Code, Section V, Nondestructive Examination (1986).

§ 151.01–5 [Removed and Reserved]

21. By removing and reserving § 151.01–5.

§ 151.03–37 [Amended]

22. By amending § 151.03–37 by changing the Arabic numeral "8" to the Roman numeral "VIII", in the first sentence.

23. By adding § 151.03–38 to read as follows:

§ 151.03–38 Nondestructive testing.

Nondestructive testing includes ultrasonic examination, liquid penetrant examination, magnetic particle examination, rediographic examination,and acoustic emission.

24. By amending § 151.04–5 by revising the introductory text of paragraph (b), revising paragraph (b)(3), removing and reserving paragraph (c)(2), redesignating paragraphs (d) through (i) as paragraphs (f) through (k) respectively, and adding paragraphs (d), (e), and (l) and a note that follows paragraph (e), to read as follows:

§ 151.04–5 Inspection for certification.

* * * * *

(b) Unless otherwise specified in Table 151.05, cargo tanks are internally examined as follows:

* * * * *

(3) If the tank is a pressure-vessel type cargo tank, an internal inspection of the tank is conducted within—

(i) Ten years after the last internal inspection on an unmanned barge carrying cargo at temperatures of −67° F (−55 °C) or warmer; or

(ii) Eight years after the last internal inspection if the tank is a pressure type cargo tank carrying cargo at temperatures colder than −67° F (−55 °C).

* * * * *

(d) If, in addition to the internal and external examinations required in paragraphs (b) and (c) of this section, the Office in Charge, Marine Inspection requires nondestructive testing of tanks, the owner shall conduct the nondestructive testing in accordance with § 151.04–7.

(e) If the Officer in Charge, Marine Inspection, considers a hydrostatic test necessary to determine the condition of the tanks, the owner shall perform a hydrostatic test in 1½ times the tank's maximum allowable pressure, as determined by the safety relief valve setting, or in the case of cargo tanks operating at maximum allowable pressures reduced below the design pressure in order to satisfy special mechanical stress relief requirements, the owner shall perform the hydrostatic test at a pressure of 1½ times the design pressure.

Note.—See § 54.30–10 of Subchapter F (Marine Engineering) of this chapter for information on design pressure.

* * * * *

(l) During the 25th year after the date of delivery and during each fifth year thereafter, the owner shall conduct nondestructive testing of each pressure vessel cargo tank in accordance with § 151.04–7, if the tank has an internal inspection interval of 10 years.

25. By adding § 151.04–7 to read as follows:

§ 151.04–7 Nondestructive testing.

(a) Before nondestructive testing can be conducted to meet § 151.04–5 (d) and (k), the owner shall submit a proposal to the OCMI that includes—

(1) The test methods and procedures to be used all of which must meet section V of the ASME Boiler and Pressure Vessel Code (1986);

(2) Each location on the tank to be tested: and

(3) The test method and procedure to be conducted at each location on the tank.

(b) If the OCMI rejects the proposal, the OCMI informs the owner the reasons why the proposal is rejected.

(c) If the OCMI accepts the proposal, then the owner shall ensure that—

(1) The proposal is followed: and

(2) Nondestructive testing is performed by personnel meeting "Recommended Practice for Nondestructive Testing Personnel Qualification and Certification," SNT–TC–1A (1986).

(d) Within 30 days after completing the nondestructive test, the owner shall submit a written report of the results of the OCMI.

§ 151.05 [Amended]

26. By amending Table 151.05—Summary of Minimum Requirements by amending the column entitled "Tank internal inspect. period—years" by changing the numeral "8" to the figure "G" for the following cargoes listed in the column entitled "Cargo identification/Name/Pressure/Temp.":

Ammonia, anhydrous/Press/Amb
Butadiene, butene mixture (inhibited)(containing acetylenes)/Press/Amb
Butadiene, inhibited/Press/Abm
Dichlorodifluoro-methane/Press/Amb
Dimethylamine/Press/Amb
Monochlorodifluoromethane/Press/Amb

27. By amending Table 151.05—Summary of Minimum Requirements by amending the column entitled "Tank internal inspect. period—years" for the cargo "Hydrogen fluoride (3)/Press/Amb" (listed in column "Cargo Identification/Name/Pressure/Temp") by changing the figure "G" to the numeral "8", for the cargo "Propylene oxide/Press/Amb" (listed in the column entitled "Cargo Identification/Name/Pressure/Temp") by changing the numeral "4" to the figure "G", and by amending the column entitled "Special Requirements (Section, " for the cargo "Sulfur dioxide/Press/Amb" (listed in the column entitled "Cargo Identification/Name/Pressure/Temp") by removing the section number "151.50–35" and inserting "151.50–84".

§ 151.50–10 [Amended]

28. Redesignate § 151.50–10(p) as § 151.50–12(o).

29. By amending § 151.50–10 by redesignating paragraphs (q) and (r) as (p) and (q) respectively.

§ 151.50–32 [Amended]

30. By amending § 151.50–32 by removing and reserving paragraph (h).

§ 151.50–35 [Removed]

31. By removing § 151.50–35.

Signed: August 31, 1987.

J.W. Kime,

RADM, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87–20336 Filed 9–4–87; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Six-Month Extension on the Proposed Rule for Eriogonum humivagans (Spreading Wild-buckwheat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of deadline and comment period.

SUMMARY: The Service extends for 6 additional months the 1-year deadline on a proposed rule to list *Eriogonum humivagans* (spreading wild-buckwheat) as endangered under the authority of the Endangered Species Act of 1973, as amended (Act). Since the proposed rule was published, a Service botanist has made additional *Eriogonum* collections that provide new information on the taxonomic validity and distribution of *Eriogonum humivagans*. The extension period will allow time to send specimens to authorities for identification and then for a more complete analysis of the plant's taxonomic status and distribution. Comments are solicited.

DATES: With this six-month extension, the new deadline for a final determination of status will be October 7, 1987. A new comment period will commence with the publication of this notice and will close on October 8, 1987.

ADDRESSES: The file for this notice is available for inspection, by appointment, during normal business hours at the Fish and Wildlife Enhancement Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104, or at the Service's Fish and Wildlife Enhancement Office, Independence Plaza, Suite B113, 529 25 ½ Road, Grand Junction, Colorado 81505.

FOR FURTHER INFORMATION CONTACT: John L. Anderson, at the Grand Junction address above (303/241–0563 or FTS 322–0348), or John L. England at the Salt Lake City address (801/524–4430 or FTS 588–4430).

SUPPLEMENTARY INFORMATION:

Background

Eriogonum humivagans (spreading wild-buckwheat), a member of the buckwheat family, was proposed for listing as an endangered species in the April 7, 1986, **Federal Register** (51 FR 11880). This species had only been recognized from the vicinity of the type

locality east of Monticello in San Juan County, Utah, where it occurs on outcrops of heavy clay soil of the Mancos shale. Much of the surrounding area is cultivated for dryland farming. The loss of habitat to intensive agriculture was cited in the proposed rule as the primary factor threatening the species.

Previous surveys for *Eriogonum humivagans* have been concentrated in Utah. The potential habitat of heavy clay soils is limited there, and few occurrences of *Eriogonum humivagans* have been found, making it a narrowly distributed endemic. In the type description, Reveal (1968) related *Eriogonum humivagans* to *Eriogonum scoparium* of western Colorado and *Eriogonum nudicaule* of northern New Mexico. These two species have subsequently been combined with *Eriogonum lonchophyllum*, a highly variable suffruticose species of western Colorado and northern New Mexico whose type locality is on the Rio Blanco River south of Pagosa Springs, Colorado (Reveal 1976, Torrey and Gray 1870). While discussing *Eriogonum humivagans*, Reveal (1967) stated that little fall botanizing had been done in the area from Monticello southeast to Cortez, Colorado. *Eriogonum humivagans* was then thought to be disjunct by at least 50 miles from the nearest known occurrences of *Eriogonum lonchophyllum* in Colorado. The type locality of *Eriogonum humivagans* is only 5 miles from the Colorado State line, and large outcrops of potential habitat extend eastward into Colorado. In the fall of 1986, a Service botanist made extensive *Eriogonum* collections between the type locality and Cortez and Naturita, Colorado, approximately 50 miles to the southeast and northeast, respectively. These collections narrow the geographic gap between *Eriogonum humivagans* and *Eriogonum lonchophyllum* and raise the question of the distinctness and overall distribution of the two species. More time is needed to analyze these new data. Therefore, the Service, under section 4(b)(6)(B)(i) of the Act, extends for 6 months the 1-year deadline for making a final status determination on the spreading wild-buckwheat. Future actions on the proposed listing of this species depend on the results of this analysis. After a thorough analysis of the data, the Service will decide either to continue with the final listing of the species or to withdraw the proposal for *Eriogonum humivagans* as provided under section 4(b)(6)(B)(ii) of the Act.

References Cited

Reveal, J.L. 1967. Notes on *Eriogonum*—V. A revision of the *Eriogonum corymbosum* complex. Great Basin Naturalist 27:183–229.

Reveal, J.L. 1968. New species of *Eriogonum* from Utah. Madrono 9:289–300.

Reveal, J.L. 1976. Eriogonum (Polygonaceae) of Arizona and New Mexico. Phytologia 34:409–484.

Torrey, J. and A. Gray 1870. A Revision of the Eriogoneae. Proc. Amer. Acad. Arts. 8:173.

Authors

The primary author of this notice is John Anderson, Botanist, Fish and Wildlife Enhancement Office, U.S. Fish and Wildlife Service, Grand Junction, Colorado. John England, Botanist, Fish and Wildlife Enhancement Office, U.S. Fish and Wildlife Service, Salt Lake City, Utah, served as editor (see addresses section above).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 95–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: August 26, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–20515 Filed 9–4–87; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Nonessential Experimental Population Status for Introduced Population of Yellowfin Madtom

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to reintroduce a small catfish, the yellowfin madtom (*Noturus flavipinnis*) (federally listed as a threatened species), into the North Fork Holston River, Smyth County, Virginia, and determine any resultant population in Virginia and Tennessee to be a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of the Act authorizes nonessential populations to be treated as if they were proposed species for purposes of the review of other Federal agency actions under section 7 (see 50 CFR 17.83). The yellowfin madtom once likely inhabited many of the lower gradient streams of the Tennessee River basin upstream of Chattanooga, Tennessee. Presently, populations are confined to only three stream reaches in the Tennessee River valley. This action is being taken in an effort to reestablish the yellowfin madtom within its historic range. Comments and information pertaining to this proposal are sought from the public.

DATE: Comments from all interested parties, including the States of Tennessee and Virginia and the public, must be received by November 9, 1987.

ADDRESS: Interested parties or organizations are requested to submit comments to the Field Supervisor, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321). Comments and materials relating to this proposed rule are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins (704/259–0321 or FTS 672–0321) at the above address.

SUPPLEMENTARY INFORMATION:

Background

Among the significant changes made by the Endangered Species Act Amendments of 1982, Pub. L. 97–304, was the creation of a provision (section 10(j)) which provides for the designation of specific populations of listed species as nonessential experimental populations. Under previous authorities in the Act, the Service was permitted to reintroduce populations into unoccupied portions of a listed species' historic range when it would foster the conservation and recovery of the species. Local opposition to reintroduction efforts, however, stemming from concerns about the restrictions and prohibitions on private and Federal activities contained in sections 7 and 9 of the Act, severely handicapped the effectiveness of this as a management tool. Under section 10(j) of the 1982 Amendments, past and future reintroduced populations established outside the current range but within the species' historic range, may be designed, at the discretion of the Service, as experimental populations or nonessential experimental populations. Experimental population status allows the Service to treat an endangered species as threatened for the purposes of section 9 of the Act. Species listed as

threatened can be managed with greater flexibility, especially regarding incidental take and regulated taking. As the yellowfin madtom is already listed as a threatened species with special rules (50 CFR 17.43) which provide that the fish may be taken in accordance with applicable State law, the species' status relative to section 9 will remain the same for any introduced populations. Nonessential populations are experimental populations found to be nonessential to the continued existence of the species. These populations are treated as if the species were only proposed for listing under section 7 (except to subsection a(1)). Therefore, they are not subject to the provisions of section 7(a)(2) of the Act, which requires Federal agencies to ensure that their activities are not likely to jeopardize the continued existence of a listed species. However, two provisions of section 7 would apply on these non-Service lands: Section 7(a)(1), which authorizes all Federal agencies to establish conservation programs; and section 7(a)(4), which requires Federal agencies to confer informally with the Service on actions that are likely to jeopardize the continued existence of the species. Neither of these provisions will legally bar actions on projects which might impact this experimental population. The organisms used to establish an experimental population will only be removed from an existing source if (1) the removal will not jeopardize the continued existence of the species and (2) a permit has been issued for the take of the donor organisms in accordance with the requirements of 50 CFR 17.31.

The yellowfin madtom was listed as a threatened species with critical habitat on September 9, 1979 (42 FR 45527). The species was probably once widely distributed in many lower gradient streams of the Tennessee River drainage upstream of the Chattanooga, Tennessee, area (Jenkins 1975). The species' present distribution (Burkhead and Jenkins 1982, Shute 1984) is represented by only three known populations (Citico Creek, Monroe County, Tennessee; Powell River, Hancock County, Tennessee; and Copper Creek, Scott and Russell Counties, Virginia). Three other known populations (Chickamauga Creek, Catoosa County, Georgia; Hines Creek, Anderson County, Tennessee; and North Folk Holston River, Smyth County, Virginia) are believed to have been extirpated primarily due to human-related factors (impoundments, pollution, habitat modification, etc.).

The yellowfin madtom occupies small-to-medium-sized (25 to 135 feet wide) warm water streams with moderate current and clean water with little siltation (Jenkins 1975). The species is generally associated with cover (undersides of flat rocks, detritus, and stream banks) (Jenkins 1975, Shute 1984).

Good habitat for the yellowfin madtom is currently located in the North Fork Holston River, Smyth County, Virginia. The establishment of an experimental population in this now unoccupied historic habitat will greatly enhance the recovery potential of this species. It is proposed, during the late summer or early fall of 1987, that 100 to 200 captive-reared madtoms (taken in the spring and summer of 1987 from nests on Citico Creek, Monroe County, Tennessee) will be introduced into one or two pools on the North Fork Holston River, Smyth County, Virginia. The techniques for rearing and transplanting the species were developed in 1986 when a reintroduction was made into Abrams Creek, Blount County, Tennessee. The success of this introduction attempt will be evaluated in the summer and fall of 1987.

Based on studies conducted on the Citico Creek population (Shute 1984; David Etnier, Peggy Shute, and Randy Shute, personal communication, 1986), it is believed that approximately 125 yellowfin madtom clutches exist in the creek each year. The yellowfin madtom has a clutch size of about 90 eggs. Three to four nests would be taken, and, allowing for mortality, these would yield the desired 100 to 200 individuals for stocking. The removal of three to four nests represents only about 13 percent of the total clutches. This amount of loss is well within the limit of natural loss that would likely occur on an average reproductive year (D. Etnier, P. Shute, and R. Shute, personal communication, 1986). Therefore, the Service believes the removal of the animals from Citico Creek to be used in the North Fork Holston River transplant is not likely to jeopardize the continued existence and viability of the Citico Creek population. Furthermore, the creation of this experimental population, as proposed, will further the conservation of the species throughout its range.

Status of Reintroduced Population

This reintroduced population of yellowfin madtoms is proposed to be designated as a nonessential experimental population according to the provisions of section 10(j) of the Act. The nonessential experimental population status, which is necessary to gain the acceptance of the Virigina Commission of Game and Inland Fisheries, is appropriate for the yellowfin madtom for the following reasons: Reproducing populations of the yellowfin madtom presently exist in three river reaches. The removal of individuals from the extant population in Citico Creek, Monroe County, Tennessee, is not expected to adversely affect the viability of that population (see Background section above). Therefore, the loss of the introduced population would not reduce the likelihood of the survival of the species in the wild. In fact, the anticipated success of this reintroduction will enhance the species' recovery potential by extending its current range and reoccupying currently unutilized historic habitat.

Location of Reintroduced Population

The site proposed for reintroduction of the yellowfin madtom is totally isolated from existing populations of the species. The madtom will be released into the North Fork Holston River, Smyth County, Virginia. This site is separated from other existing populations by both Tennessee River and tributary reservoirs, and the fish is not known from any of these reservoirs or intervening river sections. These reservoirs and river sections will act as barriers to any movement by the fish and assure that the Holston River population will remain geographically isolated and easily identifiable as a distinct population.

Management

This translocation project will be a joint cooperative effort among the Virginia Commission of Game and Inland Fisheries, the Tennessee Wildlife Resources Agency, and the U.S. Fish and Wildlife Service. Present plans call for the release of 100 to 200 young-of-the-year animals in the late summer or early fall of 1987. Subsequent releases will be made contingent on funds in 1988 and 1989. Released animals will be monitored to determine survival, reproductive success, and general health.

This proposed nonessential experimental population would be treated as a threatened species under all provisions of the Act, except section 7. Under section 7 (other than subsection (a)(1) thereof) the nonessential experimental population shall be treated as a species proposed to be listed under the Act as a threatened species. All of the prohibitions referred to in 50 CFR 17.31 would apply to this population. In addition, members of this experimental

population could be taken in accordance with applicable State laws. Thus, if a fisherman accidentally took a member of this experimental population based upon a misidentification of the species, there would be no violation of Federal law.

Public Comments Solicited

The Service intends that any rule finally adopted be as effective as possible. Therefore, comments or recommendations concerning any aspect of this proposed rule are hereby invited to be submitted (see **"ADDRESSES"** section) from the public, concerning government agencies, the scientific community, industry, or any other interested party. Comments should be as specific as possible.

Final promulgation of a rule to implement this proposed action will take into consideration any comments or additional information received by the Service. Such communications may lead to a final rule that differs from this proposal.

National Environmental Policy Act

A draft environmental assessment under the National Environmental Policy Act has been prepared and is available to the public at the Service's Asheville Field Office (see **"ADDRESSES"** section), Atlanta Regional Office (U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303), or the Office of Endangered Species, U.S. Fish and Wildlife Service, 1000 N. Glebe Road, Arlington, Virginia 22201 (202/235–2760). This assessment will form the basis for a decision, to be made prior to the publication of a final rule, as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500 through 1508).

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291 and that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354). No private entities will be affected by this action. The rule as proposed does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Reference Cited

Burkhead, N.M., and R.E. Jenkins. 1982. Five-year status review of the yellowfin madtom, *Noturus flavipinnis,* a threatened ictalurid catfish of the Tennessee drainage. Unpublished report to the U.S. Fish and Wildlife Service. 10 pp.

Jenkins, R.E. 1975. Status of the yellowfin madtom, *Noturus flavipinnis.* Unpublished report to U.S. Off. Endang. Spec. Internat. Activities, Washington. 11 pp.

Shute, P.W. 1984. Ecology of the rare yellowfin madtom *(Noturus flavipinnis)* Taylor, in Citico Creek, Tennessee. Masters thesis. University of Tennessee, Knoxville, TN. 100 pp.

Authors

The principal author of this proposal is Richard G. Biggins (see **ADDRESSES** section) (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 et seq.); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

§ 17.11 [Amended]

2. It is proposed to amend § 17.11(h) by revising the entry "Madtom yellowfin" under FISHES to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Madtom, yellowfin	*Noturus flavipinnis*	U.S.A. (GA, TN, VA)	Entire, except where listed as experimental population below..	T	28	17.95(e)	17.44(c)
Do	do	do	North Fork Holston River and tributaries, VA, TN; South Fork Holston River and tributaries upstream to Ft. Patrick Henry Dam, TN; and Holston River and tributaries downstream to John Sevier Detention Lake Dam, TN..	XN			17.84(e)

§ 17.84 [Amended]

3. It is proposed that Title 50 CFR 17.84 be amended by adding new paragraph (e) as follows:

§ 17.84 Special rules—vertebrates

* * * * *

(e) Yellowfin madtom (*Noturus flavipinnis).* (1) The yellowfin madtom population identified in paragraph (e)(4) of this section is a nonessential experimental population.

(2) All prohibitions and exceptions listed in § 17.31 and 17.32 apply to this population identified in paragraph (e)(4)

of this section except that it may also be incidentally taken while engaging in fishing, river management, flood control, and other activities authorized by applicable State laws and regulations.

(3) Any violation of State law regulating the take of this species will also be a violation of the Endangered Species Act.

(4) The site for reintroduction of the yellowfin madtom is totally isolated from existing populations of this species by large Tennessee River tributaries and reservoirs. The reintroduction site is within the historic range of this species and is located in the North Fort Holston River in Smyth County, Virginia. It is possible that the species might become established throughout the North Fork Holston River and its tributaries in Virginia and Tennessee, and into the South Fort Holston River and tributaries in Tennessee as far upstream as Fort Patrick Henry Dam, and into the Holston River and tributaries in Tennessee as far as the John Sevier Detention Lake Dam. As the species is not known to inhabit reservoirs and it is unlikely that they could move 100 river miles through these large reservoirs, the possibility of this population contracting extant wild populations is unlikely.

(5) The reintroduced population will be checked periodically to determine its condition. Of special concern will be the annual reproductive success of the population. The movement patterns of the released individuals and the overall health of the population will also be observed.

Dated: June 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-20573 Filed 9-4-87; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 52, No. 173
Tuesday, September 8, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Date: Monday, September 14, 1987.

Time: 2:00 p.m.

Location: Department of Commerce, 14th & Constitution Avenue, NW., Room 5859, Washington, DC.

Agenda: (1) Akin, Gump, Strauss, Hauer & Feld's project on agency use of settlement judges; (2) Professor Martin White's study of agency implementation of the Debt Collection Act; and (3) Other pending projects on agency use of alternative means of dispute resolution.

Contact: Charles Pou, Jr., 202–254–7065.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Jeffrey S. Lubbers,

Research Director.

September 2, 1987.

[FR Doc. 87–20551 Filed 9–4–87; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Enterprise; Citizens' Advisory Committee on Equal Opportunity; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), this announcement is made of the final FY 87 meeting of the following committee:

Name: Citizens' Advisory Committee on Equal Opportunity.

Date: September 28–30, 1987.

Place: Embassy Suites, 220 West 43rd Street, Kansas City, Missouri 64111.

Time: 8:30 a.m.–5:00 p.m.

Purpose:

—Review all aspects of the U.S. Department of Agriculture's policies, practices, and procedures on Equal Opportunity;

—Recommend changes in Department rules, regulations, and orders to ensure USDA activities are free of discrimination;

—Advise the Secretary on the effectiveness of compliance program directives;

Additionally, the Committee will focus on:

—Employment, constituent services, and operational programs in the Agricultural Stabilization and Conservation Service (ASCS).

—Follow-up reports on implementation strategies to make Secretary Lyng's initiative on equal opportunity a reality, and;

—An in-depth discussion of compliance reviews completed thus far.

The meeting is open to the public. Persons may participate in the meeting as time and space permit. Persons who wish to address the Committee at the meeting or who wish to file written comments before or after the meeting should contact: Naomi Churchill, Esq., Associate Director, Equal Opportunity, Office of Advocacy and Enterprise, 14th & Independence Avenue, SW., Room 1226 South Building, Washington, DC 20250 (202) 447–5681.

Written statements may be submitted until September 21.

Naomi Churchill,

Associate Director, Equal Opportunity.

[FR Doc. 87–20570 Filed 9–4–87; 8:45 am]

BILLING CODE 3410–94–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Income and Program Participation 1988 Panel Core, Waves 108
Form Number: Agency—SIPP–8100 to 8800, SIPP–8001, and SIPP–8105; OMB—0607–0425
Type of Request: Revision of a currently approved collection
Burden: 24,360 respondents; 24,360 reporting hours
Needs and Uses: This survey is needed to provide statistics, not previously available, for the Executive and Legislative Branches, such as multiple recipiency of benefits of major government programs, to support policy analyses, and monthly program participation. The data requirements include income, employment and household composition, taxes, assets, in-kind income, and related subjects to estimate the effects of Executive and Legislative decisions.
Affected Public: Individuals or households
Frequency: Three times per year
Respondent's Obligation: Voluntary
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Duplicate Address Followup Questionnaire—1988 Dress Rehearsal Census
Form Number: Agency—DX–1000; OMB—NA
Type of Request: New collection
Burden: 500 respondents; 42 reporting hours
Needs and Uses: This survey will collect data which will be used to determine how well Census Bureau staff can resolve duplicate addresses in the field without access to the identification information recorded by the postal service. Results will be used in planning ways to simplify the role of the USPS in the 1990 Census.
Affected Public: Individuals or households

Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult

Copies of the above information collection proposals 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 collections should be sent to Francine Picoult, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: September 1, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–20574 Filed 9–4–87; 8:45 am]

BILLING CODE 3510–07–M

Bureau of the Census

Intercity, Rural, and Charter Bus Transportation Survey; Consideration

The Bureau of the Census hereby gives notice that we plan to conduct the 1988 Intercity, Rural, and Charter Bus Transportation Survey. This annual mandatory survey will be conducted under authority of Title 13, United States Code, sections 131, 182, 224, and 225, and will collect data on 1986 and 1987 revenues and expenses of firms engaged in providing intercity, rural, and charter bus transportation services.

This survey will be a continuing and timely source of economic data for the intercity, rural, and charter bus industries. Such a survey, if conducted, shall begin not earlier than March 1, 1988.

Information and recommendations received by the Bureau of the Census show that the data have significant application to the information needs of the public; the intercity, rural, and charter bus industries; and governmental agencies. The data are not publicly available from nongovernmental or other governmental sources on a continuing basis.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233

Any suggestions or recommendations concerning this proposed survey will receive consideration if submitted in writing to the Director, Bureau of the Census, within 30 days of publication of this notice in the **Federal Register**. For additional information, you may call Michael S. McKay, Chief, Organization and Management Systems Division, Bureau of the Census, on (301) 753–7452.

Dated: August 31, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87–20531 Filed 9–4–87; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Order No. 358]

Resolution and Order Approving Application of City of Salem Port Authority for Foreign-Trade Zone in Salem, NJ, Area

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Salem Port Authority, filed with the Foreign-Trade Zones Board (the Board) on April 30, 1985, and amended on June 30, 1986, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in Salem and Millville, New Jersey, within the Philadelphia Consolidated Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in the Salem, NJ, Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Salem Port Authority (the Grantee), has made application (filed April 30, 1985, Docket 8–85, 50 FR 20816, and amended on June 30, 1986, 51 FR 24427) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Salem and Millville, New Jersey, within the Philadelphia Consolidated Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 142 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance

of said zone, and in no event shall the United States be liable.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 25th day of August 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board

Clarence J. Brown,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-20575 Filed 9-4-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-427-098]

Final Results of Antidumping Duty Administrative Review; Anhydrous Sodium Metasilicate From France

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 24, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. The review covers one manufacturer of this merchandise and the period January 1, 1985 through December 31, 1985.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, the final results have not changed from those presented in the preliminary results of review.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelleher or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 9320) the preliminary results of its administrative review of the antidumping duty order on anhydrous sodium metasilicate from France (46 FR 1667, January 7, 1981). The petitioner, PQ Corporation, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of anhydrous sodium metasilicate ("ASM"), a crystalline silicate (Na_2Si0_3) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore-flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. ASM is currently classifiable under item number 421.3400 of the Tariff Schedules of the United States Annotated.

The review covers one exporter of French ASM, Rhone Poulenc, and the period January 1, 1985 through December 31, 1985.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the respondent.

Comment 1: Rhone Poulenc contends that it submitted adequate information on the record to support a preliminary determination. Despite the fact that the information was unclear, awkward to use, and not in the format requested, it is the best information available and the Department therefore must use it.

Department's Position: Rhone Poulenc's submissions remain unclear and/or inadequate in various respects, as described more fully in response to *Comment 3,* despite the Department's efforts to obtain clarification and all data needed to calculate accurate U.S. prices and foreign market values. It is the respondent's responsibility to submit all requested information in a timely manner in a form which permits the Department to analyze it. The Department is not obligated to use inadequate, untimely, or incomplete information.

Comment 2: Rhone Poulenc maintains that for any portions of its response which were deficient the Department should use data from the most recently completed administrative review covering 1982, or its submission for the 1983 period. In addition, it contends that under the *Freeport* rule, the Department must use the most recent information available in an antidumping proceeding. Therefore, if the Department determines that the 1985 response is inadequate, for this review it must use information from the 1982 or 1983 responses.

Department's Position: The Department is properly using the margin from the fair value investigation for this review as best information available due to our inability to get adequate cooperation from the respondent in submitting information. In conducting our reviews we are dependent upon the cooperation of the respondent in supplying information for our analysis. Section 776 of the Tariff Act, which authorizes our use of the best information available in certain situations, is intended to encourage cooperation from parties in a proceeding. To use information from the previous two reviews, as respondent suggests, would, in effect, reward the respondent for its failure to provide adequate and timely responses during this review.

Respondent's reliance upon *Freeport Minerals* v. *United States,* 776 F.2d 1029 (CAFC 1985), is misplaced. That case simply held that the Department must look at up-to-date information in deciding whether to revoke an antidumping duty order. The *Freeport* case is irrelevant to the issue here, which is what data should be used as best information available where a respondent has not provided adequate information. In such cases we are authorized to use information that may be adverse to the interests of a respondent.

Comment 3: Rhone Poulenc argues that, even though the Department did not verify the 1985 questionnaire response, it is the best information available. The response was not inadequate and was submitted in the same format used for the prior review. Furthermore, the Department had ample time prior to publication of the preliminary results notice to inquire about further deficiences.

Department's Position: We are not declining to use Rhone Poulenc's 1985 submission as the best information available simply because it was not verified; rather, we are not using it because it was inadequate, incomplete, and untimely submitted. The Department acknowledges that a listing of U.S. resales was submitted in the supplementary response; however, the response remains inadequate for several reasons. Despite several requests,

Rhone Poulenc declined to submit computer tapes of its home market sales, citing the "relatively considerable expense." We note that portions of the response were in a computerized format and that a response for an earlier period is on a computer tape. We consider as inadequate any response not submitted in the request format (in this case, on a computer tape), absent the Department's approval of an exemption given prior to receipt of a response. We did not receive some requested financial statements, while others which were received after the preliminary results notice were submitted too late to be considered in this review. Also, since information regarding U.S. selling expenses was submitted only after publications of the preliminary results notice, it was untimely. Irrespective of its untimeliness, it was also inadequate because Rhone Poulenc did not adequately identify or quantify the U.S. expenses.

Comment 4: Rhone Poulenc contends that it is not required to submit the sales information on a computer tape if the firm does not maintain records in a computerized form or if it is an unreasonable additional burden to do so. Failure to submit the data on a computer tape should not be considered an inadequacy.

Department's Position: We disagree. See our position on *Comment 3*. Although Rhone Poulenc did finally submit home market sales information on a computer disk on May 12, 1987, this was almost two months after publication of the preliminary results notice. This submission was received too late to be considered in this review.

Final Results of the Review

Based on our analysis of the comments received, the final results have not changed from those presented in the preliminary results of review, and we determine that a margin of 60 percent exists for Rhone Poulenc for the period January 1, 1985 through December 31, 1985.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 60 percent shall be required. This deposit requirement is effective for all shipments of French anhydrous sodium metasilicate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

Date: August 20, 1987.

[FR Doc. 87-20576 Filed 9-4-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-701]

Postponement of Final Antidumping Duty Determination; Potassium Chloride From Canada

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On August 24 and 25, 1987, we received requests from two respondents in the antidumping duty investigation of potassium chloride from Canada that the final determination be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Pursuant to these requests, we are postponing our final antidumping duty determination as to whether sales of potassium chloride from Canada have been made at less than fair value until not later than January 8, 1988.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp or Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 377-1769, (202) 377-2613.

SUPPLEMENTARY INFORMATION: On March 5, 1987, we published a notice in the **Federal Register** that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of potassium chlorida from Canada are being, or are likely to be, sold at less than fair value (52 FR 6336). We issued our preliminary affirmative determination on August 20, 1987 (52 FR 32151, August 26, 1987). This notice stated that we would issue a final determination on or before November 3, 1987. On August 24 and 25, 1987, two respondents requested that we extend the period for the final determination until January 8, 1988, in accordance with section 735(a)(2)(A) of the Act. These respondents account for a significant proportion of exports of the subject merchandise to the United States, and thus are qualified to make these requests. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, we grant the request and postpone our final determination until not later than January 8, 1988.

The public hearing is also being postponed until 9:30 a.m. on November 16, 1987, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted in at least ten (10) copies to the Deputy Assistant Secretary by November 9, 1987.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

August 31, 1987.

[FR Doc. 87-20577 Filed 9-4-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-104]

Preliminary Results of Antidumping Duty; Administrative Review and Intent To Revoke; Strontium Nitrate From Italy

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and intent to revoke.

SUMMARY: In response to a request by petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on strontium nitrate from Italy. The review covers the one manufacturer/exporter of this merchandise and the period June 1, 1985 through May 31, 1986. The review indicates the existence of no dumping margins for the firm during the period.

As a result of the review, the Department intends to revoke the order.

Interested parties are invited to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 20354) a tentative determination to revoke the antidumping duty order on strontium nitrate from Italy (46 FR 32864, June 25, 1981).

On June 1, 1987, the Department published in the **Federal Register** (52 FR 20444) the final results of its last administrative review of the antidumping duty order on strontium nitrate from Italy. After the promulgation of our new regulations, the petitioner requested in accordance with § 353.53(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation on July 17, 1986 (51 FR 25923). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs Nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The Written description remains dispositive.

We are requesting petitioners to include the appropriate HS item numbers as well as the TSUSA item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultations in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of strontium nitrate, a chemical compound $Sr(NO_3)_2$, currently classifiable under TSUSA item 421.7400 and under HS item 2834.29.20. The review covers the one manufacturer/exporter of Italian strontrium nitrate, Societa Bario e Derivati S.p.A. ("SABED"), and the period June 1, 1985 through May 31, 1986.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed ex-factory price to an unrelated purchaser in the United States. No adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third-country (Mexican) prices, as defined in section 773 of the Tariff Act, since insufficient quantities of such or similar merchandise were sold in the home market during the period to provide a basis for comparison. Third-country price was based on the packed delivered warehouse price, Hamburg, West Germany, to unrelated purchasers in Mexico. We made adjustments, where applicable, for inland freight, and differences in credit expenses and packing costs. No other adjustments were claimed or allowed.

Preliminary Results of Review and Intent To Revoke

As a result of our comparison of United States price to foreign market value, we preliminarily determined that no dumping margins exist for SABED for the period June 1, 1985 through May 31, 1986.

Consequently, we intend to revoke the order on strontium nitrate from Italy. SABED made all sales at not less than fair value during the period June 25, 1981 through May 14, 1984, the date of our tentative determination to revoke, and during the additional review period June 1, 1985 through May 31, 1986. As provided for in § 353.54(e) of the Commerce Regulations, SABED has agreed in writing to an immediate suspension of liquidation and reinstatement of the order under circumstances as specified in the written agreement. If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after May 14, 1984.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request disclosure within 5 days of the date of publication and may request a hearing within 8 working days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, intent to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and sections 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Date: August 28, 1987.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-20578 Filed 9-3-87; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Intent To Grant Exclusive Patent License to Milton P. Radosevich

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Milton P. Radosevich, having a place of business at P.O. Box 3495, Peoria, IL 61614-0495, an exclusive right in the United States to practice the invention embodied in U.S. Patent Application S.N. 6-903,879, "Preparation of Multiple Gradients." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Robert P. Auber, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-20497 Filed 9-4-87; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission;
(2) Title of Information Collection and applicable OMB Control Number and Form Number;
(3) Abstract statement of the need for and the uses to be made of the information collected;
(4) Type of Respondent;
(5) An estimate of the number of responses;
(6) An estimate of the total number of hours needed to provide the information;
(7) To whom comments regarding the information collection are to be forwarded; and
(8) The point of contact from whom a copy of the proposed information collection may be obtained.

This information collection is as follows:

(1) New;
(2) Production Company Information Requirements;
(3) Producers wanting assistance from DoD in the production of entertainment-oriented projects must request it by letter. The producer must submit to DoD a copy of the script and a list of their needs from DoD. A determination will be made as to the feasibility and qualification of the project. If assistance is provided, the producer must provide promotional material/photos to DoD for historical documentation.
(4) Businesses and non-profit institutions;
(5) Current responses of 100;
(6) Current burden hours of 100.

ADDRESSES: (7) Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone 202/746–0933.

FOR FURTHER INFORMATION CONTACT: (8) A copy of the information collection proposal may be obtained from Mr. Vitiello, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone 202/746–0933.

Linda Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
September 2, 1987

[FR Doc. 87–20582 Filed 9–4–87; 8:45 am]
BILLING CODE 3810-01-M

Defense Logistics Agency

Privacy Act of 1974; Compute Matching Program Between the Department of Defense (DoD)/ Department of Education (ED)

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), Department of Defense.

ACTION: This action constitutes notice for public comment on a proposed new ongoing computer matching program between the Department of Defense (DoD) and the Department of Education (ED) for debt collection.

SUMMARY: The Department of Defense, under an interagency agreement with the Office of Management and Budget, Department of the Treasury and the Office of Personnel Management, announces a proposal to match by computer DoD employment records of active and retired military members, including the Reserve and Guard, and the OPM government-wide Federal civilian and retired civilian records with the records of individuals who are delinquent debtors in various Department of Education loan programs. The purpose of the match is to identify and locate Department of Education delinquent debtors who are receiving Federal salary or benefit payments so as to permit the Department of Education to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will be effective without further notice October 8, 1987, unless comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., Staff Director, Defense Privacy Office, Room 205, 400 Army Navy Drive, Arlington, VA 22202. Telephone: (202) 694–3027; Autovon: 224–3027.

SUPPLEMENTARY INFORMATION: This computer matching program is being conducted in order to identify and locate those individuals indebted and delinquent in their repayment to the U.S. Government under certain various Department of Education programs.

The Office of Management and Budget (OMB) has designated the Department of the Treasury, Financial Management Service, as the Lead Agency to coordinate and monitor the implementation of the government's Federal Salary Offset program. An interagency agreement, restricted exclusively to the implementation of the Debt Collection Act of 1982 (Pub. L. 97–365), established an Interagency Working Group to facilitate computer matching and subsequent salary offset throughout the Federal government under the auspices and oversight of the OMB. At the outset, this Interagency Working Group consists of the Department of the Treasury, Office of Personnel Management and the Department of Defense. As a result, a centralized computer data base for computer matching consisting of Department of Defense and Office of Personnel Management records has been established for debt collection purpose in order to have a data bank record of active and retired military members, including the Reserve and Guard, and the OPM government-wide civilian and retired civilian personnel that are receiving salaries or other Federal benefit payments. This established data bank is hosted and maintained by the Defense Manpower Data Center of the Department of Defense.

Set forth below is the information required by the paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656 May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on August 27, 1987, pursuant to the cited OMB matching guidelines.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
September 2, 1987.

Report of a New Ongoing Computer Matching Program Between the Department of Defense (DoD) and the Department of Education (ED)

a. Authority

The legal authority under which this computer match is being conducted is the Debt Collection Act of 1982 (Pub. L. 97–365); 5 U.S.C. 5514 (Installment deduction for indebtedness) the Privacy Act of 1974 (5 U.S.C. 552a); 10 U.S.C. 136; 4 CFR Chapter II; 34 CFR Part 31; and the Office of Management and Budget Revised Supplemental Guidance for Conducting Matching Programs (47 FR

21656, May 19, 1982) and Guidelines on the Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982 (48 FR 15556, April 11, 1983).

b. Program Description

The purpose of this computer matching program is to identify and locate individuals who are receiving Federal salaries or benefit payments that are indebted and delinquent in their repayment of debts to the United States Government under certain programs administered by the Department of Education in order to collect the debts by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

The Department of Education, as the source agency, will provide the Defense Manpower Data Center (DMDC) of the Department of Defense, the matching agency, a computer tape of all the individual delinquent debt records of those indebted to the U.S. Government under certain Department of Education programs.

Upon receipt of the computer tape file of debtor accounts, the DMDC will perform a computer match using all nine digits of social security numbers of delinquents against a DMDC computer data base. The DMDC computer data base, established under an interagency agreement, consists of records of active duty and retired military members including the Reserve and Guard and the OPM government-wide Federal civilian and retired civilian records.

Matching records, "hits" based on the SSN, will be furnished to the Department of Education consisting of the member's name, service or agency, category of employee, salary or benefit, and current work or home address from DMDC's data base records.

The Department of Education is responsible for reviewing the "hit" records to assure that the individual is positively identified in the match as the debtor; to assure that the debtor is afforded proper due process under Department of Education regulation (34 CFR Part 31) and that a proper accounting of any disclosures shall be maintained by in accordance with 5 U.S.C. 552a(c) of the Privacy Act. Department of Education will ensure that the debt is valid and the information is accurate, complete, timely and relevant. The notification shall include information concerning the amount to be collected, the amount of monthly deductions, and the debtor shall be given an opportunity to enter into voluntary agreement to repay the debt before any administrative or salary offset measures are initiated. The debtor shall be given an opportunity to inspect and copy records related to the debt and for review of the decision related to the debt. If not collection action is needed, the DoD record will not be used by the Department of Education for any other purposes.

c. Records to be Matched

The systems of records subject to the Privacy Act of 1974 to be matched are as follows:

(1) Department of Education (Source Agency)

System Identification: 18–40–0045.
System Name: Student Financial Assistant Collection Files (ED/OPE/OSFA).
Federal Register Citation: 46 FR 29649, June 2, 1981.
Amended: 47 FR 16833, April 20, 1982.
Amended: 47 FR 27885, June 28, 1982.

(2) Department of Defense (Matching Agency)

System Identification: S5322.10 DLA–LZ.
System Name: Defense Manpower Data Base.
Federal Register Citation: 51 FR 30104, August 22, 1986.
System Identification: OPM/GOVT–1.
System Name: General Personnel Records.
Federal Register Citation: 49 FR 36954, September 20, 1984.
System Identification: OPM/CENTRAL–1.
System Name: Civil Service Retirement and Insurance Records.
Federal Register Citation: 49 FR 36950, September 20, 1984.

d. Period of the Match

The initial match will begin as soon as possible after this public notice becomes effective as set forth under "**DATE**" in the preamble of this notice and then conducted no more often than semiannually thereafter.

e. Security Safeguards

Automated records are accessible only by password and access to the computer center is by key or picture identification. Hard copy records are maintained in Federal office buildings in lockable file cabinets and accessed only by authorized Federal employees on a need to know basis.

f. Retention and Disposition of Records

Under a written Memorandum of Understanding (MOU) agreement between the DoD and the Department of Education, it is agreed that records provided by Department of Education for the match shall be destroyed or returned to the Department of Education upon successful completion of the match and shall be used only for debt collection puroposes. DoD shall not duplicate or disseminate within or without the DoD the data provided by the Department of Education or any other source agencies. Non-hit records will not be used for any purposes. Hard copy matched records (hits) will be used by the Department of Education to conduct an individual review to determine continued benefit entitlement level and to contact the benefit recipient if necessary pursuant to the Debt Collection Act of 1982. The Department of Education will maintain a disclosure accounting, as required by 5 U.S.C. 552(c) of the Privacy Act as a result of the match.

[FR Doc. 87–20580 Filed 9–4–87; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.061F]

Invitation of Applications for New Awards; Indian Education Act of 1972, as Amended, Part B—Educational Personnel Development, Section 422 for Fiscal Year 1988

Purpose: Provides grants to (1) prepare persons to serve Indian students as educational personnel or ancillary educational personnel; (2) improve the qualifications of persons serving Indian students in these capacities; or (3) provide in-service training to persons serving Indian students in these capacities.

Deadline for Transmittal of Applications: November 16, 1987.

Applications Available: September 30, 1987.

Available Funds: The President's budget request for this program for fiscal year 1988 is $1,093,000, which would provide approximately $183,000 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 passage of the President's request

Estimated Range of Awards: $183,000.

Estimated Average Size of Awards: $183,000.

Estimated Number of Awards: 1.

Estimated Amounts for Stipends: For projects that involve the payment of stipends to participants, the estimated maximum stipend in fiscal year 1988 will be $600 per month for graduate students and $375 per month for undergraduate students. An estimated maximum allowance of $90 per month will be paid for each dependent.

Project Period: 12 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 256, 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, S.W., Room 2116, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 20 U.S.C. 3385a.

Dated: September 1, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87–20541 Filed 9–4–87; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.061F]

Invitation of Applications for New Awards; Indian Education Act of 1972, as Amended, Part B—Educational Personnel Development, Section 1005(d) for Fiscal Year 1988

Purpose: Provides grants to (1) prepare persons to serve Indian students as educational personnel or ancillary educational personnel; (2) improve the qualifications of persons serving Indian students in these capacities; or (3) provide in-service training to persons serving Indian students in these capacities.

Deadline for Transmittal of Applications: November 16, 1987.

Applications Available: September 30, 1987.

Available Funds: The President's budget request for this program for fiscal year 1988 is $1,169,000, which would provide approximately $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 passage of the President's request.

Estimated Range of Awards: $153,000.

Estimated Average Size of Awards: $153,000.

Estimated Number of Awards: 1.

Estimated Amounts for Stipends: For projects that involve the payment of stipends to participants, the estimated maximum stipend in fiscal year 1988 will be $600 per month for graduate students and $375 per month for undergraduate students. An estimated maximum allowance of $90 per month will be paid for each dependent.

Project Period: 12 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 256, 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. 3385(d).

Dated: September 1, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87–20542 Filed 9–4–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Restriction of Eligibility for Cooperative Agreement Award

AGENCY: Savannah River Operations Office, U.S. Department of Energy.

ACTION: Notice of restriction of eligibility for cooperative agreement award.

SUMMARY: DOE announces that it plans to award a cooperative agreement to the South Carolina Institute of Archaeology and Anthropology, University of South Carolina in the amount of $921,000 over a 5 year period beginning October 1, 1987 in support of archaeological research, collections management, and archaeological resource management on the Savannah River Plant. Pursuant to § 600.7(b) of the Financial Assistance Rules, 10 CFR Part 600, DOE has determined that eligibility for this cooperative agreement award shall be limited to the South Carolina Institute of Archaeology and Anthropology, University of South Carolina.

Procurement Request Number: 09–87SR15199.000.

Project Scope

South Carolina Institute of Archaeology and Anthropology (SCIAA), an agency of the State of South Carolina housed at the University of South Carolina, and the Savannah River Operations Office, DOE have cooperatively worked toward the development of an archaeological management plan for the Savannah River Plant (SRP) which to date has identified and evaluated 840 archaeological sites. The current effort will include research to better understand the significant character of archaeological resources on the SRP and the development of human cultural systems in the region over the past 12,000 years; guidance and advice in the preparation and implementation of a Programmatic Memorandum of Agreement for the protection of archaeological and historical resources; and the curation and management of archaeological collections derived from the SRP research. Research results will be disseminated to the scientific and non-professional communities to enhance public knowledge. The primary goals of these efforts will be the investigation of innovative archaeological research problems and assistance to DOE in archaeological resource management.

The SCIAA has as its primary mission the identification, investigation and interpretation of prehistoric and historic archaeology within South Carolina. It has been cooperatively involved with DOE at SRP since 1973 to provide guidance and recommendations for archaeological resource management. It has assembled a group of research personnel and developed capabilities for research on the archaeology of this area that does not exist, so far as we can determine, in any other organization.

The proposed work represents the operation of the Savannah River Archaeological Research Program and a continuation of advisement and guidance to the Department of Energy on the archaeological resource management needs at SRP. The DOE is interested in the investigation of archaeological resources on the SRP and in maintaining full compliance with the archaeological resource management requirement of Federal law. Thus, the DOE has determined that this cooperative agreement award to the SCIAA, University of South Carolina on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Ronald D. Jernigan, Contracts and Services Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box, A, Aiken, SC 29802, Telephone: 803–725–2685.

Issued at Aiken, South Carolina, on: July 21, 1987.

Bruce G. Twining,

Acting Manager, Savannah River Operations Office.

[FR Doc. 87–20554 Filed 9–4–87; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Policy to Implement the Model Conservation Standards Surcharge Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: The Bonneville Power Administration (Bonneville) is releasing the policy to implement the Model Conservation Standards (MCS) surcharge recommendations made by the Northwest Poser Planning Council (Council). The Council's recommendations are contained in their document title "Model Conservation Standards for New Residential and Commercial Construction," issued on January 30, 1987, and published in the Federal Register on March 26, 1987.

SUMMARY: In accordance with the Pacifc Northwest Power Act, the Council developed MCS and recommended to the Bonneville Administrator that a surcharge be imposed on those portions of a customer's loads within the region that are not covered by a Bonneville MCS Program or other conservation measures which achieve savings comparable to those programs. Enclosed is the Administrator's policy on implementation of the surcharge. The policy describes how the policy will be applied, how utility plans will be evaluated, the calculation and collection of a surcharge, and seven ways that a utility can avoid a surcharge. Also contained in the policy are summaries of the policy's purposes, its statutory direction, and past and present surcharge activities.

In their July 15, 1987, letter, the Council reiterated their performance standard for alternative plans to be designed to achieve all cost-effective and economically feasible measures. Their letter stresses the importance of this standard to ensure that the region meets the goal of utility programs and codes achieving at least 85 percent of the saving from new residences by the end of 1989. As a result, utilities submitting alternative plans are requested to submit as part of their initial plan, a narrative describing how they will move to full MCS construction levels on a building-by-building basis by the end of 1989.

FOR FURTHER INFORMATION CONTACT: John D. Carr, Director, Division of Planning and Evaluation, Office of Conservation, at 503–230–7500; or, Robert J. Procter, Public Utilities Specialist, at 503–230–4304. you may also contact the Public Involvement office at the above address or 503–230–3478. Oregon callers outside of Portland may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048.

SUPPLEMENTARY INFORMATION:

I. Background of Policy

A. Introduction

The Surcharge Policy is a response to recommendations made by the Northwest Power Planning Council (Council) in its 1986 Northwest Conservation and Electric Power Plan (Plan) and its Model Conservation Standards (MCS) for New Residential and Commercial Construction (Plan Amendment). The purpose of this policy is to encourage utilities to achieve additional electrical savings through improved residential and commercial building construction which can ultimately result in regionwide adoption of the Council's MCS in codes. There are two additional policy objectives: (1) Identify what criteria will be used to evaluate a utility's proposed approach to achieving MCS level electrical savings; and (2) identify how a surcharge would be calculated and collected.

As the Council states in their Plan Amendment, "By the end of 1989, the Council expects the region to achieve residential sector savings equivalent to at least 85 percent of those that would be achieved with full implementation of the MCS." One long run goal is to achieve MCS level savings through code adoption. In order to emphasize this goal, Bonneville requests, but is not requiring, utilities to provide a narrative description of how they plan to move to full MCS construction levels on a building-by-building basis by the end of 1989.

B. Statutory Direction

Section 4(e)(3) of the Pacific Northwest Electric Power Planning and Conservation Act (Act) provides for the development of MCS as part of the Council's Plan. These standards, as described in section 4(f)(1) of the Act, are to include standards applicable to new and existing structures and to utility and government conservation programs. Such standards should reflect geographic and climatic differences and produce all power savings that are cost effective for the region and economically feasible for consumers.

Section 4(f)(2) of the Act provides that the Council may recommend to the Bonneville Administrator the imposition of a surcharge on customers of the Administrator for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented the standards or other conservation measures that the Administrator determines achieve energy savings comparable to the standards. Finally, section 4(e)(3)(G) of the Act mandates that the Council develop a methodology for calculating the surcharge.

II. Past and Present Surcharge Policy Development Efforts

Part A of this section summarizes past MCS and surcharge actions undertaken by the Council. Part B summarizes Bonneville's past surcharge-related activities. Part C describes the Council's 1987 surcharge recommendation as contained in their Plan Amendment of January 30, 1987.

A. Council Activities to Date

On April 27, 1983, the Council adopted its first Northwest Conservation and Electric Power Plan. As required by the Act, the Council's 1983 Plan contained MCS for newly constructed residential and commercial buildings and for conversion of existing residential and commercial buildings to electric space heating and conditioning.

In the 1983 Two-Year Action Plan (Chapter 10 of the 1983 Plan), the Council identified tasks to be undertaken by Bonneville, the Council, and other regional entities. That Plan mandated that Bonneville include it its Surcharge Policy a consistent procedure for certifying compliance with MCS and a procedure for reviewing and evaluating alternative plans.

In accordance with the 1983 Plan, State governments, local governments,

or utilities were to adopt and enforce the MCS as building codes or utility service standards by January 1, 1986. Where such standards were not adopted, an alternative plan to achieve comparable savings should have been in place by January 1, 1986. Where neither action had occurred, the Council recommended that the Administrator impose a surcharge.

The Council voted on October 31, 1984, to adopt an amendment which greatly simplified the surcharge calculation. The Council recommended that a 10-percent surcharge be levied on the customer's power bill for that portion of its loads which were not complying with the standard.

On July 26, 1985, the Council proposed to enter rulemaking to amend the MCS. On December 4, 1985, the Council voted to amend that portion of the 1983 Plan dealing with the MCS. The amended MCS thermal performance levels for both new residential and commercial buildings were equivalent to the MCS set forth and amended by the Council in its 1983 Plan. The Council also recommended that Bonneville develop a surcharge policy based on MCS implementation and performance.

In the 1986 Action Plan, the Council identified specific actions that Bonneville should take towards regionwide implementation of the MCS. Bonneville was to (1) have utilities submit to Bonneville a plan declaring how they intended to comply with the MCS, (2) design a process to collect utility-specific data on the savings that would be achieved if all buildings were constructed to MCS levels, (3) continue development and implementation of a procedure to measure compliance with the MCS, (4) review alternative plans for achieving compliance with the MCS, and (5) develop a new surcharge policy.

On November 20, 1986, the Council proposed to enter further rulemaking to amend part of their 1986 Plan dealing with MCS and the surcharge. After public comment, the Plan Amendment was published on January 30, 1987. Notice of the Plan Amendment, which included the Council's 1987 MCS, was published in the **Federal Register** on March 26, 1987, (52 FR 9738, March 26, 1987).

B. Bonneville Activities to Date

Bonneville began the development of a Surcharge Policy in early 1984 through a series of informal meetings with State government, local government, utility, and Council representatives. Bonneville staff informally discussed the various issues that might surround the development of a policy to implement the Council recommendation to impose a surcharge. These informal discussions formed the basis of a **Federal Register** Notice of Intent to develop a policy to implement the Council-Recommended Conservation Surcharge. The notice (49 FR 34891, September 4, 1984) was mailed to the public on August 28, 1984.

Bonneville elected to delay publication of a proposed policy until after final Council action on amendment of the surcharge methodology. Public review and comment on the proposed policy took place between March 13, 1985, and May 17, 1985.

Bonneville suspended action on the Surcharge Policy when the Council entered rulemaking to amend the MCS in the summer of 1985. After the Council amended its MCS recommendation in December 1985, Bonneville developed a revised proposed Policy and received public comment on that proposal during July and August 1986. As part of the Administrator's decision about whether or not to finalize the revised proposed Surcharge Policy, Bonneville undertook an analysis of the cost-effectiveness and consumer economic feasibility of the MCS contained in the Council's 1986 Plan. Bonneville concluded that some of the recommended measures were not cost effective and on December 19, 1986, Bonneville's MCS findings were published.

Based in part on that analysis, the Council entered rulemaking to amend their MCS and surcharge recommendations. In turn, Bonneville suspended the development of a final Surcharge Policy. Following publication of the Council's Plan Amendment on January 30, 1987, Bonneville undertook a second revision of the proposed Surcharge Policy. Over the last several months, Bonneville has been in contact with the Council, utilities, and conservation interest groups to develop a final policy.

On May 26, 1987, Bonneville released its Proposed Surcharge Policy for public comment. The comment period closed on July 15, 1987. During the comment period, there was one public meeting, which was held on June 22, 1987. A number of changes have been made in the proposed version of this Policy, based on the public comment received. This Surcharge Policy, entitled "Model Conservation Standard Surcharge Policy," is Bonneville's response to Council recommendations to develop a surcharge policy.

C. Council's 1987 Surcharge Recommendation

The Council's Plan Amendment of January 30, 1987, made several major changes to their 1986 Plan. The most significant change in their surcharge recommendation was a move away from a performance-based surcharge, where utilities could face a surcharge if their performance was poor relative to the performance of other utilities. A summary of the Council's 1987 surcharge recommendation appear below.

1. Residential surcharge recommendation

The Council recommended that a 10 percent surcharge be imposed on utilities which do not submit, by a deadline set by Bonneville: (1) An initial plan for implementation of the Bonneville/Utility Residential MCS Program; (2) a plan for implementation of an alternative program which is approved by Bonneville as being equivalent; or (3) a declaration, approved by Bonneville, that the MCS for residential buildings will be met by building codes. This surcharge would continue in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

2. Commercial surcharge recommendation

The Council recommended that a 10 percent surcharge be imposed on utilities which do not submit, by a date set by Bonneville: (1) An initial plan for implementation of the Bonneville/Utility Commercial MCS Program; (2) a plan for implementation of an alternative program which is approved by Bonneville as equivalent, or (3) a declaration, approved by Bonneville, that the MCS for commercial buildings will be met by bulding codes at the MCS levels. The Council recommended that the surcharge continue in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

3. Conversion surcharge recommendation

The Council's MCS for residential and commercial buildings converting to electric space heating/conditioning stated that State or local governments or utilities should take actions through codes and/or alternative programs to achieve electric power savings from buildings which convert to electric space heating/conditioning. The savings should be comparable to those savings that would be achieved if each building converting to electric space heating/conditioning were upgraded to include all cost-effective electricity conservation measures. The Council highly recommended this conversion standard, but did not recommend that a surcharge be imposed for failure to adopt the standard.

4. Combined commercial/residential code

One provision of the Plan Amendment allowed for a combined residential/commercial MCS strategy by a utility. This approach allowed for less than MSC program savings to be achieved in one sector as long as the shortfall is recouped in the other sector. This alternative was to be applicable only to the submission of alternative codes or utility service standards.

5. Exemptions

The Council has determined that no exemptions are needed at this time.

6. Federal loads and generic MCS.

The Council did not make any surcharge recommendation in these areas.

III. Surcharge Policy

Section 1: Definitions

A. Administrator

Administrator of the Bonneville Power Administration or his designated representative.

B. Alternative Code

Codes implemented in the residential and commercial sectors which, in aggregate, achieve total electrical savings at least as large as would have been expected had the Council's illustrative MCS been implemented in the residential and commerical sectors. The Council's illustrative MCS are contained in the Council's Plan Amendment of January 30, 1987, as published in the **Federal Register** on March 26, 1987.

c. Alternative utility plan

Any plan which either partially or wholly relies on an approach to conservation savings discussed in Appendix 2, 4, 5, 6, or 7 of this policy.

D. Alternative utility program

For the residential sector, a utility operated MCS support program designed to achieve at least the same level of total expected electrical savings while complying with the IAQ and ventilation goals of Bonneville's Super GOOD CENTS Program. For the commercial sector, a utility MCS support program designed to promote at least the same MCS measures as contained in the Council's commercial MCS and providing comparable design assistance services as contained in the Bonneville-Utility MCS support program.

E. Customer

For purposes of this policy, a utility existing in the Pacific Northwest region which purchases firm power from Bonneville under a utility Metered or Computed Requirements Contract, or a utility which purchases firm capacity under a pre-Northwest Power Act contract, or a utility which participates in the Residential Purchase and Sales Agreement/Exchange Transmission Credit Agreement, as an active exchanger or deemer.

F. Equivalent code

In the residential sector, a code which can be expected to achieve at least the same level of total electrical savings within the jurisdiction as would have been achieved had the utility serving that jurisdiction participated in Bonneville's Super GOOD CENTS Program. For the commercial sector, the Council's MCS will be used.

G. Jurisdiction

For purposes of this policy, any unit of government including Indian Tribes, State and local governments, and municipal corporations.

H. Region

The Pacific Northwest Region, region, or regional means the area consisting of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the State of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and any contiguous areas, not in excess of seventy-five air miles from the area referred to above, which are part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of the Act which has a distribution system from which it serves both within and without such region.

I. Service Area

The service area of a utility is that portion of its service territory which is both subject to the Surcharge Policy and to which the utility provides electric power service to the residential or commercial sectors.

J. Total System Load

The number of firm kilowatt hours (kWh's) sold by a customer during the last 12-month period prior to the effective date of this policy.

Section 2: Application of the Surcharge Policy

For the residential sector, by November 1, 1987, utilities are to either (a) submit a plan to implement the Super GOOD CENTS Program, or (b) submit an alternative utility program, or utility service standard for Bonneville approval, or (c) submit a plan certifying that jurisdictions within its service area will implement and enforce the MCS via participation in the Early Adopter Program or adoption of a Bonneville-approved building code. A utility's residential sector plan may contain any combination of these approaches. In developing a sector plan, those utilities who are customers of the Administrator, for purposes of this policy, should understand that the utility's entire service area must be covered by some combination of the conservation strategies described in the appendices to this policy.

A utility's residential sector plan will be evaluated on the basis of the utility's proposed efforts for the residential sector during calendar year 1988. Bonneville is also requesting that utilities indicate how their alternative plans may be modified between 1988 and 1990 to assure that residential construction is occurring at full MCS levels on a building-by-building basis, by the end of 1989.

Customers who do not implement a Bonneville-approved residential MCS plan by February 1, 1988, are subject to a surcharge, as calculated in Section 4 of this policy. Customers who have been granted a grace period, as provided for either in section 3 or the appendix relevant to the utility's conservation strategy, will not face a surcharge until the end of any such period.

For the commercial sector, by May 1, 1988, utilities must either (a) submit a plan to implement Bonneville's Commercial MCS Program, or (b) submit an alternative utility commercial program or utility service standard in the commercial sector, or (c) submit a plan certifying that jurisdictions within its service area have met the Council's commercial MCS through codes. A utility's commercial sector plan may contain any combination of these approaches. In developing a sector plan, those utilities who are customers of the Administrator, for purposes of this policy, should understand that the utility's entire service area must be covered by some combination of the conservation strategies described in the appendices to this policy.

Customers who have not implemented a Bonneville-approved commercial MCS plan by August 1, 1988 are subject to a surcharge, as calculated in Section 4 of this policy. Customers who have been granted a grace period, as provided for in either section 3 or the appendix relevant to the utility's conservation strategy, will not face a surcharge until the end of any such period.

If a utility plans on achieving MCS level electrical savings by relying on a jurisdictions' adoption of alternative codes or alternative utility service standards, then that utility must submit both its residential and commercial sector plans by November 1, 1987. Only in this case would a utility have to submit commercial sector plans by that date.

Customers of Bonneville without service areas as defined in this policy, need only submit evidence of their lack of such a service area by the November 1, 1987 and May 1, 1988 deadlines. This provision exists for those customers who have voluntarily adopted a policy to not serve the residential or commercial sectors, or who are prohibited from serving the residential or commercial sector. If the customer serves one of these two sectors, then this provision will only apply to the one sector not served. Customers who have neither submitted this information, nor a plan for achieving conservation in these sectors, will be subject to a surcharge on February 1, 1988, for the residential sector, and August 1, 1988, for the commercial sector.

Each of the appendices to this policy represents a different approach to achieve electrical savings from improved construction practices. These appendices contain more specific submission and evaluation criteria for each of the MCS plan options and are part of this policy. It is very important that customers carefully review this document including the appendices, to fully understand what actions utilities must take to achieve conservation savings in ways which also comply with this policy.

Once any plan is approved and implemented, Bonneville will assume that the utility and/or jurisdiction(s) within its service area will carry out that plan in good faith. During the period for which this policy is in effect, Bonneville reserve the right to revisit any utility's approved plan if Bonneville has reason to believe that the utility has not implemented their plan in good faith. This same provision applies to utilities who rely on jurisdictions to take actions to comply with this policy.

The next plan submission cycle is anticipated to occur in the fall of 1988. At that time, Bonneville expects that both commercial and residential plans will be submitted. Bonneville will announce the period of time which those plans will cover.

This policy is in effect from the date it is signed by the Administrator until December 31, 1988.

Section 3: Evaluation of Alternative Utility Plans

An alternative utility plan is any plan which relies wholly or in part on an approach to conservation savings presented in Appendix 2, 4, 5, 6, or 7 of this policy. These plans will be evaluated using three criteria: (1) Expected electrical savings, (2) enforcement, and (3) indoor air quality (IAQ) and ventilation. This section applies to all residential sector alternative plans and those commercial sector alternative plans relying on the adoption of commercial codes or commercial service standards.

If Bonneville concludes that the utility's proposed alternative plan cannot be accepted because of its failure to comply with any of the evaluation criteria described below, Bonneville will allow an additional grace period at least as long as Bonneville took to evaluate the utility's initial proposal. Subsequent grace period(s) may be allowed on a case-by-case basis. Only under the most extraordinary circumstances would Bonneville consider a grace period extending beyond March 31, 1988, for the February 1, 1988, implementation date, or September 30, 1988, for the August 1, 1988, implementation date.

A. Equivalent electrical savings

For the residential sector, if a utility is proposing to achieve electrical savings by implementing an alternative residential utility program, Bonneville will use the prospective total electrical savings of its Super GOOD CENTS Program to determine whether the utility's proposed approach will at least meet the appropriate residential electrical savings level for the period of time for which this policy is in force. Part of the equivalence determination procedure for an alternative residential utility program will involve a comparison between the utility's proposed marketing program and the marketing program they would have pursued had they enrolled in the Super GOOD CENTS Program for the period of time for which this policy is in force.

Utilities which rely on jurisdictional adoption of residential building codes, or which impose a residential service standard, to achieve additional energy savings in the residential sector will have to provide evidence supporting the claim that the code (or service standard) can be expected to achieve at least the same level of electrical savings within the jurisdiction (or utility, service area, depending on whether a code or service standard approach is used) as would have been achieved if the utility had participated in Bonneville's Super GOOD CENTS Program.

Utilities which rely on jurisdictional adoption of residential *and* commercial codes (or which impose residential and commercial service standards) to achieve additional savings beyond current practice, may "trade-off" savings achieved in one sector towards a deficit in the other sector. The utility would have to present evidence supporting its claim that the residential and commercial codes, in aggregate, can be expected to achieve at least the same total level of electrical savings as would have been achieved had the jurisdiction adopted the Council's full illustrative commercial and residential MCS for that climate zone. Such sectoral trade-offs are only allowed using enhanced building codes or service standards.

In addition, a utility may obtain equivalent savings by allocating savings achieved by advanced building codes in jurisdiction (or jurisdictions) within its service area throughout the service area. Such "jurisdictional trade-offs" are only allowed where the utility shows that the full Council MCS level of savings for both sectors are being attained, in aggregate, within the utility's service area.

Finally, those utilities relying on commercial code adoption by a jurisdiction within or covering their service area, or who will impose a commercial service standard, will have to provide evidence supporting their claim that the expected total electrical savings are at least equivalent to what would have been expected had the jurisdiction implemented the Council's illustrative commercial MCS. The only exception to these requirements is for utilities or jurisdictions who adopt a codified version of the Council's MCS.

Some utilities in Oregon and Washington will likely submit alternative plans which rely on an alternative utility program to achieve conservation savings and comply with this policy. These utilities will have to indicate what actions they will pursue to achieve additional savings equivalent to the savings that could have been expected to the residential sector had they implemented the Super GOOD CENTS Program for the period covered by the policy. As discussed in Appendix 2, an alternative utility program will always be compared to the effort that the utility would pursue had they enrolled in the Super GOOD CENTS Program.

Bonneville will analyze residential electrical savings from an alternative plan by assuming that, in the absence of MCS, a residence would have been built

to one of the following: (a) In Oregon, 1983 energy code; (b) in Washington, 1983 energy code; or (c) in either Idaho or Montana, HUD Minimum Property Standards.

Electrical savings in the commercial sector will be evaluated assuming: (a) 1986 code in Oregon and Washington, (b) 1983 National Energy Code in Montana, and (c) individual jurisdiction codes in Idaho.

All thermal performance evaluations will rely on good engineering practices. Bonneville will be guided by the assumptions, process, and housing prototypes contained in Bonneville's Code Equivalency Determination Procedure.

B. Enforcement

A utility will have more discretion in proposing an approach which will meet the second evaluation criterion—enforcement. Bonneville is recommending that any customer contemplating submission of an alternative utility plan refer to Bonneville's Super GOOD CENTS, Early Adopter, and Commercial MCS Program descriptions for guidance. Alternative utility plans, excluding an alternative utility commercial program, must contain a requirement for site inspection consistent with the effective date of the surcharge.

Referring to alternative utility programs, a utility will have to provide evidence adequate to assure Bonneville that the energy savings which are being claimed are attributable to the utility's program. Part of that evidence is some enforcement method to assure that the conversation savings the utility is claiming are attributable to the measures they are promoting and inspecting.

C. Indoor air quality and ventilation

For the residential sector, an alternative utility plan must contain information on how the utility and/or jurisdiction plans to achieve indoor air quality (IAQ) and ventilation rates at least comparable to those achieved in Super GOOD CENTS homes, which are designed to maintain IAQ and ventilation at 1983 levels. The approach to IAQ and ventilation in Bonneville's Super GOOD CENTS and Early Adopter Programs are aimed at maintaining IAQ and ventilation at 1983 levels. The approaches include informing the public about potential health risks from indoor pollutants, testing for selected pollutants, and mitigation measures if certain pollutants are detected to be present in unreasonable levels and/or ventilation rates are determined to be below .35 air changes per hour. For residential construction, all alternative plans will be examined to determine if the construction practices being promoted or required, when combined with comparable monitoring, information, and mitigation strategies are likely to assure that IAQ and ventilation are maintained at 1983 levels.

Section 4: Calculating a Surcharge

A. Not less than 30 days prior to a final decision on the imposition of a residential surcharge, the Administrator shall provide written notice to the customer including a determination of the amount of a customer's load not covered by a Bonneville-approved MCS residential plan. The amount of the load not covered by a Bonneville-approved MCS residential plan shall be based on information submitted by the utility in accordance with the reporting requirements listed in the appendices to this policy. In the event that a utility has not provided that information, the Administrator may rely on the best information available to Bonneville.

B. The level of the residential surcharge will be determined by dividing the customer's residential load not covered by a Bonneville-approved MCS residential plan by the customer's total system load, rounding the result to the nearest one-tenth of a percent. This resulting percentage is multiplied by 0.10.

C. Not less than 30 days prior to a final decision on the imposition of a commercial surcharge, the Administrator shall provide written notice to the customer including a determination of the amount of the load not covered by a Bonneville-approved MCS commercial plan. The amount of the load not covered by a Bonneville-approved MCS commercial plan shall be based on information submitted by the utility in accordance with the reporting requirements listed in the appendices to this policy. In the event that a utility has not provided that information, the Administrator may rely on the best information available to Bonneville.

D. The level of the commercial surcharge will be determined by dividing the customer's commercial load not covered by a Bonneville-approved MCS commercial plan by the customer's total system load, rounding the result to the nearest one-tenth of a percent. This resulting percentage is multiplied by 0.10.

E. The resulting level of the residential or commercial surcharges will be applied to all power purchases and/or exchanges made by the customer under the applicable rate schedules, using the Council's surcharge methodology, and will be applied subsequent to any other rate adjustments.

F. At no time will a customer simultaneously be assessed a surcharge for failure to comply with the requirements in the residential sector and a surcharge for failure to comply with the requirements in the commercial sector.

G. The customer and other interested parties shall be afforded an opportunity to provide comments regarding the determinations made in sections 4(A) to 4(D). Such comments may be made in writing or orally at a public meeting convened at the request of the customer for this purpose by Bonneville. This public meeting will be held between the time of the written Notice of Intent to surcharge and the final surcharge decision. Included in the Intent to Surcharge will be an initial determination of the fraction of a customer's load subject to the surcharge, based on sections 4(A) to 4(D). Following the receipt and evaluation of comments, the Administrator shall provide written notice to the customer of the final surcharge decision.

H. Beginning with the effective date of a surcharge, the Administrator shall review the findings made in sections 4(A) to 4(D) after the customer, or a jurisdiction served by the customer, has taken an action that affects those findings. Customers may request such review by providing evidence in accordance with this section that the customer or a jurisdiction served by that customer has taken actions subsequent to the effective date of the surcharge.

Section 5: Collecting a Surcharge

A. Those customers receiving a final written notice of a load subject to a surcharge shall be billed for the surcharge beginning with the first full billing period following issuance of such notice.

B. Any power purchases made on or after the effective date of the surcharge, but before receipt of final notice finding the load subject to a surcharge, may be retroactively billed to the effective date of the surcharge. Such retroactive billing shall collect the retroactive surcharge over a like number of billing periods as elapsed from the effective date of the surcharge to the receipt of final written notice of a surcharge.

C. The level of surcharge is applied to all power purchases and/or exchanges made by the customer under the applicable rate schedules and/or exchanges pursuant to the Residential Purchase and Sales Agreement/ Exchange Transmission Credit Agreement, using the Council's

surcharge methodology, and is applied subsequent to any other rate adjustments.

1. For firm requirements customers purchasing firm power under the rate schedules subject to the surcharge, the surcharge shall be applied monthly to the billing charges for all power purchased under these rate schedules during the billing period.

2. For customers participating in the residential exchange program, the surcharge shall be applied to the charges for determining the cost to the purchaser of buying firm power from Bonneville under the terms and conditions of the Residential Purchase and Sale Agreement.

3. For those firm requirements customers that both purchase power from Bonneville and participate in the Residential Purchase and Sales Agreement or Exchange Transmission Credit Agreement, the surcharge shall be applied in the following manner to avoid surcharging the same load twice:

a. All power purchases under a utility's Power sales Contract at rates subject to the surcharge shall include a charge for the surcharge equal to the application of the surcharge level to the billing charges for the billing period; and

b. The surcharge applied to the utility's totals exchange load shall be adjusted by multiplying the surcharge level by the percentage of a utility's exchange load served by a utility's own resources. The percentage of exchange load served by a utility's own resources shall be based on the difference between the utility's total retail load and firm power purchases from Bonneville divided by the total retail load and rounded to the nearest one-tenth of a percent. The adjusted surcharge level shall be applied to the charges for determining the cost to the purchaser of buying firm power from Bonneville under the terms and conditions of the Residential Purchase and Sales Agreement or in conformance with Exhibit E of the Exchange Transmission Credit Agreement.

D. If a customer participating in the Residential exchange is currently in a deemer status, the surcharge shall be accumulated in the account established for this purpose as specified in the respective agreement and shall be included in the obligation a utility must repay prior to receiving a direct payment from Bonneville. If a customer is not in a deemer status, the surcharge shall be included in the determination of the net payment made by Bonneville.

E. The collection of the surcharge shall continue until the Administrator determines that the surcharge is no longer required under the terms of this policy.

F. Surcharges collected on purchases for periods in which loads are subsequently found to be in compliance with this policy shall be credited to the customer in the first full billing period following final written notice of such finding. Surcharges on loads which are subsequently found not to have been in compliance with the terms of this policy for specified periods shall be billed to the customer in the first full billing period following final written notice of such findings.

Issued in Portland, Oregon, on August 27, 1987.

Steven G. Hickok,

Executive Assistant Administrator, Bonneville Power Administration.

Appendix 1.—Achieving Electrical Savings by Adopting the Bonneville/ Utility MCS Support Program

A. Residential Sector

Bonneville customers opting for this path are assured that enrollment in and subsequent implementation of the Super GOOD CENTS Program throughout their service area will result in avoidance of a residential surcharge under the current surcharge policy. A utility which is considered a Super GOOD CENTS Program participant, but is only operating that program in a portion of its service area, will have to take actions to assure that those portions of its service territory not covered by Super GOOD CENTS are covered by some combination of the other conservation strategies presented in these appendices. Those utilities which implement the MCS measures contained in the Super GOOD CENTS Program, but do not implement the required incentives and/or implement a different advertising strategy will be treated as filing an Alternative Utility Plan. Those utilities should refer to Appendix 2 for a discussion of that option.

For utilities which on average over the last 3 years have had no more than (a) five site-built housing starts and (b) 2,000 residential accounts will be considered small utilities for purposes of this policy. These utilities will have the option of enrolling in Bonneville's Super GOOD CENTS Program for small utilities, referred to as the Small Utility Program. If a utility believes they qualify for this option, the utility is encouraged to contact the nearest Bonneville Area or District Office to obtain more information on this program option.

Those customers wishing to enroll in Super GOOD CENTS as a way of avoiding a surcharge must indicate this to the Bonneville by November 1, 1987. In addition, the utility shall have signed a Super GOOD CENTS grant agreement by February 1, 1988. Bonneville will consider Super GOOD CENTS Program implementation to have occurred when the utility is engaging in activities, particularly marketing and promotion activities, which can be considered consistent with the utility's agreement. A utility which is currently enrolled in and impementing the Super GOOD CENTS Program need only submit a letter, by November 1, 1988, indicating their continued commitment to implement Super GOOD CENTS throughout 1988.

Any customer who is either considered a Super GOOD CENTS Program participant for the purpose of this policy, or is proposing to become a program participant, shall provide Bonneville with the following information: (a) Total residential load, (b) the portion of the customer's residential load covered by this conservation strategy, and (c) total system load.

Bonneville will consider offering a grace period if Bonneville has not completed the customer's Super GOOD CENTS grant award by February 1, 1988. Any such grace period will be considered in the event that Bonneville has received a plan by November 1, 1987, and the approval delay is due solely to Bonneville internal delay.

B. Commercial Sector

Bonneville customers opting for this path are assured that enrollment in, and subsequent implementation of, the Bonneville Commercial MCS Program throughout the utility's service area will result in avoidance of a commercial surcharge under the current Surcharge Policy. All customers wishing to avoid a surcharge under this path must agree to comply with the IAQ and data reporting requirements and other technical specifications of that program.

Those customers wishing to avoid a surcharge under this path must agree by May 1, 1988, to enroll in the commercial program and must have enrolled in the program no later than August 1, 1988. Bonneville will consider offering a grace period if Bonneville has not completed the customer's grant award by August 1, 1988. Any such grace period will be considered in the event that Bonneville has received a plan by May 1, 1988, and the approval delay is due solely to Bonneville internal delay.

Any customer who is either considered a program participant, or is proposing to become a program participant, shall provide Bonneville with the following information: (a) Total

commercial load, (b) the portion of the customer's commercial load covered by this conservation strategy, and (c) total system load.

Appendix 2—Achieving Electrical Savings by Adopting an Alternative Utility Program

A. Residential

An Alternative Utility Residential Program is the customer's proposed approach to meeting the standards of Bonneville's Super GOOD CENTS Program. In order for Bonneville to verify that the proposed program will provide equivalent savings, the information listed below must be submitted.

1. The conservation measures that will be promoted.

2. Analysis of the thermal performance of the conservation measures using Bonneville's input assumptions and Bonneville prototypes. These results will be compared to the Super GOOD CENTS illustrative path for that climate zone, using a WATTSUN analysis.

3. The penetration levels expected for the proposed measure(s). These penetration levels should represent, subject to the qualifications below, the percent market penetration of each measure among electrically heated homes completed in that utility's service area during the period of time for which this policy is in force. Only those measures which the utility is promoting and inspecting the installation of should be included. Data indicating what penetration levels have been achieved in prior years with the proposed or a similar program will be considered when evaluating the likely success of the utility's proposed marketing plan.

4. A list of activities to be undertaken to achieve the targeted penetration, such as: promotion and sales, advertising, incentives (type and level), technical assistance, certification, and any other applicable information. In addition, customers will be required to submit quarterly reports listing the activities undertaken and resources utilized in the marketing effort.

5. A plan for how the utility will collect and provide to Bonneville by January 30 of the following year:

a. Total new homes (all fuels) constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

b. Total new electrically heated homes constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

c. Total new electrically heated homes constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (broken out by single-family, multifamily, modular, and HUD-code homes).

6. A list of activities to assure that 1983 levels of comparable IAQ measures and ventilation will at least be maintained.

7. The customer shall provide Bonneville with the following information: (a) Total residential load, (b) the portion of the customer's residential load covered by this conservation strategy, and (c) total system load.

The Alternative Utility Program path is not generally recommended for utilities without prior experience in operating such programs. An established track record with a well-defined package of measures will be extremely helpful, if not essential, in obtaining Bonneville approval for Alternative Utility Programs. Nonetheless, Bonneville staff will work with customers interested in pursuing this path to help explain the data submission requirements and the other complexities involved in this approach.

Because of these complexities, utilities interested in this path should submit their proposals to Bonneville at the earliest possible date, after the surcharge policy has been finalized. An approved program shall be implemented by February 1, 1988, unless a grace period, as provided for in section 3 of the policy, has been granted.

B. Commercial

An Alternative Utility Commercial Program is the customer's proposed approach to meeting the standards of the Bonneville/Utility Commercial MCS Program. A proposed alternative program will be evaluated relative to the (1) level and type of activities and services to be offered, (2) method of marketing and performing the services, (3) penetration levels expected for the proposed program activities, and (4) proposed inspection method. The types of design assistance offered in Bonneville's program will be used to evaluate the type of design assistance a utility is proposing to offer in its own commercial MCS design assistance program. The types of design assistance which Bonneville's Commercial MCS Program contains are:

—Promotion of services to commercial customers.

—Screening to determine design assistance needs;

—Depending on the size of the utility and the type of commercial construction, provision of building design handbooks, computer energy modeling, clearinghouse referral, or other building design analysis; and

—Designer recognition for specified levels of energy efficiency.

In order to perform the necessary review, Bonneville will require the following information:

1. A list of activities and services the customer plans on offering (i.e., modeling, design assistance, design handbook, information services, and training opportunities) to achieve the targeted penetration;

2. Management and oversignt consistent with Bonneville practices;

3. A proposed method to submit to Bonneville quarterly reports listing the activities undertaken and resources used in the marketing effort.

4. (a) The customer's total commercial load, (b) the portion of the customer's commercial load covered by this conservation strategy, and (c) the customer's total system load.

Finally, the utility shall collect and provide to Bonneville by January 30 of the following year:

1. Total new commercial buildings (all fuels) constructed in the utility's service area during the past calendar year.

2. Total new electrically heated commercial buildings constructed in the utility's service area during the past calendar year, broken out by Bonneville prototype.

3. Total new commercial building constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan, broken out by Bonneville prototype.

For 1988, Bonneville is projecting that design assistance services will be offered to 20–30 percent of the new commercial building constructed in the service areas of utilities participating in Bonneville's Commercial MCS Program.

Those customers wishing to avoid a surcharge under this path shall submit their proposed plan by May 1, 1988, and shall have implemented the approved program no later than August 1, 1988, unless a grace period, as provided for in section 3 of the policy has been granted.

Appendix 3—Achieving Electrical Savings by Participating in the Early Adopter Program

This is a pre-approved path for avoidance of the surcharge if all the jurisdictions within the utility's service area, subject to the surcharge policy, are Early Adopter Program participants. Except for the one exception noted

below, if there are jurisdictions within a utility's service area which are not Early Adopter Program participants, then the utility will be subject to a surcharge unless those jurisdictions have implemented a Bonneville-approved building code or the utility has implemented a Bonneville-approved utility program or a Bonneville-approved service standard.

Utilities serving areas containing jurisdictions that have adopted advanced building codes may seek to allocate savings achieved by those jurisdictional codes to portions of their service areas not covered by another approved option. This will be permitted only if the utility shows that the full Council MCS level of savings for both sectors are being attained, in aggregate, within the utility's service area. In other words, the utility must achieve at least the same level of total electrical savings as would be achieved had the Council's full commercial and residential MCS been implemented throughout the utility's service areas.

The essential feature of the Early Adopter Program is the adoption by a jurisdiction of the MCS contained in the Early Adopter Program description. Additional program features include specific activities to ensure that no degradation in IAQ results, some form of enforcement method to assure MCS construction, and some data reporting requirements.

A. Residential

For customers with jurisdictions within their service area who are currently participating in the Early Adopter Program (EAP), the customer must submit a letter indicating (a) the jurisdictions who are EAP participants, (b) the award number for each jurisdiction, and (c) a copy of the ordinance adopted by each jurisdiction. In addition, customers must indicate what fraction of its residential load lies within Early Adopting jurisdictions. Remember, this information shall be submitted to Bonneville no later than November 1, 1987. Any jurisdiction considering adopting shall adopt and enforce the code by February 1, 1988, for the utility to avoid a surcharge, if the utility will not be operating an approved utility MCS program or residential service standard at that time. Bonneville will consider offering a grace period if Bonneville has not completed the Early Adopter Program grant award process by February 1, 1988. Any such grace period will be considered in the event that Bonneville has received a plan by November 1, 1988, and the approval delay is due solely to Bonneville internal delay.

The customer shall provide Bonneville with the following information: (a) Total residential load, (b) the portion of the customer's residential load covered by this conservation strategy, and (c) total system load.

Finally, the utility shall collect and provide to Bonneville by January 30 of the following year:

1. The new homes (all fuels) constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

2. Total new electrically heated homes constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

3. Total new electrically heated homes constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (broken out by single-family, multifamily, modular, and HUD-code homes).

Customers how are operating a utility program and/or a utility service standard should take all necessary steps in order to avoid double-counting when reporting the above information.

B. Commercial

To avoid a surcharge, customers with jurisdiction within their service area considering enrolling in this program shall notify Bonneville by May 1, 1988, of the jurisdiction's intent to enroll in the program and the jurisdiction shall have officially adopted and be able to enforce the MCS by August 1, 1988, if the utility is not operating an approved Commercial MCS Program or commercial service standard.

For customers with jurisdictions within their service area who are currently participating in the Early Adopter Program, the customer shall provide a copy of the ordinance adopted by each jurisdiction and include a copy of Bonneville's letter of approval. In addition, customers shall provide the following information:

(a) The customer's total commercial load, (b) the portion of the customer's commercial load covered by this conservation strategy, and (c) total system load.

Finally, the utility shall collect and provide to Bonneville by January 30 of the following year:

1. Total new commercial buildings (all fuels) constructed in the utility's service area during the past calendar year.

2. Total new electrically heated commercial buildings constructed in the utility's service area during the past calendar year.

3. Total new commercial buildings constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan, broken out by Bonneville prototype.

Customers who are operating a utility program and/or a utility service standard should take all necessary steps in order to avoid double-counting when reporting the above information.

Those customers wishing to avoid a surcharge under this path shall agree by May 1, 1988, to enroll in the commercial program and shall have enrolled in the program no later than August 1, 1988. Bonneville will consider offering a grace period if Bonneville has not completed its Early Adopter Program grant award process by August 1, 1988. Any such grace period will be considered in the event that Bonneville has received a plan by May 1, 1988, and the approval delay is due solely to Bonneville internal delay.

Early Adopter application materials can be obtained by contacting your nearest Bonneville Area or District Office.

Appendix 4—Achieving Electrical Savings by Adopting a Codified Version of the MCS

A. Residential

Several codified versions of the MCX contained in the Early Adopter Program have been developed. These are pre-approved codified versions of the Council's illustrative MCS paths. The options discussed in this appendix pertain to jurisdictions considering adopting, or who have adopted, a codified version of the MCS, but are not participating in Bonneville's Early Adopter Program.

Under this alternative, the customer must submit the codified version of the MCS which any jurisdiction in its service area is proposing for adoption or which has been adopted. The enforcement methods should be specified. In addition, the customer must indicate what steps the jurisdiction will take to maintain IAQ and ventilation at 1983 levels. Finally, the customer shall provide Bonneville with the following information: (a) Total residential load, (b) the portion of the customer's residential load covered by this conservation strategy, and (c) total system load.

By November 1, 1987, the customer shall submit the above information to Bonneville. The statute or ordinance shall have been adopted and enforced by February 1, 1988, unless a grace

period, as provided for in section 3 of the policy, has been granted.

In order to comply with the Council MCS reporting requirements as specified in their Plan Amendment, the utility shall collect and provide to Bonneville by January 30 of the following year:

1. Total new homes (all fuels) constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

2. Total new electrically heated homes constructed in the utility's service area during the past calendar year (brokenout by single-family, multifamily, modular, and HUD-code homes).

3. Total new electrically heated buildings constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (broken out by single-family, multifamily, modular, and HUD-code homes).

Customers who are operating a utility program and/or a utility service standard should take all necessary steps in order to avoid double-counting when reporting the above information.

B. Commercial Under this alternative, the customer must submit the codified version of the MCS which a jurisdiction in its service area is proposing for adoption or which has been adopted. The enforcement methods should be specified. In addition, the customer must indicate what steps the jurisdiction will take to address IAQ and ventilation requirements of Bonneville's Early Adopter Program. Finally, the customer shall provide the following information: (a) The customer's total commercial load (b) the portion of the customer's commercial load covered by this conservation strategy, and (c) total system load.

By May 1, 1988, the customer is to submit the above information to Bonneville. The statute or ordinance must be operative no later than August 1, 1988, unless a grace period, as provided for in Section 3 of the policy, has been granted.

Finally, the utility shall collect and provide to Bonneville by January 30 of the following year:

1. Total new commercial buildings (all fuels) constructed in the utility's service area during the past calendar year.

2. Total new electrically heated commercial buildings constructed in the utility's service area during the past calendar year.

3. Total new commercial buildings constructed, in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan, broken out by Bonnevile prototype.

Appendix 5—Achieving Electrical Savings by Adopting Alternative or Equivalent Building Codes

An alternative code is designed to achieve total electrical savings which, when both sector's savings are combined, are at least as large as the electrical savings expected had the Council's residential and commercial MCS been implemented. A jurisdiction proposing to adopt an alternative code, in which one sector's total electrical savings is expected to exceed the target electrical savings level for that sector, can use those excess electrical savings to offset electrical savings below the target in the other sector. The alternative code path may be pursued by a jurisdiction only when the sum of each sector's savings at least equals the aggregate electrical savings target, which itself is based on the sum of the level of savings for the two sectors calculated using the Council's MCS. Section 3 of this policy discusses how the utility should approach the electrical savings equivalency analysis.

As compared to alternative codes, equivalent codes examine each sector individually. They differ from the pre-approved codified versions mentioned earlier, but provide equivalent savings. An equivalent code must achieve at least the same level of total savings, in each sector separately, as would have been achieved by implementing Bonneville's Super GOOD CENTS Program in the residential sector, and the Council's commercial MCS.

A customer must submit a copy of the alternative or equivalent code which a jurisdiction has proposed. In addition, the customer must indicate how the jurisdiction plans on maintaining IAQ and ventilation at 1983 levels. Finally, the customer shall provide Bonneville with the following information: (a) Total residential load, (b) total commercial load, (c) the portion of the customer's residential load covered by this conservation strategy, (d) the portion of the customer's commercial load covered by this conservation strategy, and (e) total system load. Bonneville staff will attempt to assist customers and jurisdictions wishing to formulate improved building codes.

If an alternative code path is pursued, customers are encouraged to submit their alternative codes at the earliest possible date, but no later than November 1, 1987. Both codes would have to be implemeted and enforced by February 1, 1988, unless a grace period, as provided for in section 3 of the policy, has been granted.

If an equivalent code path is pursued, the customer must submit its residential plan by November 1, 1987, and its commercial plan by May 1, 1988. Then the residential code must be implemented and enforced by February 1, 1988, and the commercial code must be implemented and enforced by August 1, 1988, unless grace periods, as provided for in section 3 of the policy, have been granted.

Finally, the utility shall collect and provide to Bonneville, by January 30 of the following year:

A. Total new homes and commercial buildings (all fuels) constructed in the utility's service area during the past calendar year (for residential, broken out by single-family, multifamily, modular, HUD-code homes).

B. Total new electrically heated homes and commercial buildings constructed in the utility's service area during the past calendar year (for residential, broken out by single-family, multifamily, modular, and HUD-code homes).

C. Total new electrically heated homes and commercial buildings, constructed in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (for residential, broken out by single-family, multifamily, modular, and HUD-code homes; for commercial, broken out by Bonneville prototype by square footage).

Customers who are operating a utility program and/or a utility service standard should take all necessary steps in order to avoid double-counting when reporting the above information.

For a more complete discussion of the data required to evaluate an alternative or equivalent code, refer to the latest version of Bonneville's MCS Code Equivalency Determination Procedures. A copy of these procedures can be obtained by contacting your nearest Bonneville Area or District Office.

Appendix 6—Achieving Electrical Savings by Adopting a Codified Version of the MCS as a Utility Service Standard [1]

A. Residential

This path essentially involves adoption of a legally enforceable

[1] Many customers have questioned whether they have legal authority, under State laws, to impose such a service requirement. Bonneville has examined this question under the State laws of Oregon, Washington, Idaho, and Montana and have reached the tentative conclusion that no clear legal impediments exist in these States to conservation-oriented utility service requirements. While Bonneville does not offer legal advice to customers, particularly on questions of State law, Bonneville legal staff are available to discuss these preliminary conclusions with customers and their legal counsel.

Continued

electric utility hook-up standard for new electrically heated residential buildings. The customer would simply decline to serve new electrically heated buildings not built to the standard's specifications. A grace period would be allowed for buildings considered by Bonneville to be "under construction" at the time the standard was adopted. The adoption of a utility service standard may qualify the utility for participation in Bonneville's Early Adopter Program.

Customers wishing to avoid a surcharge with this approach shall submit a residential plan by November 1, 1987, and the residential service standard shall be adopted and enforced by February 1, 1988, unless a grace period, as provided for in Section 3 of the policy, has been granted. A plan must contain: (1) A copy of the standard to be imposed, (2) how the customer plans on monitoring compliance with the standard, and (3) what IAQ measures and activities will be pursued to assure that 1983 levels of IAQ and ventilation are at least maintained. Finally, the customer shall provide Bonneville with the following information: (a) Total residential load, (b) the portion of the customer's residential load covered by this conservation strategy, and (c) total system load.

No surcharge will be imposed on any customer relying on such a service requirement which is subsequently in joined or invalidated by court action. In such an event, the customer will be given a reasonable period of time to choose and implement another option.

Finally, the customer shall submit to Bonneville by January 30 of the following year:

1. Total new homes (all fuels) constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

2. Total new electrically heated homes constructed in the utility's service area during the past calendar year (broken out by single-family, multifamily, modular, and HUD-code homes).

3. Total new electrically heated homes constructed in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (broken out by single-family, multifamily, modular, and HUD-code homes).

B. Commercial

This path essentially involves adoption of a legally enforceable electric utility hook-up standard for new electrically heated commercial buildings at least equal to the Council's commercial MCS. The customer would simply decline to serve new electrically heated buildings not built to the standard's specifications. A grace period would be allowed for buildings considered by Bonneville to be "under construction" at the time the standard was adopted.

Customers wishing to avoid a surcharge with this approach shall submit a Commercial plan by May 1, 1988, and the commercial service standard shall be adopted and enforced by August 1, 1988, unless a grace period, as provided for in section 3 of the policy, has been granted. A plan must contain: (1) A copy of the standard to be imposed, and (2) indicate how the customer plans on monitoring compliance with the standard. Finally, the customer shall provide the following information: (a) The customer's total commercial load, (b) the portion of the customer's commercial load covered by this conservation strategy, and (c) total system load.

No surcharge will be imposed on any customer relying on such a service requirement which is subsequently in joined or invalidated by court action. In such an event, the customer will be given a reasonable period of time to choose and implement another option.

Finally, the customer shall submit to Bonneville by January 30 of the following year:

1. Total new commercial buildings (all fuels) constructed in the utility's service area during the past calendar year;

2. Total new electrically heated commercial buildings constructed in the utility's service area during the past calendar year (broken out by Bonneville prototype).

3. Total new electrically heated commercial buildings, constructed in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (broken out by Bonneville prototype).

Appendix 7—Achieving Electrical Savings by Adopting an Alternative or Equivalent Utility Service Standard

This path is actually two alternative paths. If an equivalent utility service standard approach is pursued, a customer may choose to adopt a utility service standard which is not one of the codified versions, but which is expected to achieve at least the same level of total electrical savings in each sector separately as would have been achieved by adopting Bonneville's Super GOOD CENTS Program in the residential sector, and the Council's MCS for the commercial sector. Alternatively, the customer may choose to adopt utility service standards for the residential and commercial sectors which, when taken together, achieves at least the same level of total electrical savings as would have been achieved had the customer adopted the Council's commercial and residential MCS. This latter option is referred to as an alternative utility service standard.

If an alternative utility service standard approach is pursued, a customer shall submit to Bonneville (1) a copy of the proposed service standard(s), (2) a description of the enforcement method(s), (3) a description of the methods used to at least maintain IAQ and ventilation at 1983 levels, and (4) copy of the analysis used to verify that the proposed service standard(s) will achieve the required total electrical savings. The customer shall also provide Bonneville with the following information: (a) Total residential load, (b) total commercial load, (c) the portion of the customer's residential load covered by this conservation strategy, (d) the portion of the customer's commercial load covered by this conservation strategy, and (e) total system load. Bonneville staff will attempt to assist customers and jurisdictions wishing to formulate improved building codes. This material shall be submitted by November 1, 1987, and both service standards shall be adopted and enforced by February 1, 1988.

If an equivalent service standard approach is pursued, the above information shall be submitted by November 1, 1987, for the residential sector, and by May 1, 1988, for the commercial sector. The Residential sector service standard shall be adopted and enforced by February 1, 1988, and the commercial service standard shall be adopted and enforced by August 1, 1988, unless a grace period, as provided for in Section 3 of the policy, has been granted.

Finally, the customer shall submit to Bonneville by January 30 of the following year:

A. Total new homes and commercial buildings (all fuels) constructed in the utility's service area during the past calendar year (for residential, broken out the single-family, multifamily, modular, and HUD-code homes).

B. Total new electrically heated homes and commercial buildings constructed in the utility's service area during the past calendar year (for residential, broken out by single-family, multifamily, modular, and HUD-code homes).

C. Total new electrically heated homes and commercial buildings,

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Any utility considering such a path should obtain independent legal advice on this question.

constructed in the utility's service area during the past calendar year, to the standard(s) described in the customer's plan (for residential, broken out by single-family, multifamily, modular, and HUD-code homes; for commercial, broken out by Bonneville prototype.

For a detailed decription of the data required to evaluate an alternative or equivalent code, and the evaluation criteria, the customer and/or jurisdiction is advised to consult the latest version of Bonneville's MCS Code Equivalency Determination Procedures. A copy of these procedures can be obtained by contacting your local Bonneville Area or District Office.

[FR Doc. 87-20450 Filed 9-4-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP87-98-000]

Proposed Changes in FERC Gas Tariff; Canyon Creek Compression Co.

September 2, 1987.

Take notice that on August 31, 1987, Canyon Creek Compression Company (Canyon) tendered for filing Fifth Revised Sheet No. 4 and Original Sheet Nos. 130 and 131 to be a part of its FERC Gas Tariff, Original Volume No. 1.

Canyon states that the above-mentioned tariff sheets were submitted in compliance with Commission Order No. 472, issued May 29, 1987. The proposed tariff provides a mechanism for Canyon to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations.

A copy of this filing was mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

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 §§ 385.214 and 385.211. All such motions or protests must be filed on or before September 9, 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. 87-20560 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-100-000]

Tariff Filing; Mountain Fuel Resources, Inc.

September 2, 1987.

Take notice that on August 31, 1987, Mountain Fuel Resources, Inc. (MFR), pursuant to 18 CFR 154.38(d)(6) and Part 382 of the Commission's regulations, tendered for filing and acceptance revised tariff sheets to its FERC Gas Tariff as follows:

First Revised Volume No. 1

Second Revised Sheet No. 1
Ninth Revised Sheet No. 12
Original Sheet No. 70-A

Original Volume No. 1-A

Second Revised Sheet No. 5
First Revised Sheet Nos. 20, 43, 67, 79, and 111
Second Revised Sheet Nos. 117 and 132

Original Volume No. 3

Fifth Revised Sheet No. 8

MFR states that the purpose of this filing is to add language to its FERC Gas Tariff to provide for an Annual Charge Adjustment (ACA) clause, and to implement the annual charge unit rate of $0.00196/Dth in each of its rate schedules applicable to sales and transportation. MFR requests an effective date of October 1, 1987, for all tendered tariff sheets.

Copies of the filing were served upon MFR's jurisdictional customers and the Public Service Commissions of Utah and Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 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 9, 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. 87-20561 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-99-000]

Change in Rates and Tariff Revisions; Northern Natural Gas Co., Division of Enron Corp.

September 2, 1987.

Take notice that on August 31, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing with the Commission to be effective October 1, 1987 the following tariff sheets to be included in Northern's FERC Gas Tariff:

Third Revised Volume No. 1

Forty-Seventh Revised Sheet No. 4b
Fifteenth Revised Sheet No. 4b.1
Second Revised Sheet No. 4g
Third Revised Sheet No. 4g.1
Second Revised Sheet No. 4g.2
First Revised Sheet No. 52c.5
First Revised Sheet No. 52f.6
Fourth Revised Sheet No. 72

Original Volume No. 2

Fifty-Fourth Revised Sheet No. 1c
Second Revised Sheet No. 1k

Northern states that the purpose of the revised tariff sheets is to adjust its jurisdictional natural gas sales and transportation rates to reflect the annual charge adjustment (ACA) unit charge, as authorized by the Commission for the fiscal year beginning October 1, 1987. An ACA unit charge of $.0021 per Mcf will be added to each of Northern's rate schedules applicable to sales or transportation deliveries.

Copies of the filing were served on all of Northern's jurisdictional customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 9, 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. 87-20562 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-89-000]

Tariff Changes, Northwest Alaskan Pipeline Co.

September 1, 1987.

Take notice that on August 21, 1987, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), tendered for filing in Docket No. RP87-89-000 the following tariff sheets to its FERC Gas Tariff Original Volume No. 2:

Second Revised Sheet No. 400
Second Revised Sheet No. 401
First Revised Sheet No. 411E
Second Revised Sheet No. 418
Third Revised Sheet No. 450
First Revised Sheet No. 467F
Second Revised Sheet No. 477A

Northwest Alaskan states that it is submitting these sheets to reflect a change in a pricing provision for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta) and sold to Pacific Interstate Transmission Company ("PIT") under Rate Schedule X-4. Northwest Alaskan states that this change pertains to the pricing provision which specifies the procedure for determining the commodity charge for gas purchased on any day in excess of 100% of the annual average daily quantity by PIT from Northwest Alaskan. Without the change, the pricing provision would terminate October 31, 1987. Northwest Alaskan indicates that as a result of the change, the pricing provision will remain in effect unless changed at some future date.

Northwest Alaskan states that it is submitting the above tariff sheets pursuant to the provision of the amended purchase agreement dated August 1, 1987, between Northwest Alaskan and PIT. Northwest Alaskan requests that the above sheets become effective October 1, 1987. It states that a copy of this filing is being served on PIT.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 8, 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. 87-20563 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87-75-000]

Petition to Reopen and Vacate Well Category Determination; Transcontinental Gas Pipe Line Corp. v. Huffco Petroleum Corp. and Jerry Chambers Exploration Co.

September 1, 1987.

Take notice that on August 19, 1987, Transcontinental Gas Pipe Line Corporation (Transco) filed with the Commission pursuant to section 503(d) of the Natural Gas Policy Act of 1978 (NGPA) and § 275.205 of the Commission regulations a petition to reopen and vacate a final section 102(d) well category determination granted to Huffco Petroleum and Jerry Chambers Exploration Company (collectively referred to as Huffco) for Well No. A-9D (API #42-708-400460103) OCS-1831, located in High Island 206, Offshore Texas.

Transco requests the Commission to (1) reopen and vacate the determination made by the jurisdictional agency, the Minerals Management Service of the Department of the Interior (MMS), that the well qualifies under section 102 because the determination was made on the basis of incorrect information; (2) determine that the well should have been classified under NGPA section 104; and (3) order Huffco to refund to Transco, with interest, amounts by which Transco's payments to Huffco have exceeded the maximum lawful price for section 104 natural gas.

Transco maintains that the A-9D well is not entitled to a section 102(d) determination because it was completed in a reservoir (the K-7 sands) which was discovered before July 27, 1976. Transco alleges that Huffco's well determination application misstated production capability evidence for the K-7 sands and omitted well log data from a Texaco, Inc. well that would have demonstrated Huffco's well did not qualify under section 102(d). Transco states that as a result of Huffco's allegedly erroneous section 102(d) determination, it has paid Huffco an estimated $2,047,901.42 (excluding interest) in excess of the maximum lawful price Huffco would have received under a section 104 determination.

Any person desiring to be heard or to make any protest concerning Transco's petition should file a protest or petition to intervene in accordance with the requirements of Rules 211 or 214 of the commission's rules of practice and procedure (18 CFR 385.211 or 385.214). All such filings should be made not later than 30 days following publication of this notice in the **Federal Register** and should be addressed to Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Protests will be considered by the Commission in determining the action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with Rule 214.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-20558 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-92-000]

Annual Charge Adjustment Filing; Williston Basin Interstate Pipeline Co.

September 1, 1987.

Williston Basin Interstate Pipeline Company (Williston Basin), on August 26, 1987, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

First Revised Sheet No. 2
Fourth Revised Sheet No. 10
First Revised Sheet No. 27
First Revised Sheet No. 36
First Revised Sheet No. 46
First Revised Sheet No. 115
Original Sheet No. 115A

Original Volume No. 1-A

First Revised Sheet No. 2

Original Volume No. 2

First Revised Sheet No. 1A
Seventh Revised Sheet No. 10
Eighth Revised Volume No. 11
First Revised Sheet No. 11B

The proposed effective date of the tariff sheet is October 1, 1987.

Williston Basin states that the filing institutes a Federal Energy Regulatory Commission Annual Charge Adjustment Provision (ACA) in its tariffs pursuant to § 154.38(d)(6)(i) of the Commission's Regulations. The filing incorporates an ACA surcharge of 0.210 cents per Mcf (0.201 cents per dkt on the Williston Basin system), as authorized by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 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 8, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 87-20564 Filed 9-4-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of July 31 Through August 7, 1987

During the Week of July 31 through August 7, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

August 31, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 31 through August 7, 1987]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 9, 1987	Highway Oil Co., Inc., Washington, DC	KRR-0031	Request for Modification/Rescission. *If granted:* The November 3, 1986 Decision & Order (Case No. KRZ-0035) issued to Highway Oil Company, Inc. would be modified regarding the supplemental information filed by Highway Oil Company into the record of the underlying enforcement proceeding (Case No. HRO-0123).
Mar. 9, 1987	Highway Oil Co., Inc., Washington, DC	KRZ-0065	Interlocutory. *If granted:* The Proposed Remedial Order issued to Highway Oil Company (Case No. HRO-0123) would be dismissed.
Mar. 16, 1987	Economic Regulatory Administration, Washington, DC	KRZ-0064	Interlocutory. *If granted:* The Office of Hearings and Appeals would accept recalculations of the amount of alleged overcharges in the enforcement proceeding with Highway Oil Co., Inc. (Case No. HRO-0123).
July 31, 1987	Charles Goss, Washington, DC	KRD-0026 & KRH-0026	Motion for Discovery & Request for Evidentiary Hearing. *If granted:* Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Charles Goss in response to the Proposed Remedial Order (Case No. HRO-0268).
July 31, 1987	Cities Service Oil & Gas Corp., Washington, DC	KRR-0030	Request for Modification/Rescission. *If granted:* The July 24, 1987 Decision and Order (Case No. KRD-0025) issued to Cities Service Oil & Gas Corporation would be modified regarding Cities motion for discovery.
Aug. 3, 1987	Amoco II/Colorado, Denver, CO	RM251-74	Request for Modification/Rescission in the Amoco II Second Stage Refund Proceeding. *If granted:* The January 7, 1987 Decision and Order (Case No. RQ251-11336) issued to Colorado would be modified regarding the state's application for refund submitted in the Amoco II second stage refund proceeding.
Aug. 3, 1987	Amoco, Belridge & Palo Pinto/Tennessee, Nashville, TN	RM21-75, RM8-76, RM5-77	Request for Modification/Rescission in the Amoco, Belridge & Palo Pinto Second Stage Refund Proceeding. *If granted:* The December 17, 1984 Decision and Order (RQ21-131; RQ8-130 RQ5-141) would be modified regarding the state's application for refund submitted in the Amoco, Belridge & Palo Pinto second stage refund proceeding.
Aug. 3, 1987	Environmental Policy Institute, Washington, DC	KFA-0112	Appeal of an Information Request Denial. *If granted:* The July 2, 1987 Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and Environmental Policy Institute would receive access to information relating to a document entitled Assessment of the Habitability of Rongelap Atoll.
Aug. 3, 1987	Le Paul Oil Co., Inc., Troy, OH	KEE-0147	Exception to the Reporting Requirements. *If granted:* Le Paul Oil Co., Inc. would not be required to file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Aug. 4, 1987	Baker R. Littlefield & Robert L. McAdams, Lafayette, LA	KRD-0027 & KRH-0027	Motion for Discovery & Request for Evidentiary Hearing. *If granted:* Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Baker R. Littlefield & Robert L. McAdams in response to the Proposed Remedial Order (Case No. HRO-0268).
Aug. 4, 1987	Washington State Energy Office, Olympia, WA	KEG-0016	Petition for Special Redress. *If granted:* The Office of Hearings and Appeals would review the proposed expenditures for Stripper-Well funds which were disapproved by the Assistant Secretary for conversation and Renewable Energy.
Aug. 6, 1987	Tri-City Herald, Tri-Cities, WA	KFA-0113	Appeal of an Information Request Denial. *If granted:* The July 24, 1987 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Tri-City Herald would receive access to a proposal by the Westinghouse Electric Company to operate facilities at the Hanford Nuclear Plant.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/ name of refund applicant	Case No.
8/3/87	Amoco II/Georgia	RQ251-389
8/4/87	Coline/Georgia	RQ2-390

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ name of refund applicant	Case No.
7/31/87-8/7/87	Crude Oil Applications Received.	RF272-3202-RF272-3554
8/4/87	Gibbs Gas Service, Inc	RF277-80

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ name of refund applicant	Case No.
8/4/87	Robert H. Jackson	RF277-81
8/4/87	Flame-Rite Gas, Inc	RF277-82
8/4/87	Sears Roebuck and Company	PF295-8

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ name of refund applicant	Case No.
8/4/87	Lodi Getty Station, Inc	RF265-2501
8/4/87	Reese, Inc	RF265-2502
8/4/87	Sparks Skelgas, Inc	RF275-2503
8/4/87	Kumm Gas Company, Inc	RF265-2504
8/4/87	Blass LP Gas, Inc	RF265-2505
8/4/87	Elwood Skelgas	RF265-2506
8/4/87	Modern Gas Company, Inc	RF265-2507
8/4/87	Modern Gas Company, Inc	RF208-20
8/4/87	Bobbett Gas Service, Inc	RF208-21
8/4/87	International Drilling Energy	RF208-22
7/24/87	General Motors Corp	RF277-79
8/3/87	Imperial Refineries Corp	RF295-5
7/28/87	Henry Oil Co	RF265-2495
7/28/87	Drake's Supply Co	RF265-2496
8/3/87	Tharp Skelgas	RF265-2497
8/3/87	Butler's L.P. & Fertilizer	RF265-2498
8/3/87	Diehl's Propane Service	RF265-2499
8/3/87	Grace's Skelgas & Appliancer	RF265-2500
8/7/87	Chapman Gases & Welding Surp.	RF277-83
8/7/87	Westlie Motor Co	RF265-2510
8/6/87	Hill Top Skelly	RF265-2511
8/6/87	Emil Wagner	RF265-2512
8/6/87	Pope's L.P. Gas Service Inc	RF265-2513
9/28/86	B.F. Mulderry, Inc.	RF225-10878
3/11/86	Ashby Oil Co	RF225-10879
7/2/86	Miller Oil Co	RF225-10880
7/21/86	Cahail Inc	RF225-10881
7/21/86	Home Oil Co	RF225-10882
7/21/86	Ketelsen Oil Co	RF225-10883
2/17/87	John B. Hartenstine, Jr., Inc	RF225-10884
8/1/86	Independent Oil Co	RF225-10885
8/1/86	Independent Oil Co	RF225-10886
8/6/87	Andrew J. Grenier	RF262-4
11/6/87	The Little Store	RF225-10877
8/6/87	R & J Getty, Inc	RF265-2508
8/5/87	Five Points Getty	RF265-2509
7/23/87	Pioneer Skelgas Co	RF265-2515
7/23/87	Shaw's Skelgas, Inc	RF265-2514

[FR Doc. 87-20509 Filed 9-4-87; 8:45 am]
BILLING CODE 6450-01

Issuance of Decisions and Orders During the Week of June 29 Through July 3, 1987

During the week of June 29 through July 3, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Alan Penan, 6/30/87; KFA-0099

Alan Penan filed an Appeal from a denial by the Director, Dallas Field Operations Office, Economic Regulatory Administration of a Request for Information which he had submitted under the Freedom of Information Act. The Request was denied because a search produced no documents responsive to the request. In his Appeal Penan supplied additional information that enabled the requested documents to be located and subsequently released. The Appeal was therefore dismissed.

Terra Technology Corp., 7/1/87; KFA-0098

The Terra Technology Corporation filed an Appeal from a partial denial by the Nevada Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the requested document was never created, and that there was no obligation under the Act to create new documents. The DOE further found that the release to Terra of another document that might be responsive to the firm's request was appropriate.

Remedial Order

National Hydrocarbons Group, Inc. et al., 6/30/87; HRO-0164

The Department of Energy issued a Decision and Order denying the Statements of Objections to a Proposed Remedial Order issued to National Hydrocarbons Group, Inc., National Hydrocarbons Resources Inc., and its corporate officers Donald P. Lemone, Gregory P. Dillion and Warren E. Settegast. In the PRO, the Economic Regulatory Administration alleged that Respondents engaged in 141 crude oil "layering" transactions in violation of 10 CFR 212.186. While upholding the procedural and substantive validity of the layering regulation, the DOE deleted sixteen transactions at ERA's request, and four additional transactions involving sales to a refiner. The DOE rejected Respondents' claims that traditional and historical services were performed in the remaining 121 transactions. The DOE specifically determined that a per barrel charge of one-quarter of one cent paid by the PRO recipients to pipeline companies for tracking title through in-line transfers did not facilitate the movement of crude oil, and thus was not a traditional and historical service. Finally, the DOE found Lemoine, Dillion and Settegast personally liable for the layered overcharges, because they conducted, directed and controlled the business and benefitted financially from the layered transactions. Accordingly, the DOE found Respondents jointly and severally liable and ordered them to remit $6,803,699 plus interest to the DOE as restitution for overcharges.

Requests for Exception

Keneco, 7/2/87; KEE-0091

Keneco filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." The DOE found that the firm failed to demonstrate that it was affected in a particularly adverse manner by the filing requirement. The DOE also found that the national interest in the energy data supplied by Keneco outweighed the firm's reporting burden. Accordingly, the Application for Exception was denied.

Rob-Lu Oil., Inc., 6/30/87; KEE-0109

Rob-Lu Oil Co., Inc. filed an Application for Exception seeking relief from the requirement to file Form EIA-821 "Annual Fuel Oil and Kerosene Sales Report." In considering the request, the DOE found that Rob-Lu had not demonstrated that it was inordinately burdened by the requirement, or that any burden on it outweighed the national interest in obtaining the energy data contained in the Form. Accordingly, the exception request was denied.

Refund Applications

Beacon Oil Co./Purmax Oil Co., Inc., Robert N. Rudolph Co., 7/2/87; RF238-49, RF238-80

The DOE issued a Decision and Order concerning two Applications for Refund filed by resellers of Beacon Oil Company petroleum products. Since both of the applicants were resellers that claimed refunds of $5,000 or less, they were presumed to have been injured by Beacon's alleged overcharges. After examining the applications and supporting documentation submitted by the claimants, the DOE concluded that they should receive refunds totaling $19,331, representing $9,952 in principal and $9,379 in accrued interest.

Dunlap Towing Co., 6/29/87; RF271-224

The DOE issued a Decision and Order concerning an Application for Refund from the Rail and Water Transporters Escrow that was received after the December 8, 1986 deadline established for the filing of such claims. The DOE found that the applicant, Dunlap Towing Company, had mailed its application on the deadline date and had therefore made a good faith effort to comply with that deadline. Dunlap Towing Company estimated that it had purchased 4,125,751 gallons of diesel fuel for use in its tug boats between August 19, 1973 and January 27, 1981. The DOE found Dunlap's method of estimation to be reasonable, and therefore approved a refund for the firm based on the entire gallonage claimed. The DOE stated that because the size of a Rail and Water Transporter applicant's refund will depend upon the total amount of gallons ultimately approved, the actual amount of Dunlap's refund will be determined at a later date.

Jamaica Buses, Inc., Green Bus Lines, Inc., Varsity Transit, Inc., Command Bus Co, Inc., 7/1/87; RF270-1191 RF270-1192, FR270-1193, FR270-1204

The Department of Energy issued a Decision approving applications submitted by four bus companies for refunds from the Surface Transporter Escrow, established as a result of the Stripper Well Agreement. Each appicant applied for a refund based on its purchases of motor gasoline and diesel fuel between August 19, 1973 and January 27, 1981. Each applicant demonstrated that it was a Surface Transporter and purchased a certain volume above the 250,000 gallon minimum established in the *Order Establishing Surface Transporter Escrow and Prescribing Provision for Administration of the Fund*, ¶ 16. Accordingly, all four applications were approved, and the respective volumes will be used to calculate each applicant's final refund. The DOE stated that because the size of a Surface Transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amount of the applicant's refund will be determined at a later date. The total number of gallons approved in this Decision is 43,764,163.

Marathon Petroleum Co./Auburn Dairy, Inc., Butler & Butler Construction, Inc., Chrysler Motors, 7/1/87; RF250-1833, RF250-1836, RF250-2288

The DOE issued a Decision and Order concerning three Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Auburn Dairy, Inc. and Butler & Butler Construction, Inc. were indirect purchasers who had purchased Marathon products from a firm which has received a Marathon refund under the 35% presumption of injury formula. However, since both applicants were qualified indirect purchasers submitting small claims, the DOE presumed that they were injured by the full volumetric amount. As an end-user of residual fuel oil, Chrysler was also presumed injured in the full volumetric amount. The sum of the refunds approved in this Decision is $283, representing $257 in principal and $26 in interest.

Midwest Transportation Inc., et al., 6/30/87; RF270-403 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow account established for surface transporters pursuant to the settlement agreement in the DOE Stripper Well Exemption litigation. The DOE approved the purchase volumes of refined petroleum products claimed by 10 private bus companies and will use those volumes as the bases for the refunds that will ultimately be issued to the 10 firms. The total number of gallons approved for refunds was 23,255,099. The Decision states that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the 10 firms' refunds will be determined at a later date.

Ole Man River Towing, Inc. et al., 6/30/87; RF271-89 et al.

The Department of Energy issued a Decision and Order approving applications submitted by six water transporters for refunds from the Rail and Water Transporters Escrow established as a result of the Stripper Well Settlement Agreement. Each of the six companies calculated its gallonage claims from purchase records. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all Rail and Water Claims. The total number of gallons approved for refund in the Decision was 33,246,650.

The Arrow Carrier Co. et al., 6/29/87; RF270-397 et al.

The Arrow Carrier Company and 20 other for-hire and private motor carriers filed Applications seeking refunds from the Surface Transporters Escrow established pursuant to the Settlement Agreement in*In Re: The Department of Energy Stripper Well Exemption Litigation*, , M.D.L. 378. The DOE examined each claim, ascertained that each of the applicants is an eligible surface transporter, and that its claim did not exceed the gallons of petroleum products that the applicant consumed in vehicle operations. The total volume approved in this Decision and Order is 76,763,753 gallons. Because the size of a surface transporter applicant's refund will depend upon the total number of all surface transporter gallons that are eventually approved, the actual amount of the refunds of these 21 firms will be calculated at a later date.

Union Cab Co. et al., 7/2/87; FR270-345 et al.

The DOE issued a Decision and Order approving 13 Applications for Refund from the Surface Transporters Escrow established as a result of the Stripper Well Settlement Agreement. The applicants were taxicab companies that applied for refunds based on purchases of motor gasoline between August 13, 1973 and January 27, 1981. The Decision and Order approved each applicant's volumes and the total number of gallons approved for refund in this Decision was 32,916,685. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all Surface Transporters claims.

Dismissals

The following submissions were dismissed:

Name and Case No.

I. DOI Hauling Contractor, Inc.; RF270-2414

Mt. Airy Refining Co. et al.; KRR-0029

Standard Oil Co. (IN)/N]; RQ251-304

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m, except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

August 31, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 87-20510 Filed 9-4-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order During the Week of August 10 Through August 14, 1987

During the week of August 10 through August 14, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 31, 1987.

Glenn E. Wagoner Oil Co., Darlington, Pa.; KEE-0143, Reporting Req'MTS.

Glenn E. Wagoner Oil Company (Wagoner) filed an Application for Exception from the provisions of the reporting requirements of Form EIA-782B. The exception request, if granted, would permit Wagoner to stop filing the monthly report. On August 14, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 87-20511 Filed 9-4-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; ITO Corp. of Baltimore

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations.

Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–011092–001
Title: Maryland Port Administration Terminal Lease Agreement
Parties: Maryland Port Administration ITO Corporation of Baltimore
Synopsis: The proposed agreement modifies the acreage and annual rental rate provisions of the basic Lease to reflect a decrease in acreage and rental payment.

By Order of the Federal Maritime Commission.

Dated: September 2, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–20581 Filed 9–4–87; 8:45 am]

BILLING CODE 6730–01–M

Survey of Shippers

The Federal Maritime Commission recently sent surveys to shippers seeking their views as to the impact of the U.S. Shipping Act of 1984. The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act, and is the second in a series to be distributed on an annual basis through 1989. Substantital revisions have been made to the 1987 survey based upon responses to the 1986 questionnaire. The Commission has been directed by the U.S. Congress to "collect and analyze information concerning the impact of this Act upon the international shipping industry," and to present its findings to an Advisory Commission on Conference in Ocean Shipping, to be convened five and one-half years after enactment of the Act.

The Commission would like its survey to have the widest possible distribution. All interested shippers who have *not* received a copy of the survey are urged to contact: Ernest L. Worden, Bureau of Economic Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, Tel. (202) 523–5870.

Dated: September 1, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–20556 Filed 9–4–87; 8:45 am]

BILLING CODE 6730–01

FEDERAL RESERVE SYSTEM

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies; Alton E. Blakley

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in action on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than September 23, 1987.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Alton E. Blakley* and Blaine S. Correll, both of Somerset, Kentucky; to acquire up to 74.7 percent of the voting shares of First & Farmers Bancshares, Inc., Somerset, Kentucky and thereby indirectly acquire First and Farmers Bank of Somerset, Somerset, Kentucky.

Board of Governors of the Federal Reserve System, September 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–20491 Filed 9–4–87; 8:45 am]

BILLING CODE 6210–01–M

Application To Engage de Novo in Permissible Nonbanking Activities; First Florida Banks, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) for the Board's Regulatory Y (12 CFR 225.23(a)(1)) of the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 1987.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Florida Banks, Inc.,* Tampa, Florida; to engage *de novo* through its subsidiary, FFP, Co., Tampa, Florida, in marketing and selling certain bank related computer programs previously developed and currently utilized by Applicant's subsidiary banks pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–20492 Filed 9–4–87; 8:45 am]

BILLING CODE 6210–01–M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Laddonia State Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute

and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 28, 1987.

A. Federal Reserve Bank of St. Louis (Randall C Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Laddonia State Bancshares, Inc.*, Laddonia, Missouri; to become a bank holding company by acquiring at least 97.9. percent of the voting shares of Laddonia State Bank, Laddonia, Missouri.

2. *TJM Financial Corporation*, Lexington, Kentucky; to become a bank holding company by acquiring at least 94 percent of the voting shares of First Farmers Bank and Trust Company, Owenton, Kentucky.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Standard Chartered PLC*, London, England; Standard Chartered Bank, London, England; Standard Chartered Overseas Holdings Limited, London, England, Standard Chartered Holdings Inc., Los Angeles, California; and Union Bancorp. Los Angeles, California; to acquire 100 percent of the voting shares of Western Bank Holding Company, Bellevue, Washington, and thereby indirectly acquire the First Western Bank, Bellevue, Washington.

Board of Governors of the Federal Reserve System, September 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-20493 Filed 9-4-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Marshall & Ilsley Corp.

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 24, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire M&I Data Services, Inc., Milwaukee, Wisconsin, and thereby engage in credit card servicing activities of M&I Bank of Madison, Madison, Wisconsin, pursuant to § 225.25(b)(1)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 2, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-20494 Filed 9-4-87; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Kalvar Corp.; MCorp, Dallas, TX

The companies listed in this notice have filed an application under § 225.23(a)(2) of the Board's Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y (12 CFR 225.25(b)(7)). The proposed activities will be conducted nationwide.

A. Board of Governors of the Federal Reserve System, William W. Wiles, Secretary, Washington, DC 20551:

1. *MCorp, Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware* ("Applicants"), through their subsidiary, MTech Corp, to acquire 100 percent of Kalvar Corporation, Minneapolis, Minnesota, and engage in data processing and computer output to microfilm ("COM") services, including offering enhanced COM services to MTech's current data processing customers, providing optical storage capability on optical digital disks, providing computer assisted retrieval for data stored on microfilm and microfiche, and providing in-house COM capability to data processing/COM customers. Applications also propose to sell solely to such customers, certain equipment and supplies, which would include reading machines, scanners and paper necessary to utilize the processed microfiche or microfilm, and, which, at all times, would constitute less than 30 percent of any packaged offering. Incidental to the above activities, Applicants propose to provide micropublishing (that is, a process involving the conversion of large volumes of banking, financial and economic data from paper onto microfilm or microfiche) and laser printing services. MTech does not intend to offer COM services as a "separate line of endeavor," but rather to offer such services "only as an output option for data otherwise being permissibly processed by the holding company system" as provided in the Board's interpretation regarding data processing activities found at § 225.13(e)(4) of the Board's Regulation Y (12 CFR 225.123(e)(4)).

Applicants maintain that the foregoing activities are permissible under section 4(c)(8) of the BHC Act and § 225.25(b)(7) of the Board's Regulation Y (12 CFR 225.25(b)(7)) as that section has been interpreted by § 225.123(e)(4) of the Board's Regulation Y. In addition, Applicants maintain that COM services have evolved to the point that such services standing alone should be deemed to constitute data processing services under § 225.25(b)(7) of the Board's Regulation Y.

Alternatively, this application raises the issue whether the combined offering of data processing and COM services, as proposed by Applicants, would constitute a new activity that would require the Board to determine whether, pursuant to section 4(c)(8) of the BHC Act, the proposed activity is closely related to banking or managing or controlling banks as to be a proper incident thereto.

Interested persons may express their views on whether the proposed activities are activities which the Board after due notice and opportunity for hearing has determined (by order or

regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto; or whether the Board is required to make a determination that the proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto. Interested persons also may express their views on whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically, any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas.

Any views or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than September 30, 1987.

Board of Governors of the Federal Reserve System, August 31, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-20490 Filed 9-4-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Availability of Funds for Fiscal Year 1987; Cooperative Agreement With Emory University

Introduction

The Centers for Disease Control announces the availability of funds in Fiscal Year 1987 to continue a cooperative agreement with the International Health Track of Emory University's MPH Program to support research in training methods in international health. This is not a formal request for application. Assistance will be provided only to Emory University for support of this support of this project. No other applications are solicited or will be accepted.

Authority

This cooperative agreement is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)) as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

Background and Purpose

The Centers for Disease Control (CDC) awarded a cooperative agreement to the International Health Track (IHT) of Emory University's MPH Program on September 29, 1985 to assist Emory in identifying and testing improved methods of preparing public health professionals for positions of major responsibility in developing countries. Methodologic research conducted included testing and evaluating the efficacy of various mixes of academic coursework at Emory University and specialized bench training at CDC in combination with structured periodic CDC seminars on international health, epidemiology, immunization and nutrition. Another purpose was to support the newly established International Health Track to institutionalize research findings and to became fully self-sustaining.

While substantial progress has been made toward achieving the project's goals, continued assistance is needed to fully implement and evaluate the efficacy of methodologic research and capacity-building activities initiated under this agreement.

Reasons for Proposing Emory University as Recipient of This Cooperative Agreement

The Centers for Disease Control provided assistance to the nascent International Health Track of Emory University's MPH Program starting in 1985 to conduct methodologic research and capacity-building activities aimed at improving public health skills and practices in developing countries. It is in the public interest to continue to support this unique research effort which can not be duplicated at other academic institutions because of the need for daily on-site interchange between the participating parties in order to determine the best mix of (1) academic coursework and research projects in international health, (2) specialized bench training at CDC, and (3) structured periodic CDC training seminars on epidemiology, international health, nutrition and immunization. These mutually dependent and reinforcing cooperative activities also require frequent lectures by CDC adjunct faculty and sharing of facilities, data bases and computer resources. In addition, the International Health Track is sufficiently new and flexible to enable the parties to this agreement to develop and test the efficacy of individualized short term, non-degree academic courses and research projects specially designed for public health professionals from developing countries whose schedules and short stay at CDC do not coincide with traditional academic semesters.

Availability of Funds

Approximately $140,000 will be available in Fiscal Year 1987 to continue this cooperative agreement. It is expected that the cooperative agreement will begin on or about September 30, 1987, and will be funded in 12 months budget periods within a 3-year project period. The estimated cost of the project will be $90,000 in FY 1988 and approximately $45,000 in FY 1989. Continuation awards will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding outlined above may vary and is subject to change.

Other Submissions and Review Requirements

The application will not be subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Information

Information may be obtained from Mr. Henry Cassell, Supervisory Grants Specialist, Grants Management Office, Procurement and Grants Office, Centers for Disease Control, 275 East Paces Ferry Road, NE., Atlanta, Georgia 30305, telephone (404) 265-6575. Technical assistance may be obtained from Mr. Billy G. Griggs, Director, International Health Program Office, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-3111.

Dated: September 1, 1987.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 87-20501 Filed 9-4-87; 8:45 am]

BILLING CODE 4160-18-M

Office of Human Development Services

[Program Announcement No. 13600-872]

Head Start Programs; Availability of Grants

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, Department of Health and Human Services.

ACTION: Extension of due date for receipt of applications for Head Start innovative grant funds.

SUMMARY: This notice extends the closing date for receipt of applications submitted in response to the Administration for Children, Youth and Families/Head Start Bureau program announcement published in the **Federal Register** on Monday, August 3, 1987 (52 FR 28806). It also extends the time period for State review of such applications under Executive Order 12372.

FOR FURTHER INFORMATION CONTACT: Mary S. Lewis, Education Specialist, (202) 755-7710.

SUPPLEMENTARY INFORMATION:

On Monday, August 3, 1987, the Head Start Bureau published an announcement in the **Federal Register** (52 FR 28806). That announcement solicited applications from current Head Start grantees and delegate agencies that wish to compete for $2,000,000 in grant funds available in fiscal year 1988 to develop and implement innovative program options or innovative adjuncts to existing programs.

In order to allow prospective applicants more time to prepare and submit their applications, we are extending the due date for receipt of applications from September 17, 1987 to November 2, 1987.

This action also extends the due date for comments on applications from State Single Points of Contact under Executive Order 12372 from November 16, 1987 to December 30, 1987.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: August 12, 1987.

Joseph Mottola,

Acting Commissioner, Administration for Children, Youth and Families.

Approved: August 28, 1987.

Carolyn Doppelt Gray,

Acting Deputy Assistant Secretary for Human Development Services.

[FR Doc. 87-20520 Filed 9-4-87; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Availability of Planning Report/Draft Environmental Statement, San Jacinto Project, Texas

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a planning report/draft environmental statement (PR/DES) to evaluate alternative water supply sources within the San Jacinto River basin that can help meet water needs.

Copies of the PR/DES are available for inspection at the following locations:

University of Houston Library, 4800 Calhoun, Houston, TX 77004

Rice University Library, P.O. Box 1892, Houston, TX 77251

Montgomery County Library, P.O. Box 579, Conroe, TX 77305

Huntsville Public Library, 1212 Avenue M, Huntsville, TX 77340

Houston Public Library, Attn: Ms. Ruby Weaver, 500 McKinney, Houston, TX 77002

Harris County Public Library, 49 San Jacinto, Suite 200, Houston, TX 77002

Austin Memorial Library, 220 S. Bonham, Cleveland, TX 77327

Prairie View A&M University Library, Prairie View, TX 77446

Octavia Fields Library, 111 West Higgins, Humble, TX 77338

Harris County Library, 701 James Street, Tomball, TX 77375

Texas Southern University Library, 3100 Cleburne, Houston, TX 77004

Texas A&M University, Sterling Evans Library, College Station, TX 77843

University of Texas, General Libraries, P.O. Box P, Austin, TX 78713

Sam Houston State University, Newton Greshan Library, Huntsville, TX 77341

Magnolia Branch Library, 31350 Industrial Lane, Magnolia, TX 77355

Single copies of the PR/DES or summary may be obtained on request from the following:

Office of Environmental Affairs, Bureau of Reclamation, Room 7425, U.S. Department of the Interior, C Street Between 18th & 19th Streets, NW., Washington, DC 20240, Telephone (202) 343-4991

Office of the Regional Director, Bureau of Reclamation, U.S. Department of the Interior, 714 South Tyler, Suite 201, Amarillo, TX 79101, Telephone (806) 378-5468

Texas Representative, Bureau of Reclamation, U.S. Department of the Interior, 300 East 8th Street, P.O. Box 1946, Austin, TX 78767, Telephone (512) 482-5641

SUPPLEMENTARY INFORMATION: The primary purpose of the study was to evaluate alternative surface water supply sources within the San Jacinto River basin that can help meet water needs of the area. Various alternatives were evaluated. The recommended plan is a proposed multipurpose reservoir, Lower Lake Creek, on the west fork of the San Jacinto River, in Montgomery County. Project purposes include flood control, recreation, and municipal and industrial water supply. The project would provide 62,200 acre-feet of water annually. The PR/DES presents an evaluation of alternatives and the recommended plan, along with the probable environmental impacts and mitigation measures.

Date: September 1, 1987.

C. Dale Duvall,

Commissioner of Reclamation.

[FR Doc. 87-20430 Filed 9-4-87; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of information collection: The proposed information collection is a "generic clearance" under which the Commission can issue questionnaires for the following types of investigations: countervailing duty, antidumping, escape clause, escape clause review, market disruption and "interference with programs of the USDA."

Summary of proposal:

(1) Number of forms submitted: three.

(2) Title of forms: *Sample Producer's, Sample Importer's and Sample Purchaser's questionnaires* (i.e., the "samples" are an aggregate of the information that is likely to be collected in a series of questionnaires issued under the generic clearance).

(3) Type of request: Extension.

(4) Frequency of use: On occasion.

(5) Description of respondents: Businesses or farms that produce, import and/or purchase products under investigation.

(6) Estimated annual number of respondents: 4,000.

(7) Estimated total annual number of hours to complete the forms: 100,000.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: A presumptive notice of the Commission having submittted its proposal to OMB appeared in the **Federal Register** of August 3, 1987. All other information in that notice, with the exception of the comment cutoff date which is extended by this notice, remains in effect. Copies of the proposed forms and supporting documents may be obtained from Lynn Featherstone (tel. no. 202–523–0301). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Ms. Francine Picoult). Any comments should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the problem in detail, and including specific revisions or language changes.

Submission of comments: Comments should be sumbitted to OMB within two weeks of the date this notice appears in the **Federal Register.** If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal and then submit your comments so as to be received by OMB by October 9, 1987. Ms. Picoult's telephone number is 202–395–7340. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: September 2, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–20538 Filed 9–4–87; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Pollution Control; Lodging of Consent Decree Pursuant to Toxic Substances Control Act; Interior Steel Equipment Co., Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Interior Steel Equipment Company, Inc.*, Civil Action No. C 87–460, was lodged with the United States District Court for the Northern District of Ohio. The complaint filed by the United States alleged that Interior Steel Equipment Company has violated section 113 of the Clean Air Act, 42 U.S.C. 7413, by failing to comply with applicable provisions of the Ohio State Implementation Plan ("SIP") pertaining to the control of emissions of volatile organic compounds.

The proposed Decree establishes deadlines for achieving compliance with Ohio Administrative Code Rule 3745–21–09(U) (part of the Ohio ozone SIP) by reducing the volatile organic compound ("VOC") content of paints used by defendant. The proposed Decree also establishes deadlines for installation of VOC emissions capture and control equipment in the event that defendant does not meet deadlines for reducing the VOC content of its paints. In addition, the proposed Consent Decree requires defendant to pay a civil penalty of $15,000.

The proposed Consent Decree may be examined at the office of the United States Attorney, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114 and at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 230 South Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Lands 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 $1.70 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzullia,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–20498 Filed 9–4–87; 8:45 am]

BILLING CODE 4410–01–M

Pollution Control; Lodging of Consent Decree Pursuant to the Clean Water Act; City of Lowell, MI, and the State of Michigan

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 18, 1987 a proposed Consent Decree in *United States v. City of Lowell, Michigan and the State of Michigan,* Civil Action No. GB6–177–CA1, was lodged with the United States District Court for the Western District of Michigan. The proposed Consent Decree concerns the discharge of pollutants from the City's wastewater treatment plant. The proposed Consent Decree requires the City: To comply with the Clean Water Act and its implementing regulations; to eliminate effluent discharges that violate the City's National Pollutant Discharge Elimination System Permit; to operate and maintain the plant in a manner that ensures the best interim effluent quality possible pending completion of additions and improvements to the plant; to implement an approved industrial pretreatment program; and to pay a $25,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Lowell,* D.J. Ref. 90–5–1–1–2565.

The proposed Consent Decree may be examined at the office of the United States Attorney, 399 Federal Building, Grand Rapids, Michigan 49503, and at the Region 5 Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

August 6, 1987.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–20499 Filed 9–4–87; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Johnson Matthey, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 3, 1987, Johnson Matthey, Inc., Custom

Pharmaceuticals Department, 2002 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Alfentanil (9737).

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 October 8, 1987.

Dated: September 1, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-20543 Filed 9-4-87; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

[INS Number: 1031-87]

Verification of Immigration Status of Aliens Applying for Benefits Under Certain Programs

AGENCY: Immigration and Naturalization Service (INS), Justice.

ACTION: Public notice of INS procedures for verifying an alien's immigration status for various federal benefit programs, funds and services.

SUMMARY: This notice describes the Systematic Alien Verification for Entitlements (SAVE) Program as it relates to section 121 of the Immigration Reform and Control Act of 1986 (IRCA) which requires immigration status verification of alien applicants under certain federally subsidized entitlement programs. SAVE will provide a data base specifically designed to capture information contained in INS records which when used by the entitlement issuing authority will allow it to verify the alien's immigration status. This verification will assist the federal or state issuing authority in determining the eligibility of the alien applicant to receive federally subsidized benefits. Each overseeing agency affected by this provision will publish separate regulations, as necessary, describing the use of this system. Those agencies and the designated programs include: The Department of Agriculture—Food Stamp Programs; the Department of Housing and Urban Development—Housing Assistance Programs; the Department of Labor—Unemployment Compensation; the Department of Education—Title IV Educational Assistance; and the Department of Health and Human Services—Aid to Families with Dependent Children Program, Medicaid Program, and certain Territorial Assistance Programs. (Food Stamps are not an entitlement program. However, for purposes of this notice the term "entitlement program" will include food stamps.).

DATE: Written comments must be received by October 15, 1987.

ADDRESS: Please submit written comments, in triplicate, to: Policy Directives and Instructions, Immigration and Naturalization Service, 425 "I" Street, NW, Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Neville W. Cramer, Director, SAVE Program, Immigration and Naturalization Service, 425 "I" Street, NW, Room 7240, Washington, DC 20536.

SUPPLEMENTARY INFORMATION: On November 6, 1986, the President signed into law the Immigration Reform and Control Act, Pub. L. 99-603 ("IRCA"). This legislation, the most comprehensive reform of our immigration laws since the enactment in 1952 of the Immigration and Nationality Act, 66 Stat. 166, reflects a resolve to control illegal immigration. One of the themes in this legislation is to reduce incentives for aliens to come and remain in the United States illegally. Aside from the deterrence created by employer sanctions, illegal aliens must also be prevented from obtaining public assistance while in the United States. Section 121 of IRCA, "Verification of Immigration Status of Aliens Applying for Benefits Under Certain Programs," provides for the establishment and implementation of a system to verify the status of aliens applying for federally funded entitlements.

The Systematic Alien Verification for Entitlements (SAVE) Program is an intergovernmental information-sharing initiative designed to prevent unentitled aliens from receiving federally subsidized entitlement benefits. The INS has been operating long-term SAVE pilots throughout the United States and its territories for several years. INS estimates that nearly $3 billion in benefits are granted to aliens who are either in the United States illegally or, by reason of their status, are unentitled to the benefits.

The Administration strongly supports efforts to curb waste, fraud, and abuse within federal funded entitlement programs. Section 121 of IRCA mandates that the INS develop a cost-effective alien status verification system for use by entitlement agencies. Agencies that already have effective systems will be allowed to request and/or receive a waiver from this provision of IRCA in accordance with paragraph (c)(4) "Use of Verification System Not Required for a Program in Certain Cases" of section 20 "Payment for Implementation of Immigration Status Verification System." SAVE allows federal and state eligibility workers to verify both alien documentation and status within seconds of accessing the data base, and should prove to be a strong deterrent to those aliens attempting to gain benefits illegally.

Verification Procedures

(1) Citizenship or Alienage Declaration

All applicants for benefits under the designated programs in section 121 of IRCA will be required to declare under penalty of perjury whether they are citizens or nationals of the United States, or aliens.

(2) Documentary Requirements of Aliens

All aliens in the United States must present original alien registration documentation (alien registration number is equivalent to "A" file number) or other source of documentation that the issuing agency determines is reasonable evidence of the alien's immigration status. The documentation should contain an alien registration number or admission number. All applicants must present acceptable documentation or furnish a receipt from the INS indicating that an application for replacement documentation has been made.

(3) Maintaining Photocopies

INS suggests that the overseeing Federal agencies require that all original documentation presented by alien applicants be photocopied (front and back) and maintained with the alien's application for benefits or other suitable location that allows for immediate retrieval. If an office does not have access to photocopy equipment, the alien applicant should be required to present both the original and a copy (front and back) of all immigration documentation.

(4) Immigration Documentation (Examples)

Immigration documentation includes, but is not limited to, the following:

(a) Form I–151. Alien Registration Receipt card with photograph (for permanent resident aliens). This card was in use prior to 1979;

(b) Form I–551. Resident Alien card (for permanent resident aliens);

(c) Form AR–3a. Alien Registration Receipt card (Issued during 1941–1949 for permanent resident aliens);

(d) Form I–94. Arrival-Departure Record—(Annotated either "Section 207" or "Refugee," or "Section 208" or "Asylum");

(e) Form I–94. Arrival-Departure Record—Parole Edition (Annotated "Section 212(d)(5)," or "Conditional Entry" or "Section 203(a)(7)");

(f) Form I–94. Arrival-Departure Record (Annotated "Section 243(h)");

(g) Form I–94. Arrival-Departure Record (Annotated Cuban-Haitian Entrant);

(h) Form I–688. Temporary Resident card, Department of Justice, Immigration and Naturalization Service (Card issued pursuant to IRCA. Document expires);

(i) Form I–688A. Employment Authorization card, Department of Justice, Immigration and Naturalization Service (Card issued pursuant to IRCA. Document expires);

(j) A receipt from INS indicating that an application for replacement documentation has been made.

All immigration documentation presented that does not contain a photograph should be accompanied by another identity document bearing a photograph of the applicant.

(5) Access to the Alien Status Verification Index (ASVI)

The alien registration number located on the document shall be used to access ASVI. Alien registration numbers are either seven or eight numerical digits preceded by the letter *A*.

(6) ASVI Data Elements

ASVI verifies some or all of the following biographical data pertaining to the alien applicant. Each agency should identify, under separate regulation, the critical data elements that constitute a valid ASVI verification.

(a) "Last name".

(b) "First name".

(c) "Date of birth".

(d) "Country of birth" (not nationality).

(e) "Social Security Number" (if known).

(f) "Date of entry" (for last status entered into system).

(g) One of the following status displays:

(i) "Lawful Permanent Resident-Employment Authorized".

(ii) "Cuban/Haitian Entrant-Temporary Employment Authorized".

(iii) "Section 245(A) of IRCA Temporary Resident-Temporary Employment Authorized".

(iv) "Section 210 of IRCA Temporary Resident-Temporary Employment Authorized".

(v) "No Record of This A-Number—Institute Secondary Verification".

The biographical data and status information located in the ASVI must correspond to the data located on the original documentation presented by the alien applicant.

Copies of documented proof of immigration status that do not contain an alien registration number, copies of documented proof that do not correspond to the data in the ASVI, or documented alien registration numbers that result in the ASVI instruction "Institute Secondary Verification" should immediately be forwarded to the INS under the secondary verification procedures described below.

Secondary Verification

(1) Definition of "Secondary Verification"

Secondary verification signifies the forwarding of fully readable photocopies of original immigration documents attached to either Document Verification Request Form G–845 to a designated INS field office for review. It is instituted when the initial access to ASVI instructs the user to "Institute Secondary Verification" or when a document has been verified through the ASVI but has other questionable characteristics, such as photo-substitution, ink discoloration, etc. INS then completes the response portion of Form G–845, and returns both the form and the attached photocopies to the submitting office. The INS retains those records necessary to comply with the Freedom of Information and Privacy Act (see Privacy Act below). Copies of any documents submitted to INS, i.e., counterfeit or altered documentation, may be duplicated. Copies of documentation that indicate criminal misuse of government documents may be forwarded to the Investigations Division of INS, or other Federal and State law enforcement agencies.

(2) Use of Document Verification Request Forms G–845A and G–845B

(a) Form G–845A must be used by agencies requiring immigration document verification and work authorization status.

(b) Form G–845B must be used for agencies requiring immigration document and status verification only.

(3) INS Response to Secondary Verification

The INS Records Division will process all secondary verifications. Forms G–845A and G–845B should be returned to the submitting agency within seven to ten days after receipt by INS. The maximum response time should not exceed 21 work days. Delays in processing Form G–845 should not result in a denial of benefits.

G–845 forms sent to the INS without photocopies of the original immigration documentation will be returned to the submitting agency without a status determination.

Denials

(1) Benefit Denial Responsibility

Denial of benefits based on alien status and the establishment of a fair hearing process are the responsibility of the issuing agency.

Types of Access to the Alien Status Verification Index

(1) Access to ASVI

Each overseeing federal agency will determine the methods of access to ASVI as it will ultimately be responsible for these costs in accordance with section 121(b) "Providing 100 Percent Reimbursement for Costs of Implementation and Operation." ASVI may be used in one or more of the following methods; however, all of these methods may not be available in October 1, 1987, the date by which INS in mandated by Congress to provide SAVE access:

(a) User system to ASVI data base via dedicated telecommunication line (CRT display).

(b) User agency "personal computer" with modem to ASVI data base (CRT display).

(c) "Point-of-sale" equipment to ASVI data base (LED or LCD display). (Point-of-sale machines are key-pad terminals with digital response displays that use standard telephone lines and require cards with magnetic information strips to access data base.)

(d) Touch-tone telephone access to ASVI data base (Computerized voice data response).

(e) Magnetic tape match against ASVI data base (Magnetic tape response or paper print-out of results).

Access to ASVI may be achieved only after user agency is issued a security access number. User agencies will be provided a manual which will describe

the Systematic Alien Verification for Entitlements Program and the use of the ASVI.

Privacy Act

(1) Privacy Act Compliance

A "record of disclosure" shall be made on all alien registration numbers checked through the ASVI and will be maintained by the INS. This will allow the INS to fully comply with the requirements of section (c)(1), (3), and (4) of the Privacy Act (5 U.S.C. 552a). The following records will be maintained and disclosed in accordance with the Freedom of Information Act:

(a) Alien Registration Number.
(b) Date and time of disclosure.
(c) Agency accessing ASVI.
(d) Authorization Code (In those cases where the ASVI automatically issues a unique number for each inquiry, i.e., point-of-sale equipment or touch-tone voice data response, this number will be considered the authorization code and will be maintained on the "record of disclosure."

INS will protect an individual's privacy to the maximum degree possible, in accordance with the Immigration Reform and Control Act of 1986 and any other applicable statutes.

(2) Record of Disclosure for Documentation Which Does Not Contain an Alien Registration Number

If an immigration document does not contain an alien registration number, INS will run computer checks against all available INS data systems to determine the status of the alien applicant shown on the documentation. If an alien registration number exists for that applicant, the document appears bona fide, and the alien's status requires a disclosure accounting, INS will make the necessary "record of disclosure."

(3) Routine Use of Information

The records of disclosure created by checks made against the ASVI will be available to any person or agency that would normally have access to alien files maintained by the INS.

Audit Trails

(1) Profiles in Audit Trails

Audit trails will identify inordinate and extraordinary use of alien registration numbers, i.e., alien registration numbers checked several times in multiple localities within a short period of time, or non-existent alien registration numbers. This information may be used by the INS and other Federal and State fraud enforcement entities for investigation of possible criminal activity. It will not be used for non-criminal, administrative immigration enforcement purposes. Participating agencies and INS, through secondary verifications, will establish reporting procedures indicating cost avoidance figures and the number of aliens denied benefits.

Federal Entitlement Programs and Federally Assisted Entitlement Programs/Implementation

Preventing waste, fraud and abuse within Federal and federally subsidized entitlement programs is a primary goal of section 121 of IRCA and of the current Administration. Further, public policy demands that entitlement funds be accounted for and distributed only to eligible applicants. Most federal programs are required to obtain from alien applicants verifiable evidence of their immigration status. One of the most reliable methods to verify an alien applicant's immigration documentation and status is through the Systematic Alien Verification for Entitlements Program of the INS.

(1) Effective Verification System

Any Federal or State agency that administers Federal entitlement funds should have an effective and reliable alien status verification system to ensure that these funds are allocated appropriately and with integrity.

(2) Waivers

Under section 121(c)(4)(B)(i) of IRCA, states or other entities may request and/or a waiver from participating in the Systematic Alien Verification Program based on the determination that an alternative system is already in place that is as effective and timely as SAVE, and provides the appropriate hearing and appeals rights.

Under section 121(c)(4)(B)(ii) of IRCA, states or other entities may request and/or receive a waiver from participating in an alien status verification system based on the determination that the costs of administration of such a system would exceed the estimated savings. Such entities, therefore, granted a waiver under section 121(c)(4)(B)(ii) may have no system of verifying the immigration status of alien applicants.

(3) Impact Assistance

The INS recognizes that the Secretary of Health and Human Services has sole authority for determining State Legalization Impact Assistance Grants under section 204(b)(1)(C) of IRCA. However, in establishing regulations and in determining reimbursements under section 204(b)(1)(C) of IRCA, the Secretary of Health and Human Services should take into account whether a state or other entity within that state has been granted a waiver under section 121(c)(4)(B)(ii) of IRCA. The INS has witnessed through SAVE pilot programs that significant payments of Federal entitlement funds have been made to illegal and ineligible aliens in states having no proven method of determining an alien applicant's status. Such payments would have been avoided through the use of SAVE. The INS wants to ensure that funds allocated under section 204(b)(1)(C) of IRCA be disbursed properly, thereby furthering this Administration's goal of preventing abuse of federally subsidized entitlement programs.

Dated: August 31, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87-20390 Filed 9-4-87; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-18,886 et al.]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance; BHP Petroleum (America) Inc., et al.

In the matter of BHP Petroleum (Americas) Inc., (formerly Monsanto Oil Co.), Plainville, KS and all other locations of BHP Petroleum (Americas) Inc., Mid-Continent region in the following States: Kansas TA-W-18,886A, Oklahoma TA-W-18,886B, and Texas TA-W-18,886C.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 13, 1987, applicable to all workers of BHP Petroleum, Inc., Plainville, Kansas. The Certification was published in the **Federal Register** on March 26, 1987 (52 FR 9725).

The Department collected data for the Mid-Continent Region of BHP Inc., under the subject petition. The certification notice is amended to identify the states in which the BHP Petroleum maintains operations in the Mid-Continent Region. The company has oil fields in the subject states as well as offices which support crude oil production. Worker separations have occurred throughout the Mid-Continent Region of BHP Inc.

The Department issued certifications to workers at BHP Petroleum, Houston, Texas, TA-W-19,758, Midland, Texas, TA-W-18,313; and Snyder, Texas, TA-

W–17,859 and issued a notice of negative determination to workers at BHP Petroleum, Great Bend, Kansas TA–W–18,677. The intent of this certification is to cover other workers of BHP Petroleum (Americas) Inc., in all locations of the Mid-Continent Region of BHP Petroleum in the states of Texas, Oklahoma and Kansas. The amended notice applicable to TA–W–18,886 is hereby issued as follows:

All workers of BHP Petroleum (Americas) Inc., Plainville, Kansas and all other workers of the Mid-Continent Region of BHP Petroleum in the states of Kansas, Oklahoma and Texas who became totally or partially separated from employment on or after December 24, 1985, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

This amended notice does not change the Department's decisions with respect to petitions TA–W–19,758 Houston, Texas; TA–W–18,313, Midland, Texas; TA–W–17,859 Snyder, Texas or TA–W–18,677 Great Bend, Kansas.

Signed at Washington DC, this 28th day of August, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–20587 Filed 9–4–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19,484 et al.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Koch Exploration Co. et al.

In the matter of Koch Exploration Co., Denver, CO, TA–W–19,674, Koch Exploration Co., Buffalo, SD and all other locations of Koch Exploration Company in the following States: North Dakota TA–W–19,674A, South Dakota TA–W–19,674B, and Kansas TA–W–19,674C.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a notice of Certification of Eligibility to Apply for Worker Adjustment Assistance on June 5, 1987 applicable to all workers of Koch Exploration Company, Denver, Colorado and Buffalo, South Dakota. The Certification was published in the **Federal Register** on June 23, 1987 (52 FR 23615).

The company furnished new information to the Department which identified additional states where worker separations occurred in 1986 that were not included in the initial certification. Accordingly, the amended certification is changed to include the states of Kansas and North Dakota where additional worker separations occurred.

The intent of the certification is to cover all workers of Koch Exploration Company in all locations where worker separations occurred. The amended notice applicable to TA–W–19,484 and TA–W–19,674 is hereby issued as follows:

All workers of Koch Exploration Company, Denver, Colorado and Buffalo, South Dakota and all other workers of Koch Exploration Company in the states of Kansas, South Dakota and North Dakota who became totally or partially separated from employment on or after March 30, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of August, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–20586 Filed 9–4–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19,787 et al.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Operators, Inc., et al.

In the matter of Operators, Inc., subsidiary of Tenneco Oil Co., Houston, TX, TA–W–19,787A San Antonio, TX, TA–W–19,787B Bakersfield, CA, TA–W–19,787C Oklahoma City, OK, TA–W–19,787D Lafayette, LA, and TA–W–19,787E Great Bend, KS.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a notice of Certification of Eligibility to Apply for Worker Adjustment Assistance on June 19, 1987 applicable to all workers of Operators, Incorporated, Subsidiary of Tenneco Oil Company, Houston, Texas. The Certification was published in the **Federal Register** on July 9, 1987 (52 FR 25930).

The company furnished new information to the Department which identified an additional location at Great Bend, Kansas where additional worker separations occurred in 1986 that were not included in the initial certification. Accordingly, the amended certification is changed to include Great Bend, Kansas.

The intent of the certification is to cover all workers of Operators, Inc., in all locations where worker separations occurred. The amended notice applicable to TA–W–19,787 is hereby issued as follows:

All workers of Operators, Incorporated, a subsidiary of Tenneco Oil Company, Houston, Texas; San Antonio, Texas; Bakersfield, California; Oklahoma City, Oklahoma; Lafayette, Louisiana and Great Bend, Kansas who became totally or partially separated from employment on or after May 13, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of August, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–20585 Filed 9–4–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–18,064 et al]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Cities Service Oil and Gas Corp.

In the matter of: TA–W–18,064 Tulsa, OK, TA–W–18,064–A Oklahoma City, OK, TA–W–18,064–B Lindsay, OK, TA–W–18,064–C Houston, TX, TA–W–18,064–D Midland, TX, TA–W–18,064–E Bridgeport, TX, TA–W–18,064–F Robstown, TX, TA–W–18,064–G West Seminole, TX, TA–W–18,064–H Odessa, TX, TA–W–18,064–I Pratt, KS, TA–W–18,064–J El Dorado, KS, TA–W–18,064–K Bakersfield, CA, TA–W–18,064–L Ingleside, CA, TA–W–18,064–M Denver, CO, TA–W–18,064–N Jackson, MI, TA–W–18,064–O Anchorage, AL, TA–W–18,064–P Charleston, SC, TA–W–18,064–Q Niagara Falls, NY, TA–W–18,064–R Gillette, WY, TA–W–18,064–S Lake Charles, LA, TA–W–18,064–T Hobbs, NM, TA–W–18,064–U Hutchinson, KS, TA–W–18,064–V Hackberry, LA, TA–W–18,064–W Blackwell, OK, TA–W–18,064–X Waukomis, OK, TA–W–18,064–Y Longview, TX, TA–W–18,064–Z Chico, TX, TA–W–18,064AA Mont Belvieu, TX, TA–W–18,064AB Liberal, KS, TA–W–18,064AC Wichita, KS, and all other locations of Cities Service Oil and Gas Corporation in the following states: Arkansas TA–W–18,064AD, Nebraska TA–W–18,064AE, North Dakota TA–W–18,064AF, Kentucky TA–W–18,064AG, West Virginia TA–W–18,064AH.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 19, 1986 applicable to all workers of the Exploration and Production of Division of Cities Service Oil and Gas Corporation, Tulsa, Oklahoma. The Certification was published in the **Federal Register** on January 9, 1987 (52 FR 874). The Certification was amended on January 16, 1987 (52 FR 3359) and on May 1, 1987 (52 FR 17850) to reflect the correct worker group.

The company furnished new information to the Department which showed additional locations where worker separations occurred in 1987 that were not included in the amended certification. Accordingly, the amended certification is changed to include the following states where additional

worker separations occurred: Arkansas, Nebraska, North Dakota, Kentucky and West Virginia.

The intent of the certification is to cover all workers of Cities Service Oil and Gas Corporation headquartered in Tulsa, Oklahoma who were adversely affected by increased imports of crude oil. The amended notice application to TA-W-18,064 is hereby issued as follows:

All workers of Cities Service Oil and Gas Corporation in Tulsa, Oklahoma; Oklahoma City, Oklahoma; Lindsay, Oklahoma; Houston, Texas; Midland, Texas; Bridgeport, Texas; Robstown, Texas; West Seminole, Texas; Odessa, Texas; Pratt, Kansas; El Dorado, Kansas; Bakersfield, California; Ingleside, California; Denver, Colorado; Jackson, Mississippi; Anchorage, Alaska; Charleston, South Carolina; Niagara Falls, New York; Hobb, New Mexico; Gillette, Wyoming; Lake Charles, Louisiana; Hutchinson, Kansas; Hackberry, Louisiana; Blackwell, Oklahoma; Waukomis, Oklahoma; Longview, Texas; Chico, Texas; Mont Belvieu, Texas; Liberal, Kansas and Wichita, Kansas and all other workers in the states of Arkansas, Nebraska, North Dakota, Kentucky and West Virginia who became totally or partially separated from employment on or after August 29, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of August, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-20590 Filed 9-4-87; 8:45 am]

BILLING CODE 4510-80-M

[TA-W-19,167]

Revised Determination on Reconsideration; Crown Creative Industries, Greensburg, PA

On May 28, 1987, the Department made an Affirmative Determination Regarding Application for Reconsideration of workers and former workers at Crown Creative Industries, Greensburg, Pennsylvania. This determination was published in the **Federal Register** on June 9, 1987 (21778 Vol. 52).

The workers of the Greensburg Plant were denied eligibility to apply for adjustment assistance benefits on May 12, 1987. Declines experienced at the Plant were primarily attributable to the transfer of certain production operations to another company facility in Laredo, Texas.

The union claimed in its application for reconsideration that the company's production of lamps and shades formerly produced at Greensburg were transferred to both the Laredo facility and to a contractor located outside of the United States. Although an important portion of the declines experienced at the Greensburg Plant was due to the domestic transfer, the union alleged that the transfer to the Taiwanese contractor contributed importantly to the production declines and the worker layoffs.

The reconsideration findings revealed that production of a substantial portion of products was, in fact, transferred to a plant in Taiwan, contributing to the layoff of workers at the Greensburg Plant during the period applicable to the petition.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with portable lamps produced at Crown Creative Industries contributed importantly to the decline in production and to the total or partial separation of workers of the Company's Greensburg, Pennsylvania Plant. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Greensburg, Pennsylvania Plant of Crown Creative Industries who become totally or partially separated from employment on or after February 2, 1986 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of August, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-20588 Filed 9-4-87; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Siemens Energy and Automation, Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 24, 1987—August 28, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-19,863; Siemens Energy and Automation, Inc., Norwood, OH

TA-W-19,867; Totco Operating Corp., Norman, OK

TA-W-19,849; E.I. DuPont De Nemours & Co., Inc., Old Hickory, TN

TA-W-19,870; Crescent Brick Co., Altoona, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-20,017; Mesabi Tire, Virginia, NM

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-19,830; Mazer Corp., Dayton, OH

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-19,901; Rohm & Hass Chemical Co., Redwood City, CA

A certification was issued covering all workers of the firm separated on or after July 8, 1986.

TA-W-19,986; Utica Cutlery Co., Utica, NY

A certification was issued covering all workers of the firm separated on or after June 22, 1986.

TA-W-19,862; Prestolite Electric, Inc., Syracuse, NY

A certification was issued covering all workers of the firm separated on or after June 12, 1986.

TA–W–19,879; Park Drop Forge Division of Park Ohio Industries, Inc., Cleveland, Ohio

A certification was issued covering all workers of the firm separated on or after June 22, 1986.

I hereby certify that the aforementioned determinations were issued during August 24, 1987–August 28, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D St., NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 1, 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–20591 Filed 9–4–87; 8:45 am]

BILLING CODE 4510–30–M

Review Panel for the Job Training Partnership Act (JTPA) Presidential Awards; Establishment

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that the establishment of the Review Panel for the JTPA Presidential Awards is in the public interest in connection with the performance of duties imposed on the Department by section 172 of the Job Training Partnership Act.

The Panel will advise the Secretary of Labor on the selection of the Presidential Awards recipients. The Panel will perform an expert review of the nominations for each of the four award categories and will provide the Secretary with its views and recommendations on the top nominations.

The Panel will consist of training and employment experts representing the private sector, labor, private industry councils, and Federal, State, and local governments. Other than the Federal Government members, the members shall not be compensated and shall not be deemed to be employees of the United States.

The Panel will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the establishment of the Review Panel for the JTPA Presidential Awards. Such comments should be addressed to: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, U.S. Department of Labor, ETA, 200 Constitution Avenue, NW., Room N–4469, Washington, DC 20210, Telephone: (202) 535–0577.

Signed at Washington, DC, this 2nd day of September 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87–20589 Filed 9–4–87; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; AT and T Technologies, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 31st day of August 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
AT&T Technologies, Inc. (IBEW)	Orlando, FL	8/31/87	8/26/87	20,037	Packaged devices.
Allen-Bradley Co. (U.E.)	Milwaukee, WI	8/31/87	8/24/87	20,038	Motor devices.
Allied Leather Corp. (UFCWU)	Pencook, NH	8/31/87	8/19/87	20,039	Leather.
Allied Leather Corp. (UFCWU)	Boscawen, NH	8/31/87	8/19/87	20,040	Leather.
Alzara Dress (ILGWU)	New York, NY	8/31/87	8/18/87	20,041	Dresses.
B&G Energy Corp. (Workers)	Midland, TX	8/31/87	7/30/87	20,042	Oil and gas.
Coleman Products, (Workers)	Coleman, WI	8/31/87	8/20/87	20,043	Wire harnesses.
Corner Fashions (Workers)	W. Wyoming, PA	8/31/87	8/17/87	20,044	Sportswear.
Eastland Woolen Mill, Inc. (Workers)	Corinna, ME	8/31/87	8/20/87	20,045	Fabric.
Elm Coal Co. (UMWA)	Paintsville, KY	8/31/87	8/24/87	20,046	Coal.
General Electric Co. (Workers)	Warren, OH	8/31/87	8/15/87	20,047	Lamps.
General Electric Wiring Devices (IUE)	Warwick, RI	8/31/87	8/24/87	20,048	Wiring devices.
General Industries, Co. (IUE)	Forrest City, AK	8/31/87	8/12/87	20,049	Auto parts.
General Motors Corp. BOC Clark St. (UAW)	Detroit, MI	8/31/87	8/17/87	20,050	Auto assembly.
General Motors Corp. BOC Fleetwood (UAW)	Detroit, MI	8/31/87	8/17/87	20,051	Auto assembly.
General Motors Corp. BOC Flint Assembly (UAW)	Flint, MI	8/31/87	8/17/87	20,052	Auto assembly.
General Motors Corp. Truck & Bus St. Louis (UAW)	St. Louis, MO	8/31/87	8/17/87	20,053	Truck assembly.
General Motors Corp. Truck & Bus Flint Assembly (UAW)	Flint, MI	8/31/87	8/17/87	20,054	Truck assembly.
General Motors Corp. CPC Norwood (UAW)	Norwood, OH	8/31/87	8/17/87	20,055	Auto assembly.
General Motors Corp. Electro-Motive Chicago (UAW)	Chicago, IL	8/31/87	8/17/87	20,056	Locomotive components.
General Motors Corp. Fisher-Guide Fort St. (UAW)	Detroit, MI	8/31/87	8/17/87	20,057	Auto hardware.
General Motors Corp. Inland Div.-Tecumseh (UAW)	Tecumseh, MI	8/31/87	8/17/87	20,058	Auto seat covers.
Hughes Drilling Fluids (Milpark) (Workers)	Wharton, TX	8/31/87	8/18/87	20,059	Oil wells.
Jenkins Brothers Corp. (USWA)	Bridgeports, CT	8/31/87	8/19/87	20,060	Valves.
Kaiser Steel Corp. (Boilermakers)	Stockton, CA	8/31/87	8/19/87	20,061	Steel.
Monogahela Iron & Metal Co., inc. (USWA)	Monogahela, PA	8/31/87	8/7/87	20,062	Steel.

APPENDIX—Continued

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Mosbacher Energy Co. (Workers)	Houston, TX	8/31/87	8/15/87	20,063	Oil and gas.
Specialty Metal Products (Workers)	Edmond, OK	8/31/87	7/28/87	20,064	Steel.
Starline Optical Mfg. (Workers)	Fairfield, NJ	8/31/87	8/21/87	20,065	Eyeglass frames.

[FR Doc. 87-20592 Filed 9-4-87; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Hearing

ACTION: Notice of hearing.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public hearing of the National Commission for Employment Policy at the Area Vocational, Technical, and Adult Education District One Facility, 620 West Clairemont Avenue, Eau Claire, WI 54701.

DATE: Friday, September 25, 1987, 9:00 a.m. to 12:00 p.m.

Status: This hearing is open to the public.

Matters to be discussed: Commission members will hear testimony on the condition of displaced farmers and the effectiveness of Title III JTPA programs in rural America.

FOR FURTHER INFORMATION CONTACT: Mr. Scott W. Gordon, Director, National Commission for Employment Policy, 1522 K St. NW., Suite 300, Washington, DC 20005, 202-724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. No public testimony will be authorized except by those asked to do so prior to the hearing date. However, written testimony for the record will be accepted at the Commission offices through October 25, 1987. Copies of the testimony and materials prepared for the hearing will be available for public inspection at the Commission's offices, 1522 K St. NW., Suite 300, Washington, DC 20005.

Signed this 2nd day of September, 1987.

Scott W. Gordon,

Director.

[FR Doc. 87-20593 Filed 9-4-87; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978; David G. Ainley

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 8, 1987. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 24, 1987.

The applications received are as follows:

1. Applicant

David G. Ainley, Point Reyes Bird Observatory, Stinson Beach, California 94970.

Activity for Which Permit Requested

Taking (capture and release for banding, stomach pumping, weighing and affixing and removing radio transmitters). The applicant is a contractor to the National Marine Fisheries Service (Antarctic Marine Living Resources Program), and is inaugurating a program to investigate certain life history parameters of seabirds as indicators of changes in food web dynamics of the marine ecosystem. The aim is to quantify variability in food web dynamics before a krill fishery becomes fully established in the region, and then to monitor the fishery impacts on the system. The applicant proposes to monitor fledging weights, diet, foraging effort, breeding success and demography in seabirds. The species to be monitored are as follows:

Species	Number
Adelie Penguin	5,650
Blue-eyed Shag	250
Kelp Gull	200
South Polar Skua	200
Brown Skua	50
Antarctic Tern	200
Giant Fulmar	100
Wilson's Storm Petrel	200

Location

Palmer Station and nearby islands in Arthur Harbor, Antarctic Peninsula.

Dates

December 1987—March 1988.

2. Applicant

David G. Ainley, Point Reyes Bird Observatory, Stinson Beach, California 94970.

Activity for which permit requested

Enter Specially Protected Area. As part of the monitoring program described above (permit application no. 1), the applicant proposes to visit Litchfield Island Specially Protected Area for 3–5 hours on three different days during the period, December 1987 to March 1988, in order to count penguins and other seabirds.

Location

Litchfield Island, Antarctica.

Dates

December 1987–March 1988.

Charles E. Myers,

Permit Office.

[FR Doc. 87–20500 Filed 9–4–87; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–456–OL and 50–457–OL]
[Braidwood Station, Unit Nos. 1 and 2]

Reconstitution of Atomic Safety and Licensing Appeal Board; Commonwealth Edison Co.

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members: Alan S. Rosenthal, Chairman, Dr. W. Reed Johnson, Howard A. Wilber.

Dated: September 1, 1987.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 87–20557 Filed 9–4–87; 8:45am]

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; Correction

AGENCY: Pacific Northwest Electric Power Conservation Planning Council.

ACTION: Notice of proposed amendments, hearings and opportunity to comment; correction.

SUMMARY: This document corrects the date for a public hearing scheduled by notice appearing in the **Federal Register** on August 31, 1987 at 52 FR 32858. The hearing originally scheduled for September 10, 1987 at 1:30 p.m. in Idaho Falls, Idaho has been changed to September 9, 1987 at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, director of public information and involvement, 850 S.W. 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).

Edward Sheets,

Executive Director.

[FR Doc. 87–20522 Filed 9–4–87; 8:45 am]

BILLING CODE 0000-00-M

Northwest Conservation and Electric Power Plan; Proposed Model Conservation Standards; Hearing Schedule; Correction

AGENCY: Pacific Northwest Electric Power Conservation Planning Council.

ACTION: Notice of public hearings regarding model conservation standards for new and existing structures, utility, customer, and government conservation programs, and other consumer actions for achieving conservation except in areas for which model conservation standards already exist; correction.

SUMMARY: This document corrects the date for a public hearing scheduled by notice appearing in the **Federal Register** on August 5, 1987 at 52 FR 29105. The hearing originally scheduled for September 10, 1987 at 1:30 p.m. in Idaho Falls, Idaho has been changed to September 9, 1987 at 9:00 a.m.

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).

Edward Sheets,

Executive Director.

[FR Doc. 87–20523 Filed 9–4–87; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15954; 812–6688]

Application for Exemption; Benjamin Franklin Financial Corp.

September 1, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Benjamin Franklin Financial Corporation ("Applicant").

Relevant 1940 Act sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of application: Applicant seeks an order amending its existing order (Investment Company Act Release No. 15847, July 2, 1987) exempting Applicant, a limited purpose finance subsidiary, from all provisions of the 1940 Act in connection with its proposed issuance of collateralized mortgage obligations (the "Bonds") and the possible resale of its capital stock.

Filing date: The Application was filed on April 17, 1987 and amended on August 24, 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 21, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Benjamin Franklin Financial Corporation, 6200 Meadowood Mall Circle, Suite 1145, Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: Paul Heaney at (202) 272–2847 or Karen L. Skidmore, Special Counsel, at (202) 272–3023, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Statements and Representations

1. Applicant, a Nevada corporation, is a direct, wholly-owned limited purpose finance subsidiary of Benjamin Franklin Savings Association, a Texas-chartered savings and loan association ("Franklin") which in turn is a wholly-

owned subsidiary of Security Capital Corporation, a publicly held savings and loan holding company registered under the National Housing Act. Applicant was organized solely for the purpose of issuing and selling Bonds (as defined below) secured by Mortgage Collateral (as defined below). However, a sale of Applicant's residual interests may be accomplished through the sale of its capital stock.

2. Applicant's activities will be limited to (i) issuing and selling Bonds in series ("Series") (A) rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency and (B) secured by any combination of certificates issued or guaranteed by the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation ("FHLMC") evidencing interests in pools of mortgage loans secured by liens on one- to four-family residential properties (collectively referred to herein as "Federal Mortgage Certificates" or "Mortgage Collateral"); and (ii) acquiring, owning, holding, pledging and otherwise dealing with Mortgage Collateral and (iii) activities incidental to the foregoing. Applicant will not otherwise trade or deal in securities or engage in any other activity.

3. Each Series of Bonds will be issued pursuant to an indenture ("Indenture") between the Applicant and an independent trustee ("Bond Trustee"), as supplemented by one or more supplemental indentures. Each Series of Bonds will be sold to institutional or retail investors through one or more investment banking firms. Indentures for public offerings will be qualified under the provisions of the Trust Indenture Act of 1939. Each Series will consist of one or more classes ("Classes") which will have fixed (established at the time of issuance) or variable (adjusted periodically according to a fixed index set forth in the Indenture) interest rates.

4. Each Series of Bonds will be separately secured by (i) a portfolio of Federal Mortgage Certificates; (ii) monthly distributions received on such Mortgage Collateral and income derived from the reinvestment of such distributions; and (iii) certain funds and accounts including proceeds accounts, debt service funds, and reserve funds, described in the Prospectus Supplement for such Series ("Bond Collateral"). The Applicant will assign to the Bond Trustee as security for the relevant Series of Bonds its entire right, title and interest in the Bond Collateral.

5. At the time of issuance of a Series of Bonds as well as during the life of the Bonds, scheduled distributions on the mortgages underlying each portfolio of Mortgage Collateral together with reinvestment income thereon at assumed reinvestment rates acceptable to each rating agency rating the Bonds, and such reserve funds, if any, will be sufficient to make timely payments of principal of and interest on the Bonds in accordance with their terms, assuming the maximum interest rate in each class of variable interest rate Bonds, and to pay all of the fees and expenses of the Applicant with respect to such Series of Bonds.

6. To the extent permitted under the rules of the Federal Home Loan Bank Board, the Applicant may sell some or all of its equity interest ("Equity Interest") to one or more banks, savings and loan associations, pension funds, insurance companies or other investors which customarily engage in the purchase of mortgage or mortgage collateral ("Owners") in transactions not constituting a public offering under section 4(2) of the Securities Act of 1933 ("1933 Act").

7. The interests of the holders of the Bonds ("Bondholders") will not be compromised or impaired by the ability of the Applicant to sell the Equity Interest, and there will not be a conflict of interest between the Bondholders and Owners as: (a) The Bond Collateral will not be speculative in nature; (b) the Bonds will be issued only if at least one independent nationally recognized statistical rating agency has rated such Bonds in one of the two highest rating categories; and (c) the Indenture subjects the Bond Collateral, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, of all such collateral to a first priority perfected security interest in the name of the Bond Trustee on behalf of the Bondholders. Further, neither the Owners nor the Bond Trustee will be able to impair the security afforded by the Federal Mortgage Certificates because, without the consent of each affected Bondholder, neither the Owners nor the Bond Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal amount or rate of interest on any Bond; (c) change the priority of repayment on any Class of any Series; (d) impair or adversely affect the Federal Mortgage Certificates; or (e) permit the creation of a lien ranking prior to or on parity with the lien of the indenture with respect to the Federal Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the Indenture.

8. The sale of Equity Interests will not alter the payment of cash flow under the Indenture, including the amounts to be deposited in the collection account or any reserve funds. Pricing efficiencies mandate that the Bond Collateral does not substantially exceed the amount of collateral required to be pledged in order to satisfy the standards of the rating agency. In no event shall the Appliant pledge Bond Collateral with a collateral value which exceeds 110% of the aggregate principal amount of the Bonds. Thus, the excess cash flow from the Bonds Collateral which is available to Owners always will be far less than the cash flow from the Bond Collateral that is used to make principal and interest payments to Bondholders. Further, except for the limited right to substitute Mortgage Collateral, it will not be possible for Owners to alter the Bond Collateral, and, in no event will such right of substitution result in a diminution in the value or quality of the Bond Collateral. Although substitution may result in a different prepayment experience, the Bondholders' interests will not be impaired because: (a) The prepayment experience of any Collateral will be determined by market conditions beyond the Owners' control which market conditions are likely to affect similar Mortgage Certificates in similar fashion; (b) the Owners' interests are likely to be different from those of Bondholders with respect to prepayment experience; and (c) to the extent that the Owners may cause substitution which has a different prepayment experience than the original collateral, this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structure where bonds are issued by an entity that is a wholly-owned subsidiary.

9. An election by the Applicant to be treated as a real estate mortgage investment conduit ("REMIC") will have no effect on the level of expenses that would be incurred by the Applicant. Administrative fees and expenses will be paid or provided for in a manner satisfactory to the agency rating the Series and subject to Condition D below.

10. Any Series of Bonds containing one or more Classes of variable rate Bonds will be structured with reference to the interest rate caps for that particular Series, ensuring that, at the time of issuance of such Series, the cash flow on the Federal Mortgage Certificates, plus the reinvestment earnings thereon at the assumed reinvestment rate specified in the

Indenture, together with the other Collateral pledged to secure such series, as described in the Application, will be sufficient to pay the principal of and interest on the variable rate Bonds, even if the interest rate on any class of variable rate Bonds climbed to the interest rate cap in the first interest period and remained constant throughout the life of the Bonds.

Applicant's Legal Conclusion

1. The proceeds from the sale of the Bonds will be used to facilitate the long-term financing of residential mortgage loans through the reinvestment of the proceeds in housing or housing-related assets. The relief requested is necessary and appropriate in the public interest because the Applicant is the type of entity to which the provisions of the 1940 Act were intended to be applied, the safeguards afforded to Bondholders fully protect investors, prospective purchases of Equity Interests will be sophisticated in the area of mortgages and mortgage-backed assets and limited in number, and the proposed activities will promote the public interest by facilitating the financing of housing by supplying capital for reinvestment in the real estate and mortgage markets.

Applicant's Conditions

Applicant agrees that the requested order may be expressly conditioned upon the following:

A. Conditions Relating to the Bond Collateral

1. Each Series will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The Mortgage Collateral directly securing the Bonds will be limited to GNMA, FNMA and FHLMC Certificates.

3. If new Mortgage Collateral is substituted, the substitute Collateral must (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 criteria set forth in Conditions A(2) and (4). In addition, new Mortgage Collateral may not be substituted for more than 40% of the aggregate face amount of the Federal Mortgage Certificates initially pledged as Mortgage Collateral. In no event may any new Mortgage Collateral be substituted for any substitute Mortgage Collateral. It will be a further condition of any such substitution that the rating of the Bonds of such series will not be affected by such substitution.

4. All Bond Collateral will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Neither the Bond Trustee nor 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 Bond Trustee for each Series will be granted a first priority perfected security or lien interest in and to all Bond Collateral securing such Series.

5. Each Series 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 "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. At least annually, an independent public accountant will audit the books and records of the Applicant and will report on whether the anticipated payments of principal and interest on the Mortgage Collateral and other Collateral pledged to secure each Series of Bonds continue to be adequate to pay the principal and interest on each Series of Bonds in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the Bond Trustee.

B. Conditions Relating to Variable Rate Bonds

1. Each Series of adjustable or floating interest rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related Prospectus Supplement.

2. At the time of deposit of the Bond Collateral and during the life of the Bonds, the scheduled payments of principal and interest to be received by the Bond Trustee on all Federal Mortgage Certificates plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the Application) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each Series of adjustable or floating interest rate Bonds.[1] Such Collateral will be paid down as the mortgages underlying the Federal Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

C. Conditions Relating to the Sale of Equity Interests

1. Any Equity Interest in the Applicant will be offered and sold to not more than 100 (i) institutions or (ii) non-institutions which are "accredited investors" as defined in Rule 501(a) of the 1933 Act. Institutional investors will have such knowledge and experience in financial and business matters as to be capable to evaluate the risks of purchasing Equity Interests and understand volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15 of the 100 investors, will purchase at least $200,000 of such Equity Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Further, non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing an Equity Interest in the Applicant and will have direct, personal and significant experience in making investments in mortgage-related securities and because

[1] In the case of a Series that contains a class or classes of adustable 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 FNMA adjustable rate 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 the Division of Investment Management ("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.

of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Owners will be limited to mortgage lenders, thrift institutions, commercial and investment bansk, savings and loan associations, pension funds, employee benefit plans, insurance companies, real estate investment trusts or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and mortgage-related securities.

2. Each sale of an Equity Interest will qualify as a transaction not involving any public offering within the meaning of section 4(2) of the 1933 Act.

3. Each sale of an Equity Interest will prohibit the transfer of such Equity Interest if there would be more than 100 beneficial Owners of Equity Interests in the Applicant at any time. Such prohibition will be enforced through contractual provisions in the applicable purchase and sale agreements, stop transfer orders to the transfer agent for the Equity Interests or other appropriate means.

4. Each sale of an Equity Interest will require each purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Equity Interest in its own name and not as nominee for undisclosed investors.

5. Each sale of an Equity Interest will provide that (i) no Owner of such Equity Interest may be affiliated with the Bond Trustee and (ii) no holders of a controlling (as that term is defined in Rule 405) Equity Interest in the Applicant may be affiliated with either the custodian of the Bond Collateral or the agency rating the Bonds.

6. If the sale of the Equity Interests results in the transfer of control (as the term "control" is defined in Rule 405) of the Applicant, the relief afforded by any Commission Order granted on the Application would not apply to subsequent Bond offerings by that Applicant.

D. Conditions Relating to REMICs

The election by the Applicant to be treated as a REMIC will have no effect on the level of the expenses that would be incurred by the Applicant. If the Applicant elects to be treated as a REMIC, it will provide for the payments of administrative fees and expenses as set forth in the Application. The Applicant will ensure that the anticipated level of fees and expenses will be adequately provided for regardless of the method selected.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-20533 Filed 9-4-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-24865; File No. SR-MSTC-87-5]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company; Filing

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1987, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. MSTC filed a letter amendment on August 11, 1987. 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

Attached to the filing as Exhibit A is the text to a proposed amendment to MSTC's Article III, Rule 1, Section 1 which would authorize MSTC to charge a Participant for the failure to eliminate any negative balance remaining in such Participant's account, twenty-four hours after notification by MSTC of the existence of the negative balance. MSTC may either buy-in securities or charge Participant's account 130% of the market value of the equity security or face value of a municipal or corporate bond which constitutes the negative balance.

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. The text of 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) 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

The purpose of the proposed rule change is to both provide MSTC Participants with a stronger incentive to eliminate outstanding negative balances, and MSTC with adequate security should the Participant fail to promptly cover such negative balances. Existing MSTC Article II, Rule 1, Section 1 authorizes MSTC to institute buy-in procedures to eliminate negative balances caused by the failure to deliver securities that are valid, genuine or otherwise in good deliverable form. The proposed amendment would authorize MSTC to either buy-in securities or charge a Participant's account for the failure to eliminate any negative balance which may result from any reason, including a negative balance resulting from a partial redemption pursuant to Article IV, Rule 3.

It has been MSTC's experience that most negative balances are primarily a result of deposit rejects (securities submitted to MSTC which are not in good deliverable form), partial calls in redemption processing and miscellaneous account position adjustments. While the existing buy-in procedures have been adequate to limit MSTC's exposure in instances, those procedures are particularly inappropriate when, for example, a limited market exists for a security which is the subject of the negative balance. MSTC believes that the proposed charge will encourage Participants to continue to take steps to eliminate a negative balance, even though experiencing difficulty because of a limited market for the security. The rule change will also increase protection to MSTC should the Participant become insolvent with negative balances outstanding.

Participants with negative balances would be assessed a one-time charge of 130% of the market value of the equity security or face value of a municipal or corporate bond which constitutes the negative balance, twenty-four hours after notification by MSTC of the existence of the negative balance. Amounts collected will be placed in a separate escrow account and returned to Participants after elimination of the negative balance.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Other

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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 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. Copies of such filing will also be available for inspection and copying at the principal office of MSTC. All submissions should refer to File Number SR–MSTC–87–5 and should be submitted by September 29, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 28, 1987.

Jonathan G. Katz,

Secretary.

Exhibit A

Rule 1—Delivery of Securities

Sec. 1. Participants may deliver or deposit Securities to the Corporation (or to such Correspondent Depository or Depositories as may from time to time be designated pursuant to Subsection (1) of Rule 3 of Article I) on any Business Day during such hours as may be prescribed from time to time by the Corporation (or by such Correspondent Depository). Securities received by the Corporation or by a Correspondent Depository after the prescribed cut-off time on any Business Day shall be processed as of the next Business Day. All Securities shall be accompanied by properly prepared delivery tickets and shall be in good deliverable form as prescribed by the Corporation with the appointment of such nominee, if applicable, as the Corporation may designate from time to time in its Procedures as attorney for the transfer thereof * * *. If the Corporation determines at any time that Securities previously delivered by a Participant to the Corporation or a Correspondent Depository were invalid, not genuine, or not in good deliverable form when received by the Corporation or the Correspondent Depository, the Corporation or the Correspondent Depository shall return such Securities to the Participant and debit the Participant's account accordingly. If any such debit, *or any other debit to the Participant's account for any other reason (including a debit resulting from a partial redemption pursuant to Article IV, Rule 3),* results in a negative balance in a Participant's account with respect to any class of Securities, the Participant shall immediately eliminate such negative balance by delivering to the Corporation a sufficient quantity of Securities of the same class. If the Participant fails to deliver such Securities within twenty-four hours after notification from the Corporation as to the existence of the negative balance, the Corporation may *either* cause such Securities to be brought in for the account of the Participant *or charge the account of the Participant in a manner and amount as the Corporation may prescribe in its Procedures.* When a Security is brought in for the account of a Participant pursuant hereto, the Corporation shall do so in the best market available and at the best price and terms then obtainable, taking into account the Corporation's need to receive prompt delivery of the Security, and neither the Corporation nor any officer, director or employee thereof shall have any liability in respect of a buy-in transaction executed in good faith under these Rules. The Corporation shall have the discretion to appoint such broker or brokers as it may desire to execute and clear the buy-in transaction, and the Participant for whose account the transaction is effected shall be responsible for the payment of all costs and expenses incurred in connection therewith. *When an amount is charged by the Corporation pursuant to this Rule, such amount collected shall be held by the Corporation and returned to such Participant after elimination of any such negative balance.*

[FR Doc. 87–20532 Filed 9–4–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0097]

Filing of Application for Transfer of Ownership and Control; Realty Growth Capital Corp.

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601(1987)) for Transfer of Ownership and Control of Realty Growth Capital Corporation (Licensee), 331 Madison Avenue, New York, New York 10017, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

Pursuant to a Stock Purchase and Sale Agreement dated May 12, 1987, Mr. Alan Leavitt will purchase 30,400 shares of common stock owned by Mr. Lawrence A. Benenson, representing all of the issued and outstanding shares of capital stock of the Licensee.

In consideration of the sale, assignment and delivery of the Shares by Seller to Buyer, in full payment therefore Buyer shall deliver the following to Seller at the Closing:

a. A certified or official bank check payable to the order of the Seller for $250,000; and

b. A Promissory Note in the amount of the balance of the Purchase Price.

The Purchase Price shall be the net private capital including earned surplus ($759,569) reflected in the Licensee's Form 468 as of March 31, 1987, as filed with SBA. The amount of the Note shall be equal to the Licensee's private capital as of March 31, 1987, less $250,000. Upon approval of the Transfer of Ownership and Control, the officers, directors and shareholders of the Licensee will be as follows:

Name	Title or relationship	Percentage of share owned (in percent)
Alan Leavitt, 110 East End Avenue, New York, New York 10028.	President & Director	100
Lawrence A. Benenson, 60 Sutton Place South, New York, New York 10022.	Secretary & Director	
Claire B. Benenson, 60 Sutton Place South, New York, New York 10022.	Director	

At the time of approval, Mr. Leavitt will contribute approximately $250,000 to the Licensee thereby increasing the Licensee's private capital to $1,000,000. Also arrangements have been made to relocate the Licensee's office to 271 Madison Avenue, New York, New York 10016.

Lastly, the Licensee will lose its real estate exemption and will now maintain a diversified investment policy.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of the Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-20514 Filed 9-4-87; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m., on Tuesday, October 20, 1987, in Room 485 U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651 U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 92210, telephone (509) 456-3781.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 31, 1987.

[FR Doc. 87-20513 Filed 9-4-87; 8:45 am]

BILLING CODE 8025-01-M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Monday, September 28, 1987, from 2:00 p.m. to 3:30 p.m. and Tuesday, September 29, from 8:30 a.m. to 10:00 a.m. On Monday, the meeting will be held in Burlington, Vermont, at the Sheraton Burlington Inn, 870 Williston Road, telephone (802) 862-6576. On Tuesday, the meeting will be held in Durham, New Hampshire, at the New England Center, on Strafford Avenue, telephone (603) 862-2800.

The purpose of the meetings is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Hardy Patten, SBA, Room 317, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416, telephone (202) 653-6315.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 2, 1987.

[FR Doc. 87-20565 Filed 9-4-87; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 01/01-5343]

Application for a 301(d) Small Business Investment Company License; the Argonauts MESBIC Corp.

An Application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*) has been filed by The Argonauts MESBIC Corporation (Argonauts), 155 North Beacon Street, Brighton, Massachusetts 02135, with the Small Business Administration (SBA) pursuant to 13 CFR 107.103.

The officers, directors and major shareholders of the Applicant are as follows:

Chi Fu Yeh, 12 Doyle Circle, Framingham, MA 01701.	President & Director.	30% Stockholder.
Shih-Chun David Liu, 110 Algonquin Rd., Newton, MA 02167.	Secretary, Clerk, and Chairman of the Board.	40% Stockholder.
Yung Chi Chang, 17 Surrey Lane, Needham, MA 02192.	Treasurer and Director.	30% Stockholder

The Argonauts MESBIC Corporation, a Massachusetts Corporation will begin operations with $1,000,000 paid-in capital and paid-in surplus. Argonauts will conduct its activities primarily in the State of Massachusetts but will consider investments in businesses in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant.

Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L St., NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Brighton, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: September 2, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-20566 Filed 9-4-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-9-3; Docket 44717]

Aviation Proceedings; Application of Arctic Circle Air Service, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that Arctic Circle Air Service, Inc., continues to be fit to engage in the air transportation authorized by its certificate.

DATES: Persons wishing to file objections should do so no later than September 17, 1987.

ADDRESSES: Responses should be filed in Docket 44717 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Air Carrier Fitness Division, P-56, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-9721.

SUPPLEMENTARY INFORMATION:

Dated: September 1, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-20529 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-62-M

[Order 87-9-4]

Aviation Proceedings; Fitness Determination of Hub Express, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Hub Express, Inc. is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, Room 6420, Department of Transportation, 400 7th Street, SW., Washington DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 9, 1987.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Air Carrier Fitness Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-2337.

Dated: September 1, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-20530 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

[FHWA Docket No. 87-14]

Construction and Maintenance; Use of Coal Ash

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comment.

SUMMARY: The purpose of this document is to set forth the text of an FHWA Notice which contains procedures to increase the Federal-aid matching share for highway construction projects using coal ash. Section 117(f), of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987 (Pub. L. 100-17, 101 Stat. 132, 156) authorized the Secretary of Transportation to increase the Federal-aid matching share by 5 percent for certain highway projects, submitted by State highway departments, which would employ the use of coal ash. To be eligible, significant amounts of coal ash must be used in the project. The term "significant" was interpreted to mean a major quantity of coal ash. It was determined a minimum quantity should be set for project use instead of individual limits for each application. This was done to encourage multiple applications and reduce bookkeeping. A uniform nationwide minimum quantity will also ensure consistent interpretation of the law. The limit of 1,000 tons of coal ash was chosen since it will allow various applications in reasonable quantities while preventing the use of the provision for only minor quantities of coal ash. The 1,000 ton limit was also established as a quantity that would be of significant economic interest to the producers of coal ash. Approvals for increased Federal-aid shares under this program are authorized only through September 30, 1991. The implementation procedures are established by the FHWA Notice, which was issued on August 28, 1987. While the program will have effect only for a limited period, comments from the public are invited and will be fully considered should further guidance be deemed appropriate.

DATE: Comments must be received on or before November 9, 1987.

ADDRESS: Submit signed, written comments, preferably in triplicate to the Federal Highway Administration, FHWA Docket No. 87-14, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Weseman, Chief, Construction and Maintenance Division, (202) 366-0932, or Mr. Michael Laska, Office of the Chief Counsel, (202) 366-1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

Issued on August 28, 1987.

R.A. Barnhart,

Federal Highway Administrator.

Use of Coal Ash

1. Purpose

To describe the procedures to increase the Federal-aid matching share for projects as prescribed in section 117(f), of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987 (Pub. L. 100-17, 101 Stat. 132, 156).

2. Definitions

Coal ash consists of the following materials:

a. Fly Ash

The finely divided residue that results from the combustion of ground or powdered coal and is transported from the combustion chamber by exhaust gases.

b. Bottom Ash

The heavy coarse graded residue that results from the combustion of coal in a dry bottom furnace which falls to the bottom of the furnace.

c. Boiler Slag

The heavy coarse graded glassy residue that results from the combustion of coal in a dry bottom furnace which falls to the bottom of the furnace.

3. Discussion

Coal ash has been shown to be cost effective and beneficial in many uses.

As such, Congress has found it to be in the national interest to encourage and promote the use of coal ash. In an effort to support these technologies, the Congress authorized a Federal-aid share increase of 5 per centum for projects using significant amounts of coal ash. Congress did not provide for an increase in the States' apportionment or allocation of funds but only for an increase in the Federal pro rata share of given projects.

a. All projects that fulfill the requirements in paragraph 4a are considered to be eligible for the 5 percent increase in Federal-aid matching ratio.

b. Projects which use coal ash in applications where the material is not combined with portland cement, lime, or asphalt cement must address environmental concerns to ensure that heavy metals will not leach from the roadway.

c. Bottom ash uses have not been included in this directive since there are significant concerns about the durability of the material as an aggregate. These concerns are documented in existing research reports.

d. The law specifically requires that a "significant amount" of coal ash be used on a project in order for the project to be eligible for the 5 percent increase in Federal-aid matching ratio. A significant use of coal ash is defined as a total of 1,000 tons or more of coal ash for all uses on a project. This would be based on the estimated use of coal ash at the time the plans, specifications, and estimate are approved or at project agreement if the contractor is given the option to use coal ash.

e. This provision does not eliminate the need to fulfill the requirements in the Federal-Aid Highway Program Manual (FHPM), Volume 6, Chapter 4, Section 2, Subsection 4, Construction Projects Incorporating Experimental Features, if appropriate.

f. The provisions in paragraph 4a are intended to enable the 5 per centum increase in Federal-aid matching ratio to apply to an entire highway or bridge project which incorporates the qualifying uses.

4. Procedures

The use of selected cost effective coal ash products which meet a State's needs for a particular project may be incorporated into the proposed plans and specifications. States with "permissive specifications" which allow the contractor, at his/her option, to incorporate coal ash products qualifying for this program should require the contractor to declare at bid opening the intended use of such coal ash products and the estimated amount of coal ash that will be used. This is necessary to determine if the 5 per centum increase in the Federal-aid matching ratio will be applicable.

a. *Approval.* (1) On or before September 30, 1991, the Division Administrator may approve a request by a State highway agency to increase the Federal-aid matching ratio by 5 per centum for the entire project cost if the project:

(a) Incorporates the use of fly ash, and/or

(b) The use of boiler slag, and

(c) A significant amount of coal ash is used as defined in paragraph 3d.

(2) In no case may the Federal-aid matching ratio be increased above 95 percent through the application of this provision.

b. *Fiscal procedures.* (1) Normal reporting procedures will be followed as prescribed in FHWA Order H 4500.2A, Fiscal Management Information System Handbook, except for the following:

(a) The amount of additional Federal funds approved by the FHWA will be entered on the Form FHWA-37, Project Status Record, and reported as a separate line item utilizing the miscellaneous work type code Y010—Coal Ash. No special appropriation codes will be used for the increased Federal share.

(b) An amount equal to the additional Federal funds reported on the separate line utilizing work type code Y010 will be deducted from the total cost column of the predominant line and entered as the total cost for the increased Federal share. (The amount in the summary Federal funds field must be no more than 95 percent of the amount in the summary total cost field.)

(c) Line item coded with work code Y010 will be coded the same as the line containing the predominant cost of paving materials, except data entered in the "miles" column will not be repeated on this line.

(2) The Form PR-2, Federal-Aid Project Agreement, will contain the following statement:

"Additional Federal funds of $_____ have been approved in accordance with Pub. L. 100-17, section 117(f). The Federal-aid participation is _____ percent.

5. Reporting

All projects covered by this Notice should be reported on form FHWA 1531, Coal Ash Utilization Report (Attachment). This form should be submitted to the Office of Highway Operations, Construction and Maintenance Division (HHO-30). This report will be completed by the FHWA Division Office (RCS No. HHO-33-01).

In addition, the projects may be subject to the reporting requirements of FHPM 6-4-2-4.

Attachment—RCS No. HHO-33-01; Expiration Date September 30, 1991

COAL ASH UTILIZATION REPORT

State	Construction project No.	County
	Percent cement replaced	Tons used
Fly ash		
Portland cement concrete		
	Percent by total weight of mixture	
Soil stabilization		
Pozzolanic or Cement stabilized bases or subbases		
Grouting		
Mineral filler in asphalt mixes		
Embankments		
Others		
Boiler slag		
Aggregate		
Other		
Total tons used		

Form FHWA 1531 (7-87)

[FR Doc. 87-20506 Filed 9-4-87; 8:45 am]

BILLING CODE 4910-22-M

VETERANS ADMINISTRATION

Agency Form Letter Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form letter, (2) the title of the form letter, (3) the agency form letter number, if applicable, (4) a description of the need and its use, (5) how often the form letter must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form letter, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form letter and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to

the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before November 9, 1987.

Dated: September 1, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

EXTENSION

1. Department of Veterans Benefits.
2. Statement of Witness to Accident.
3. VA Form Letter 21–806.
4. This information is necessary to determine the veteran's entitlement to benefits due to accidental injury.
5. On occasion.
6. Individuals or households.
7. 13,200 responses.
8. 4,400 hours.
9. Not applicable.

[FR Doc. 87–20502 Filed 9–4–87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 173
Tuesday, September 8, 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).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 33314.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., September 22, 1987.

CHANGE IN THE MEETING: The meeting on the financial rule enforcement review is cancelled.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-20656 Filed 9-3-87; 3:54 pm]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, September 1, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Report of the Director, Division of Accounting and Corporate Services Memorandum re: Investment Management Report, Quarter Ending June 30, 1987

By the same majority vote, the Board further determined that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: September 2, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-20671 Filed 9-3-87; 3:54 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, September 1, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 2, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-20672 Filed 9-3-87; 3:54 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:10 a.m. on Tuesday, August 25, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to the possible failure of certain insured banks.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointee), seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 1, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-20673 Filed 9-3-87; 3:55 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

September 2, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B.

TIME AND DATE: September 9, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 862nd Meeting—September 9, 1987, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 2142-008, Central Maine Power Company

CAP-2.
Project Nos. 9593-001, and 002, Pollock City Conservationists
Project No. 10097-001, Kingdom Energy Products, Inc.
Project Nos. 10299-001 and 10317-001 Nooksack River Hydro

Project Nos. 10142–001, 10181–001, 10186–001, 10193–001, 10194–001 and 10195–001, Sauk River Hydro
Project Nos. 10145–001, 10146–001, 10148–001, 10149–001, 10150–001, 10151–001, 10152–001, 10185–001, 10187–001, 10189–001, 10197–001, 10210–001, 10211–001, 10212–001, 10213–001, 10214–001, 10215–001, 10216–001 and 10217–001, Skykomish River Hydro
Project Nos. 10188–001 and 10192–001, Stillaguamish River Hydro
Project Nos. 10099–001, 10100–001, 10101–001, 10258–001, 10266–001, 10274–001 and 10288–001, Cascade River Hydro
Project No. 10129–001, Cranberrry Creek Hydro, Inc.
Project No. 10141–001, William C. Porter
Project No. 10166–001, Francis A. Smith
Project Nos. 10184–001, 10297–001, 10311–001 and 10313–001, Skagit River Hydro
Project No. 10190–001, Saulk River Hydro
Project Nos. 10257–001, 10269–001, 10270–001, 10272–001, 10273–001, 10292–001, 10305–001, 10307–001, 10308–001 and 10321–001, Washington Hydro Development Company
Project Nos. 10275–001 and 10279–001, Suiattle River Hydro

CAP–3.
Project No. 3749–008, Mitex, Inc.

CAP–4.
Project Nos. 8136–005 and 10062–001, Friends of Keeseville, Inc.
Project No. 9817–003, Cash Flow Systems, Inc.

CAP–5.
Project No. 8245–001, Bellows-Tower Hydro, Inc.

CAP–6.
Project No. 8546–001, Howard and Mildred Carter

CAP–7.
Project Nos. 3865–003, 005, 006, 007 and 008, Guadalupe-Blanco River Authority

CAP–8.
Project No. 3228–005, Atlantic Power Development Corporation

CAP–9.
Project Nos. 9690–001 and 002, Orange and Rockland Utilities, Inc.
Project No. 9754–001, Rio Hydroelectric Associates, Inc.

CAP–10.
Project No. 10341–002, Gem Irrigation District

CAP–11.
Project No. 9167–001, Pennsylvania Hydroelectric Development Corporation

CAP–12.
Project No. 9550–001, Lower Patterson, Inc.

CAP–13.
Project No. 5927–007, Goose Creek Hydro Associates

CAP–14.
Project No. 3195–015, Joseph M. Keating

CAP–15.
Project No. 5928–000, Cornell University
Project No. 6744–000, City of Ithaca, New York

CAP–16.
Project No. 7266–001, Colorado Hydro-Power Corporation

CAP–17.
Project Nos. 137–002, 1962–000 and 1988–007, Pacific Gas and Electric Company
Project Nos. 1388–001 and 1389–001, Southern California Edison Company

CAP–18.
Docket Nos. EL87–19–001 and 002, Florida Power & Light Company

CAP–19.
Docket Nos. ER84–560–002 and 003, Union Electric Company

CAP–20.
Docket No. ER86–684–003, Jersey Central Power and Light Company, Pennsylvania Electric Company, Metropolitan Edison Company, GPU Service Corporation and Niagara Mohawk Power Corporation

CAP–21.
Docket No. ER87–240–002, Carolina Power & Light Company

CAP–22.
Docket No. ER87–330–001, Monongahela Power Company, *et al.*

CAP–23.
Docket No. ER82–769–008, Minnesota Power & Light Company

CAP–24.
Docket No. ER87–310–002, Central Vermont Public Service Corporation

CAP–25.
Docket Nos. EL87–13–001 and 002, City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light Department, Middleborough Municipal Gas and Electric Department, North Attleboro Electric Department, Peabody Municipal Light Plant, Shrewsbury Electric Light Department, Templeton Municipal Light Plant, Town of Boylston Municipal Light Department, Town of Hudson Light and Power Department, Town of Littletown Municipal Light and Water Department, Town of Wakefield Municipal Light Department, and West Boylston Municipal Lighting Plant v. Boston Edison Company

CAP–26.
Docket No. QF83–196–002, Big Horn Energy Partners

CAP–27.
Docket No. ER87–65–001, West Texas Utilities Company

CAP–28.
Docket No. ER86–701–001, Kansas City Power & Light Company

CAP–29.
Docket No. ER87–30–001, United Illuminating Company

CAP–30.
Docket No. ER87–263–001, Cambridge Electric Light Company

CAP–31.
Docket No. ER87–327–001, Pacific Gas & Electric Company

CAP–32.
Docket No. ER86–58–004, Louisiana Public Service Commission v. System Energy Resources, Inc.
Docket No. EL86–59–001 and 003, Louisiana Public Service Commission v. Middle South Service, Inc.
Docket Nos. ER82–616–030 and ER87–60–001, System Energy Resources, Inc.

CAP–33.
Docket No. EL86–11–003, Delmarva Power & Light Company

CAP–34.
Docket No. EL85–1–000, Greensboro Lumber Company v. Rayle Electric Membership Corporation and Oglethorpe Power Corporation
Docket No. EL85–8–000, Greensboro Lumber Company v. Oglethorpe Power Corporation, Altamaha EMC, Amicalola EMC, Canoochee EMC, Carroll EMC, Central Georgia EMC, Coastal EMC, Cobb EMC, Colquitt EMC, Coweta-Fayette EMC, Douglas County EMC, Excelsior EMC, Flint EMC, Grady County EMC, Habersham EMC, Hart County EMC, Irwin County EMC, Jackson EMC, Jefferson EMC, Lamar EMC, Little Ocmulgee EMC, Middle Georgia EMC, Mitchell EMC, Ocmulgee EMC, Oconee EMC, Okefenoke Rural EMC, Pataula EMC, Planters EMC, Rayle EMC, Satilla Rural EMC, Sawnee EMC, Slash Pine EMC, Snapping Shoals EMC, Sumter EMC, Three North EMC, Tri-County EMC, Troup County EMC, Upson County EMC, Walton EMC, Washington EMC, Municipal Electric Authority of Georgia, City of Adel, Georgia, City of Albany, Georgia, City of Barnesville, Georgia, City of Blakely, Georgia, City of Brinson, Georgia, City of Buford, Georgia, City of Cairo, Georgia, City of Calhoun, Georgia, City of Camilla, Georgia, City of Cartersville, Georgia, City of College Park, Georgia, City of Commerce, Georgia, City of Covington, Georgia, Crisp County Power Commission, City of Doerun, Georgia, City of Douglas, Georgia, City of East Point, Georgia, City of Elberton, Georgia, City of Ellaville, Georgia, City of Fairburn, Georgia, City of Fitzgerald, Georgia and City of Forsyth, Georgia

CAP–35.
Docket No. EL87–35–000, Savannah Electric and Power Company

CAP–36.
Docket No. EL87–27–000, Sycamore Cogeneration Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. FA85–63–003, Long Island Lighting Company

CAM–2.
Docket No. FA86–19–001, System Energy Resources, Inc.

CAM–3.
Omitted

CAM–4.
Docket No. FA83–4–002, Duke Power Company

CAM–5.
Omitted

CAM–6.
Docket No. RM87–35–000, Generic Determination of Rate of Return on Common Equity for Public Utilities

CAM–7.
Docket No. RM87–32–000, Requirements of Landowner Notification under section 14 of the Electric Consumers Protection Act

CAM–8.
Docket Nos. RM87–3–002 through 018, Annual Charges under the Omnibus Budget Reconciliation Act of 1986

CAM–9.

Docket Nos. RM83-41-001, 002, 003 and 004, Rules of Discovery for Trial-Type Proceedings

CAM-10.
Docket No. GP86-40-000, Railroad Commission of Texas, Paramount Petroleum Corporation, David Pilot Gas Unit No. 1 Well, NGPA Section 108 Determination, FERC No. JD82-27133, NGPA Section 108-Enchanced Recovery, FERC No. JD82-29588

CAM-11.
Docket No. GP86-15-000, State of Louisiana, Section 102 Determination, Jeems Bayou Production Corporation, Martin A No. 1 Well, FERC JD No. 84-20414

CAM-12.
Docket No. GP87-11-000, ANR Pipeline Company v. Conoco Inc.

CAM-13.
Docket No. GP87-1-000, Arkla Energy Resources, a Division of Arkla, Inc., Complainant, v. Alice-Sidney Oil Company and Anthony Oil & Gas Company, Respondents

CAM-14.
Docket No. SA86-28-001, I & S Oil and Gas Company

CAM-15.
Docket No. RA85-6-002, Utex Oil Company

CAM-16.
Docket No. RA85-5-000, Little America Refining Company

Consent Gas Agenda

CAG-1.
Docket No. RP87-86-000, K N Energy, Inc.

CAG-2.
Docket No. RP85-112-002, Boundary Gas, Inc.

CAG-3.
Docket No. RP87-40-004, Western Transmission Corporation

CAG-4.
Docket No. RP87-70-001, East Tennessee Natural Gas Company

CAG-5.
Docket No. RP84-76-005, Alabama-Tennessee Gas Company

CAG-6.
Omitted

CAG-7.
Docket Nos. RP86-33-004 through 007 and RP86-91-003 through 005, Midwestern Gas Transmission Company

CAG-8.
Docket No. RP85-87-004, Consolidated Gas Transmission Corporation

CAG-9.
Docket Nos. TA87-2-2-000 and 001, East Tennessee Natural Gas Company

CAG-10.
Docket No.TA87-4-46-000, Kentucky West Virginia Gas Company

CAG-11.
Docket No. TA85-4-17-002, Texas Eastern Transmission Corporation

CAG-12.
Docket Nos. ST87-2155-000 and ST87-2229-000, Seagull Shoreline System

CAG-13.
Docket Nos. ST87-2245-000 and ST87-2263-000, Lear Gas Transmission Company

CAG-14.
Docket Nos. ST87-2667-000, ST87-3679-000 and ST87-3680-000, Washington Gas Light Company

CAG-15.
Docket No. ST87-350-000, Cabot Pipeline Corporation

CAG-16.
Docket No. RI87-1-001, Exxon Corporation

CAG-17.
Docket Nos. G-2602-002 and G-11630-001, Marathon Oil Company
Docket Nos. G-2895-001, G-9980-001, G-11587-001, G-13220-000, G-14832-001 and CI87-718-000, ARCO Oil and Gas Company, Division of Atlantic Richfield Company
Docket No. G-5663-000, Amoco Production Company
Docket Nos. G-14830-000, CI87-218-000 and CI87-521-000, Champlin Petroleum Company
Docket Nos. G-16134-001 and CI69-334-000, Sun Exploration and Production Company
Docket Nos. CI61-316-001 and CI87-88-000, Phillips Petroleum Company
Docket No. CI67-1602-003, CI78-1019-000 and CI87-73-000, BHP Petroleum (Americas), Inc.
Docket No. CI87-606-000, Union Texas Petroleum Corporation
Docket No. G-6352-002, Conoco, Inc.
Docket No. CI87-252-000, Chevron U.S.A., Inc.
Docket Nos. CI87-430-000 and CI87-671-000, Hamon Operating Company
Docket No. CI87-482-000, J.M. Huber Corporation

CAG-18.
Docket No. CI87-353-000, Kenrell Petroleum Resources, Inc.

CAG-19.
Docket No. CP87-108-002, Columbia Gas Transmission Corporation

CAG-20.
Docket Nos. CP87-451-001, 002 and 003, Northeast U.S. Pipeline Projects

CAG-21.
Docket No. CP86-709-001, Midwestern Gas Transmission Company

CAG-22.
Docket No. CP86-251-002, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

CAG-23.
Docket Nos. CP86-747-003, CP86-265-002, CP86-406-002 and CP87-128-002, Transcontinental Gas Pipe Line Corporation

CAG-24.
Docket Nos. CP85-78-000 and 001, Mountain Fuel Resources, Inc.

CAG-25.
Docket No. CP87-225-000, South Jersey Gas Company, Complainant v. SunOlin Chemical Company, Respondent

CAG-26.
Docket No. CP87-6-000, Northwest Pipeline Corporation

CAG-27.
Docket No. CP87-22-000, Northwest Pipeline Corporation

CAG-28.
Docket Nos. CP83-63-000 and 001, Wyoming Interstate Company, Inc.
Docket No. CP83-70-000, Overthrust Pipeline Company
Docket No. CP83-222-000, Canyon Creek Compression Company
Docket No. CP84-480-000, Midwestern Gas Transmission Company
Docket No. CP84-514-000, Northern Natural Gas Company, Division of Enron Corporation
Docket No. CP84-572-000, ANR Pipeline Company
Docket No. CP85-11-000, Natural Gas Pipeline Company of America
Docket Nos. CP84-595-000, 002 and 003, Colorado Interstate Gas Company
Docket No. CP84-564-000, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.

CAG-29.
Omitted

CAG-30.
Docket No. CP86-676-000, Equitable Gas Company, a Division of Equitable Resources, Inc. and Equitable Transmission Company

CAG-31.
Docket No. CP87-298-000, United Gas Pipe Line Company

CAG-32.
Docket No. CP86-246-000, United Gas Pipe Line Company

CAG-33.
Docket Nos. CP87-344-000, CP87-345-000, CP87-346-000, CP87-347-000, CP87-348-000, CP87-359-000, CP87-360-000, CP87-361-000, CP87-364-000, CP87-372-000, CP87-373-000, CP87-374-000, CP87-375-000, CP87-383-000, CP87-384-000 and CP87-385-000, United Gas Pipe Line Company

CAG-34
Docket Nos. CP87-55-000, CP87-180-000, CP87-220-000 and CP87-260-000, United Gas Pipe Line Company

CAG-35.
Docket Nos. CP87-234-000 and 001, Northern Border Pipeline Company
Docket Nos. CP87-299-000 and 001, Northern Natural Gas Company, Division of Enron Corporation

CAG-36.
Docket No. CP87-141-000, Colorado Interstate Gas Company

CAG-37.
Docket No. CP87-188-000, Transcontinental Gas Pipe Line Corporation

CAG-38.
Docket Nos. CP87-7-000 and 001, Texas Gas Transmission Corporation

CAG-39.
Docket No. CP87-43-000, Arkla Energy Resources, a Division of Arkla, Inc.

CAG-40.
Docket No. CP83-140-004, K N Energy, Inc.

CAG-41.
Docket No. CP70-7-033, Southern Natural Gas Company

CAG-42.
Docket Nos. RP86-105-004, 011, RP86-169-002 and 006, ANR Pipeline Company

CAG-43.
Docket No. TA87-2-9-002, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

CAG-44.
Docket No. RP86-48-000, Columbia Gas Transmission Corporation v.

Transcontinental Gas Pipe Line Corporation
Docket No. RP87-7-012, Transcontinental Gas Pipe Line Corporation

I. Licensed Project Matters

P-1.
Project No. 5867-010, Long Lake Energy Corporation. Order on request for stay of license.

II. Electric Rate Matters

ER-1.
Docket No. ER76-205-003, Southern California Edison Company. Opinion and order determining just and reasonable rates.

Miscellaneous Agenda

M-1.
Docket Nos. RM86-6-004, 005 and 006, Construction Work in Progress. Order on rehearing.

I. Pipeline Rate Matters

RP-1.
Docket Nos. TA85-3-29-009, 016, 020, 025, TA86-1-29-006, TA85-1-29-006, TA86-5-29-007, RP83-137-025 and CP85-190-003, Transcontinental Gas Pipe Line Corporation. Order on initial decision concerning transition costs.

RP-2.
Omitted

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.
Reserved

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-20666 Filed 9-3-87; 3:54 pm]

BILLING CODE 6717-01-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Tuesday, September 8, 1987, 2:00 p.m.

PLACE: 1776 G Street, NW., Washington, DC, Conference Room 8C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, DC 20013 (202) 789-5097.

Matters To Be Considered

Closed: Corporate Direction and Related Business and Financing Activities.

Closed: Financial Report.

Closed: Position of President-CEO for Freddie Mac.

Date sent to **Federal Register:** September 3, 1987.

Maud Mater,

Secretary.

[FR Doc. 87-20648 Filed 9-3-87; 12:44 pm]

BILLING CODE 6719-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 7-87]

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, September 30, 1987 at 10:30 a.m.: Consideration of Final Decisions on claims against the Government of Ethiopia.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 400, Washington, DC 20579. Telephone: (202) 653-6155.

Dated at Washington, DC on September 2, 1987.

Judith H. Lock,

Administrative Officer.

[FR Doc. 87-20610 Filed 9-3-87; 10:47 am]

BILLING CODE 4410-01-M

INTERSTATE COMMERCE COMMISSION

DATE AND TIME: 10:00 a.m., Tuesday, September 15, 1987.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Commission Voting Conference.

Matters To Be Discussed

Finance Docket No. 31000: Union Pacific Corporation and BTMC Corporation—Control—Overnite Transportation Company

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Government and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,

Secretary.

[FR Doc. 87-20583 Filed 9-2-87; 4:32 pm]

BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 7, 1987:

A closed meeting will be held on Wednesday, September 9, 1987, at 2:30 p.m. An open meeting will be held on Thursday, September 10, 1987, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 9, 1987, at 2:30 p.m., will be:

Litigation matter.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive action.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institution.
Opinion and Order.

The subject matter of the open meeting scheduled for Thursday, September 10, 1987, at 10:00 a.m., will be:

1. Consideration of whether to send to the Securities Industry Conference on Arbitration a letter which sets forth the findings of recent review of self-regulatory organization-sponsored arbitration. For further information, please contact Robert A. Love at (202) 272-3064.
2. Consideration of whether the Commission should issue a Memorandum Opinion and Order with regard to Mississippi Power & Light Company (MP&L) and System Energy Resources, Inc. ("SERI"), public utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company under the Public Utility Holding Company Act of 1935, authorizing MSU and SERI to guarantee potential rate refunding obligations of MP&L needed to obtain a bond for a stay pending appeal to the United States Supreme Court, on

grounds of federal preemption, of a Mississippi Supreme Court judgment concerning retail rates. For further information, please contact Martha C. Baker at (202) 272–2073.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–20636 Filed 9–3–87; 12:47 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1392]

TIME AND PLACE: 10 a.m. (CDT), Wednesday, September 9, 1987.

PLACE: Itawamba Community College, Large Startup Room, Multipurpose Building, 653 Eason Boulevard, Tupelo, Mississippi.

STATUS: Open.

Agenda

Approval of minutes of meeting held on August 26, 1987.

Discussion Item

1 Tupelo Education Model and the Related Principles of Adult Literacy System.

Action Items

B—Purchase Awards

B1. Invitation AA–453995-Reissue—Design and Construct Coal Hoppers at Paradise Fossil Plant.

B2. Amendment to Contract 81TJ3–609081 with IBM Corporation for Central Multiprocessing System and Services.

B3. Request for Proposal YB–204940—Indefinite Quantity Term Contract for Cadam Workstations, Associated Equipment, and Support.

C—Power Items

C1. Amendment to Interchange Agreement No. TV–49984A with Georgia Power Company to Modify Monthly Transmission Facilities Charge.

C2. Proposed Form Agreement Amending Revised Home Insulation Program Agreement to Permit Power Distributors to Use Independent Contractors to Conduct Surveys and Inspections.

C3. Proposed Form Agreement Amending Revised Home Insulation Program Agreement to Cover Deletion of Load Management Requirements for Heat Pump Water Heaters.

C4. Proposed Form Agreement Amending the Energy Saver Home Program Agreement to Cover Cost-sharing Arrangements for Special Advertising and Promotional Activities.

D—Personnel Items

D1. Supplement to Personal Services Contract No. TV–67944A with Aptech Engineering Services, Palo Alto, California, to Provide Services in Connection with Issues Related to Welding Review Activity at Watts Bar Nuclear Plant, Requested by Office of Nuclear Power.

D2. Supplement to Personal Services Contract No. TV–71021A with DiBenedetto Associates, Inc., North Andover, Massachusetts, for Technical and Engineering Assistance at Sequoyah Nuclear Plant, Requested by Office of Nuclear Power.

D3. Supplement to Personal Services Contract No. TV–69832A with Robert L. Cloud Associates, Inc. for Review of Sequoyah Alternate Analysis Program and Watts Bar Hangar Analysis Update Program, Requested by Office of Nuclear Power.

D4. Personal Services Contract for Upgrade of the Office of Nuclear Power's Management-level Position Descriptions, Requested by Office of Nuclear Power.

D5. Personal Services Contract with General Electric Company for Assistance in Addressing Remaining Engineering, Construction, Licensing and Quality Requirements Related to Restart of Browns Ferry Nuclear Plant, Requested by Office of Nuclear Power.

D6. Personal Services Contract with Associated Project Analysts for Assistance Relating to Restart Schedule and Licensing Activities at Sequoyah Nuclear Plant, Requested by Office of Nuclear Power.

E—Real Property Transactions

E1. Grant of Term Easement to Tennessee Wildlife Resources Agency for Management and Operation of a Waterfowl Refuge, Affecting 1,280 Acres of Tellico Reservoir Land in Monroe Country, Tennessee—Tract No. XTTELR–33E.

F—Unclassified

[1] F1. Supplement to Research and Development Agreement (TV–70363A) Among TVA, Department of Energy, and Solar Energy Research Institute.

F2. Supplement to Interagency Agreement (TV–59928A) between TVA and Agency for International Development Covering Arrangements for TVA's Assistance in the Bioenergy Program.

F3. Concept Plan for the Development of TVA's Land Between the Lakes through the Year 1999.

F4. Final Regulation to Amend the Regulation on Enforcement of Nondiscrimination on the Basis of Handicap in Tennessee Valley Authority Programs.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: September 2, 1987.

John G. Stewart,

Manager of Policy, Planning and Budget.

[FR Doc 87–20595 Filed 9–3–87; 9:22 am]

BILLING CODE 8120–01–M

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[1] Items approved by individual Board members. This would give formal ratification to the Board's action.

Corrections

Federal Register
Vol. 52, No. 173
Tuesday, September 8, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1250

Egg Research and Promotion

Correction

In rule document 87-19046 beginning on page 31376 in the issue of Thursday, August 20, 1987, make the following corrections:

1. On page 31377, in the first column, under **Effect on Small Entities**, in the eighth line , "FRA" should read "RFA".

2. On the same page, in the second column, in the second complete paragraph, in the fifth line from the bottom, after "timely" insert "manner".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300160A]

Daminozide; Revocation and Amendment of Tolerances

Correction

In rule document 87-16695 beginning on page 27551 in the issue of Wednesday, July 22, 1987, make the following correction on that page:

In the third column, in the **SUMMARY**, in the fourth line, "2,2-diemthylhydrazide)]" should read "2,2-dimethylhydrazide)]".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7F3535/R904; FRL-3239-9]

Pesticide Tolerance for Daminozide

Correction

In rule document 87-17184 beginning on page 28256 in the issue of Wednesday, July 29, 1987, make the following correction:

On page 28258, in the second column, in the first complete paragraph, in the first line, "not" should read "now".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E3467/P428; FRL-3239-3]

Pesticide Tolerance for Benomyl

Correction

In proposed rule document 87-17185 beginning on page 28313 in the issue of Wednesday, July 29, 1987, make the following corrections on that page:

1. In the first column, the docket number should read as set forth above.

2. In the first column under **ADDRESS**, in the eighth line from the bottom, "Information" was misspelled.

3. In the second column, in paragraph number 2., in the sixth line, "50," should read "500,".

4. In the same column, in paragraph number 3., "rate" should read "rat".

BILLING CODE 1505-01-D

federal register

Tuesday
September 8, 1987

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 172, 173, 174, 175, 176, 177, 178, and 179

Performance-Oriented Packaging; Miscellaneous Proposals; Postponement of Hearing Date and Extension of Comment Period

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, and 179

[Docket No. 181, Notice No. 87-4]

Performance-Oriented Packaging Standards; Miscellaneous Proposals; Postponement of Hearing Date and Extension of Comment Period

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

ACTION: Notice of public hearing and extension of comment period.

SUMMARY: RSPA is postponing the public hearing which was scheduled to be held on September 15 and 16, 1987 in Washington, DC and is extending the comment period for Docket HM-181, Notice No. 87-4, which was published in the **Federal Register** (52 FR 16482) on May 5, 1987. The hearing is rescheduled for November 17 and 18, 1987. The comment period is extended from November 2, 1987 until February 26, 1988. In order to have meaningful discourse at the hearing, it is necessary for RSPA to publish corrections and supplements to Notice No. 87-4 and to provide adequate time for interested persons to review the supplemental notice. RSPA is not able to publish the supplemental notice in sufficient time for review before the originally scheduled hearing dates. The hearing is being postponed and the comment period is being extended so that RSPA can publish a supplemental NPRM and to provide adequate time for review of the proposals contained therein.

DATES: *Comments:* Comments must be received on or before February 26, 1988.

Public hearing: A public hearing is scheduled to be held on November 17 and 18, 1987 from 9:30 a.m. to 5:00 p.m. daily.

ADDRESSES: *Comments:* Address comments to Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in 5 copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, DC, 20590. Public dockets may be reviewed between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

Public hearing: The public hearing will be held at the FAA Auditorium, Third floor, Federal Office Building 10A, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo or Helen L. Engrum, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh St. SW., Washington DC, 20590, telephone (202) 366-4545.

SUPPLEMENTARY INFORMATION: As indicated in the preamble to Notice No. 87-4, the proposals presented in that notice entail changes, both editorial and substantive, to substantial portions of the existing Hazardous Materials Regulations (49 CFR, Subchapter C). Due to the size (255 pages in the **Federal Register**) and scope of the NPRM, it was inevitable that there would be a large number of errors and omissions and RSPA indicated its intent to issue a supplemental NPRM to address these errors and omissions if brought to RSPA's attention in a timely manner. RSPA had anticipated publishing the supplemental notice before the public hearing originally scheduled for September 15 and 16, 1987. Due to the volume of corrections brought to RSPA's attention by commenters and because of administrative delays, RSPA is unable to publish the supplemental NPRM prior to September 15, 1987. Therefore, the public hearing is being postponed until November 17 and 18, 1987. Efforts are being made, through this notice and through other means, to inform persons planning to attend the public hearing of the postponement. However, because of the late publication of this notice, RSPA is aware that some persons may not be informed of the postponement and may show up at the hearing room on the originally scheduled dates. RSPA intends to have personnel at the hearing room to answer questions concerning the docket.

Due to postponement of the public hearing until after the scheduled closing date for comments (November 2, 1987) and having received two petitions from commenters for extension of the comment period, RSPA is extending the comment period until February 26, 1987 to provide adequate time for public review of the proposals contained in the docket.

Issued in Washington, DC, on September 4, 1987, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87-20702 Filed 9-4-87; 10:45 am]

BILLING CODE 4910-60-M

federal register

Tuesday
September 8, 1987

Part III

Department of Education

34 CFR Parts 602 and 603

Secretary's Procedures and Criteria for Recognition of Accrediting Agencies; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 602 and 603

Secretary's Procedures and Criteria for Recognition of Accrediting Agencies

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the regulations concerning the criteria and procedures for the Secretary's recognition of accrediting agencies. These amendments are being made to clarify the regulations, and to require greater emphasis upon assessment of student achievement by accrediting bodies, upon the responsibilities of accrediting agencies for encouraging the truthfulness of institutional claims, and upon reciprocity by recognized accrediting agencies and associations of each other's accrediting actions. These changes are designed to strengthen the role of accrediting agencies in assessing educational quality. The amendments also reduce burdens on applicant accrediting agencies through the elimination or simplification of some current criteria. The Secretary continues to be concerned about administrative soundness and financial viability as well, and the Department will soon be publishing separately regulations designed in part to help ensure that accredited educational institutions eligible for the Department's student financial assistance programs will be well managed.

DATES: Comments must be received on or before October 23, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Kenneth D. Whitehead, Deputy Assistant Secretary for Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education (Room 3082 ROB–3), 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: James B. Williams, telephone number (202) 245–9759.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

SUPPLEMENTARY INFORMATION: These proposed regulations would revise procedures and criteria for the Secretary's recognition of accrediting agencies. Recognition is based on the Secretary's determination that accrediting agencies are reliable authorities concerning the quality of education or training offered by the postsecondary educational institutions or programs within the agencies' respective scopes of operation.

Accreditation of postsecondary institutions or postsecondary programs of institutions by agencies or associations recognized by the Secretary is a prerequisite for eligibility for many types of Federal financial assistance for those institutions or programs and for the students enrolled in those institutions or programs.

An accrediting agency that desires to be recognized by the Secretary submits a petition prepared according to the criteria and procedures in these proposed regulations. If the Secretary recognizes an accrediting agency, the recognized agency will periodically need to petition for continued recognition.

To help ensure that Federal money devoted to postsecondary eduction is spent wisely, the Secretary intends to use his legal authority for recognition of accrediting agencies to improve the quality of postsecondary education. Although educational quality is primarily the responsibility of the institutions themselves, and secondarily of private regulatory bodies established by the institutions as well as of local and State governments, the Secretary has a stewardship responsibility to ensure that Federal monies are used at institutions or in programs that meet certain standards with regard to quality. As a principal means of accomplishing this objective, Congress has given the Secretary the statutory responsibility for periodically publishing a list of nationally recognized accrediting agencies or associations that he determines to be reliable authorities as to the quality of education offered. Accreditation by one of these Secretarially recognized agencies or one of the statutory substitutes for it is a prerequisite for eligibility for many Federal programs.

As the Secretary has said: "In recent years, when addressing postsecondary education, we have tended to concentrate on *quantity*. . . . We are the most educated people in the world. It is time to ensure we are the world's *best* educated people as well. Access is important, but equally important is that this be access to quality. As we assess American postsecondary education today, we must evaluate not only the *quantity*, but also the *quality* of our institutions; not only the quantity of the inputs, but the quality of the results."

With these objectives in mind, as one of his first initiatives upon taking office, the Secretary requested the National Advisory Committee on Accreditation and Institutional Eligibility (NACAIE) to undertake a comprehensive review of the criteria used by the Secretary to recognize accrediting agencies. A "working group" consisting of five members of the NACAIE drafted recommendations which were ratified by the NACAIE and submitted to the Secretary. The Secretary accepted these recommendations at the December 1986 meeting of the NACAIE and charged the Assistant Secretary for Postsecondary Education with preparing a Notice of Proposed Rulemaking based on the NACAIE recommendations. This is the product of that directive.

The NACAIE recommendations included a number of modifications in the existing criteria, but NACAIE concluded that the "triad" of institutional eligibility—the phrase used to describe the partnership of the Federal Government, State governments, and accrediting agencies—is working reasonably well and remains the most effective and workable system available for the evaluation of postsecondary educational institutions and practices. The intention of the proposed criteria developed by the NACAIE working group was to preserve the voluntary, self-regulatory character of accreditation, while providing those working within the system with the encouragement and the support to meet the challenge of improving the quality of postsecondary education, as measured by the educational attainment of students. The Secretary agrees with this basic strategy.

These regulations would become effective no earlier than sixty (60) days after they are published as final regulations in the **Federal Register**, and would apply to each accrediting body the first time it is reviewed by the Secretary or NACAIE following the effective date.

Explanation of Changes from Existing Procedures and Rules

The following is an explanation of the changes that would be made in existing procedures and rules by the proposed regulations.

Assessment of Student Achievement

There recently has been much emphasis within the postsecondary educational community on the effective assessment of student achievement as the principal measure of educational quality. The Secretary is in full accord with this trend and wishes to encourage it. Therefore, these revised regulations,

in § 602.17 in Subpart B, would place greater emphasis upon the consistent assessment of documentable student achievements as a principal element in the accreditation process. This emphasis would follow from an original justification for accreditation as the guarantor of the validity and reliability of educational degrees and credentials, and is in line with what Congress intended when it provided that the Secretary's recognition would help to assure that accrediting agencies were reliable authorities as to the quality of education or training offered.

The Secretary expects that accrediting agencies will respond to this emphasis on institutional quality as measured by student achievement in a variety of appropriate ways. Among other things the Secretary expects accrediting agencies to maintain full and accurate records. The Secretary invites comment about whether the provisions of this NPRM best ensure that accreditation standards and decisions reflect demonstrable student achievement.

Respect for Decisions of States and of Other Recognized Accrediting Bodies

The primary emphasis in § 602.19 in Subpart B would be on reciprocity among accrediting bodies. In an effort to uphold standards for the quality of training and education that are relatively commensurate among agencies accrediting similar institutions or programs, the Secretary would require that an institutional accrediting body refuse to accept for accreditation or preaccreditation an institution that is under adverse action from another institutional accrediting body during the 12 months following the initial adverse action. Correspondingly, an agency would have to accredit or preaccredit only those institutions that are legally authorized within a State to provide a program of education beyond secondary education.

The Secretary has determined that the requirement relating to reciprocity among accrediting agencies is useful on the basis of evidence that institutions and programs that lose their accreditation because of their inability to continue to meet the standards of the agencies that accredited them "shop around" for other accrediting bodies whose standards they can meet, rather than trying to correct their deficiencies.

The Secretary would also require, in cases of simultaneous accreditation of an institution or program by more than one institutional accrediting body, that an institutional accrediting body as a matter of reciprocity re-evaluate its accreditation of an educational institution or program that loses its institutional accreditation from another institutional accrediting body.

While it is in many cases legitimate, simultaneous accreditation of an institution or program by more than one institutional accrediting body is sometimes sought by an institution or program as a hedge against losing accreditation and, therefore, eligibility for Federal assistance. Multiple institutional or programmatic accreditation makes it much easier for an institution or program of questionable quality to manipulate the procedural protections inherent in the accreditation process and thus to frustrate attempts to promote quality through accreditation standards.

Regard for Institutional Integrity

The emphasis in § 602.18 is on the integrity of an institution or program and its practices as a component of the quality of education or training offered. In judging whether an accrediting agency is a reliable authority concerning institutional integrity, the Secretary would review the accrediting body's policies and practices concerning the accuracy and adequacy of the institution's representations with regard to its programs and practices, what it expects of students, and the methods and evidence by which it ascertains the degree of their fulfillment of these expectations. Diligence by an agency in requiring that each institution fully and accurately document its representations would be a major factor in the Secretary's determination, including the documentation of employment data related to the education or training by institutions or programs offering a program of training to prepare students for gainful employment in a recognized occupation.

Among the major items that any accrediting agency (or student or parent) needs when evaluating the quality of educational or training alternatives is accurate information about the content, typical results, and costs of each alternative. How much does a typical student gain from each alternative and at what cost? This section represents a reasonable attempt by the Secretary to ensure that the information is available to those who want to make comparisons.

Notice to the Department of Education

Under current regulations there is no provision for accrediting agencies to notify the Department of Education routinely of decisions that affect an institution's or program's Federal program eligibility status. In certain instances, recognized accrediting agencies have not provided timely notice of those actions. Therefore, under paragraph (f) of § 602.16 the Secretary would require recognized accrediting agencies to notify appropriate staff of the Department within 30 days of denying or withdrawing accreditation or preaccreditation or of placing an institution or program on public probation.

Ability to Benefit

This criterion implements the newly enacted legislative provision applicable to students entering a postsecondary educational institution or program under the "ability to benefit" provision, i.e., those students entering without a high school diploma or equivalency diploma or the commitment to earn an equivalency diploma within the time limit established by Congress, if the institution or program participates in the Title IV student financial assistance programs. These students must be administered a nationally recognized standardized test or an industry-developed test or be counseled about their ability to complete successfully their educational program before being admitted according to criteria developed by the cognizant accrediting body.

Scope of the Secretary's List

The revised regulations for the first time would specifically limit the Secretary's list of nationally recognized accrediting agencies only to agencies that accredit postsecondary educational institutions and programs. In that regard, the Secretary has determined that there is no necessity for recognition of accrediting bodies for evaluation of education at the elementary or secondary levels. Since the Secretary's list up to now has included agencies that accredit education below the postsecondary level, this limitation would result in a change in the character of the list. The Secretary also considers whether an accrediting agency demonstrates that the institutions or programs it accredits must be accredited by an accrediting agency recognized by the Secretary in order for those institutions or programs, or their students, to be eligible for participation in one or more Federal programs.

Burden Reduction

Although the proposed regulations include certain new criteria intended to strengthen the practice of accreditation in the United States, they would also include changes intended to eliminate some existing criteria. These proposed regulations would extend the maximum period of recognition from four to five years. This change would reduce the

frequency of the petitioning process. A number of other previous criteria, largely procedural and less directly related to the Secretary's authority to recognize an accrediting agency as a reliable authority concerning the quality of education or training, have been omitted.

Clarification and Reorganization

The Secretary is also clarifying and simplifying the existing regulations. Items have been reorganized and merged to eliminate repetition. The criteria now appear at sections 602.10—602.20.

Executive Order 12291

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

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. In general, these revised regulations would extend the recognition period, eliminate a substantial number of former requirements, and reinforce current trends among the nationally recognized accrediting agencies.

Paperwork Reduction Act of 1980

Section 602.18 contains an information collection requirement. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation to Comment

Interested parties are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3082, Regional Office Building 3, 7th and D Streets SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 602 and 603

Colleges and universities, Education.

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

Dated: September 2, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Chapter VI of Title 34 of the Code of Federal Regulations as follows:

PART 603—[AMENDED]

1. The authority citation for Part 603 continues to read as follows:

AUTHORITY: (20 U.S.C. 403(b), 1085(b), 1141(a), 1248(11); (42 U.S.C. 293a (b), 295f–3(b), 295h–4(1)(D), 298b(f); (8 U.S.C. 1101(a)(15)(f); (12 U.S.C. 1749c(b)); (38 U.S.C. 1775(a)), unless otherwise noted.

2. The title of Part 603 is amended by removing the words "National Acrediting Bodies And".

Subpart A—[Removed]

3. Subpart A of Part 603 is removed.

4. A new Part 602 is added to read as follows:

PART 602—SECRETARY'S PROCEDURES AND CRITERIA FOR RECOGNITION OF ACCREDITING AGENCIES

Subpart A—General Provisions

Subpart B—Criteria for Secretarial Recognition

Authority: 20 U.S.C. 1058, 1061, 1085, 1088, 1141, 1401, 2471, and 3381, unless otherwise noted.

Subpart A—General Provisions

§ 602.1 Scope and purpose.

(a) This part establishes procedures and criteria for the Secretary's recognition of accrediting agencies. Recognition is based on the Secretary's determination that accrediting agencies are reliable authorities concerning the quality of education or training offered by the postsecondary educational institutions and programs within the agencies' respective scopes of operation.

(b) Accreditation of postsecondary institutions or postsecondary programs by agencies or associations recognized by the Secretary is a prerequisite to eligibility for many types of Federal financial assistance for those institutions or programs and for the students enrolled in those institutions or programs.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.2 Definitions.

The following definitions apply to terms used in this part:

(a) *Definitions in the Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Department

Secretary

State

(b) *Definitions that apply to this part.* The following definitions also apply to this part:

"Accrediting" and "accreditation" refer to the public recognition of the level of quality of an educational institution or program that is granted by an agency.

"Accrediting agency" and "agency" mean a legal entity, or a part of that entity, which conducts accrediting activities.

"Act" means the Higher Education Act of 1965, as amended.

"Educational program" means a program of organized instruction or study, offered by an educational institution or other organization, that leads to an academic, vocational, or professional degree or certificate.

"Preaccreditation" means an agency's formal grant of status to an educational institution or program that signifies that the agency expects the institution or program to obtain accredited status from that agency within a specified period of time.

"Recognized agency" means an agency currently recognized by the Secretary under this part.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.3 Recognition procedures.

(a) An accrediting agency that desires to be recognized by the Secretary under this part shall apply in writing to the United States Department of Education, Office of Postsecondary Education, Washington, DC 20202.

(b) For both initial recognition and continued recognition, the accrediting agency, with regard to its requested scope of recognition, shall provide or make available to the Secretary information and materials that pertain to each of the criteria in Subpart B.

(c) To the extent that the documentation submitted by an agency under paragraph (b) of this section does not demonstrate to the satisfaction of the Secretary that the agency meets one or more of the criteria contained in Subpart B, the Secretary may require that the agency—

(1) Submit any additional information and materials;

(2) Make its personnel available for interviews by Department personnel; and

(3) Make its facilities and records available for review by Department personnel.

(d) The Secretary does not deny or withdraw recognition of an agency, or limit recognition of an agency to a scope narrower than that requested, without first giving the agency an opportunity to show cause why that action should not be taken.

(e) The Secretary re-evaluates each recognized agency at the Secretary's discretion, but at least once every five years.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.4 Participation of National Advisory Committee.

In making determinations under this part, the Secretary considers the recommendations of the National Advisory Committee on Accreditation and Institutional Eligibility, which is established by section 1205 of the Act.

(Authority: 20 U.S.C. 1058 *et al.*, 1145)

§ 602.5 Publication of list of recognized agencies.

The Secretary periodically publishes in the **Federal Register** a list of recognized agencies, including the scope of recognition of each agency.

(Authority: 20 U.S.C. 1058 *et al.*)

Subpart B—Criteria for Secretarial Recognition

§ 602.10 Criteria for recognition.

(a) The Secretary recognizes an accrediting agency only if the Secretary determines that the agency is a reliable authority as to the quality of the education or training offered by postsecondary educational institutions or programs within the agency's scope of activity. In making this determination, the Secretary decides whether the agency possesses the characteristics and follows the procedures described in this subpart.

(b) To be recognized by the Secretary, an agency must satisfactorily meet each of the criteria in §§ 602.11–602.20 unless it can demonstrate to the Secretary's satisfaction why one or more criteria should not appropriately be applied.

(c) For purposes of the determination in paragraph (b) of this section, each section, taken as a whole, constitutes a criterion.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.11n Experience.

An accrediting agency must have at least two years of experience with respect to the scope of activity for which it seeks recognition.

(Authority: 20 U.S.C. 1508 *et al.*)

§ 602.12 Scope of activity.

The Secretary determines whether an accrediting agency—

(a)(1) Is national in the scope of its operation; or

(2) Conducts accreditation of entire educational institutions, as opposed to programs, throughout at least three States that are contiguous or that otherwise constitute a distinct geographical region; and

(b) Demonstrates that the institutions or programs it accredits must be accredited by an accrediting agency recognized by the Secretary in order for those institutions or programs, or their students, to be eligible for participation in one or more Federal programs.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.13 Clarity of purpose, scope, and operational information.

The Secretary determines whether an accrediting agency maintains, and makes publicly available, written material clearly describing each of the following matters:

(a) Its purposes and objectives.

(b) The geographical area and the types and academic levels of educational institutions and programs covered by the agency's accrediting activity.

(c) The definitions of each type of accreditation and preaccreditation status, including probationary status, that the agency grants.

(d) The procedures used by the agency in determining whether to grant, reaffirm, reinstate, deny, restrict, or revoke each type of accreditation and preaccreditation status that the agency grants.

(e) The procedures offered by the agency for appeal of its denials or revocations of accreditation or preaccreditation status.

(f) The standards against which the agency evaluates educational institutions or programs for the purpose of making the determinations described in paragraph (d) of this section, and the criteria used for making decisions on the basis of those standards.

(g) The current accreditation or preaccreditation status granted by the agency to each educational institution or program within the agency's scope of operation.

(h) The names of all members of the agency's policy and decision-making bodies responsible for its accrediting activities and their relevant employment or organizational affiliations, and the names of its principal administrative staff.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.14 National recognition.

The Secretary determines whether an accrediting agency demonstrates that its policies, evaluation methods and decisions are accorded recognition throughout the United States by, as appropriate—

(a) Educators and educational institutions;

(b) Licensing bodies, practitioners, and employers in the professional or vocational fields for which the educational institutions or programs within the agency's jurisdiction prepare their students; and

(c) Recognized agencies.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.15 Resources.

The Secretary determines whether an accrediting agency has and will have available sufficient resources to carry out its accreditation function in light of its requested scope of recognition, including—

(a) Administrative staff and financial resources; and

(b) Competent and knowledgeable personnel responsible for policy-making

and decisions regarding accreditation and preaccreditation status.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.16 Integrity of process.

the Secretary determines whether an accrediting agency adheres to the following practices and procedures in making its determinations concerning accreditation and preaccreditation status:

(a) As an integral part of its accrediting activity—

(1) It requires self-analysis by each subject educational institution or program in accordance with guidance provided by the agency; and

(2) It conducts an on-site review of the institution or program, independently analyzes and evaluates the data furnished, and provides a written report on the view to the institution or program concerning—

(i) The strengths and weaknesses of the institution or program; and

(ii) The institution's or program's performance respecting the requirements related to assessment of student achievement described in § 602.17.

(b) It re-evaluates at reasonable intervals the institutions or programs to which it has granted accreditation or preaccreditation status.

(c) It bases its decisions regarding the award of accreditation or preaccreditation status upon its published standards.

(d) With regard to the award of preaccreditation status, it applies standards and follows procedures that are appropriately related to those used to award accreditation status.

(e) It offers appropriate and fair procedures for appeals of its denial or withdrawal of accreditation or preaccreditation status.

(f) It agrees in writing to provide written notice to the Secretary within 30 days of any decision, including any decision subject to appeal—

(1) To deny or withdraw the accreditation or preaccreditation status of an institution or program; or

(2) To place an accredited or preaccredited institution or program on public probationary status.

(g) Its organization, functions, and procedures include effective controls against conflicts of interest and against inconsistent application of its standards.

(h) It requires that each institution or program to which it has granted accreditation or preaccreditation status prominently and accurately disclose that status to the public, including the academic or instructional programs covered by that status.

(i) It maintains a systematic program of review designed to assess the validity and reliability of its standards for determining accreditation and preaccreditation status.

(j) It maintains full and accurate records of its reviews of institutions and its decisions with respect to preaccreditation, accreditation, and adverse actions.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.17 Focus on assessment of student achievement.

The Secretary determines whether an accrediting agency, in making its decisions, places substantial emphasis on the assessment of student achievement by educational institutions or programs, by requiring that each institution or program—

(a) Clearly specifies educational objectives that are appropriate in light of the degrees or certificates it awards;

(b) Adopts and implements effective measures, such as testing, for the verifiable and consistent assessment and documentation of the extent to which students achieve the educational objectives described in paragraph (a) of this section;

(c) Confers degrees or certificates only on those students who have demonstrated educational achievement as assessed and documented through appropriate measures described in paragrpah (b) of this section;

(d) Broadly and accurately publicizes, particularly in representations directed to prospective students, the objectives described in paragraph (a) of this section, the assessment measures described in paragraph (b) of this section, and the information obtained through those measures; and

(e) Systematically applies the information obtained through the measures described in paragraph (b) of this section toward steps to foster enhanced student achievement with respect to the degrees or certificates offered by the institution or program.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.18 Regard for institutional integrity.

The Secretary also determines whether an accrediting agency—

(a) Maintains, and disseminates to each institution or program to which it has granted status, guidelines designed to ensure—

(1) That any representations made, through catalogs, other publications, and advertisements, and through statements by representatives of the institution or program, that inform prospective students about such matters as the following are accurate and not misleading—

(i) The institution's or program's resources, admission policies and standards, academic offerings, fees and other charges, refund policies, and graduation rates and requirements;

(ii) The institution's or program's educational effectiveness (outcomes and results) as described in § 602.17, particularly with regard to students receiving its degrees or certificates; and

(iii) Data on alumni employment related to the education or training offered, in the case of an institution or program offering training to prepare students for gainful employment in a recognized occupation;

(2) The appropriate scope and content of information that should be provided to prospective students regarding their academic and financial responsibilities, including the institution's or program's expectations with regard to satisfactory academic progress and its cost and refund policies; and

(3) The kind of documentation that the institution or program should maintain to demonstrate its compliance with the guidelines described in paragraphs (a) (1) and (2) of this section;

(b) Uses site visits and periodic reviews of catalogs and other descriptive materials of the institutions or programs within its scope of operation, in order to ensure that the institutions or programs follow the guidelines described in paragraph (a) of this section; and

(c) Reviews and takes adverse action against accredited or preaccredited institutions or programs that either fail to meet its standards for award of accreditation or preaccreditation status or fail to follow its guidelines described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.19 Regard for decisions of States and of other accrediting agencies.

The Secretary determines whether an accrediting agency, in making its decisions, shows regard for the decisions of States and of other recognized accrediting agencies by conforming with the following practices:

(a) Recognizing only those institutions or programs that are legally authorized within a State to provide a program of education beyond secondary education.

(b) Declining to grant initial accreditation or preaccreditation status to an educational institution or program that has been denied accreditation or preaccreditation status or had its accreditation revoked by another recognized agency within the previous twelve months.

(c) If another recognized agency revokes an institution's accreditation,

promptly reviewing the institutional accreditation or preaccreditation status it has previously granted to that institution to determine if there is cause for it to withdraw that status.

(Authority: 20 U.S.C. 1058 *et al.*)

§ 602.20 "Ability to benefit" under Title IV student financial assistance programs.

If an accrediting agency is seeking recognition with regard to institutions or programs that admit students on the basis of their "ability to benefit" from the education or training offered and that desire to participate in one or more student financial assistance programs under Title IV of Act, the Secretary determines whether that agency has developed criteria for preadmission counseling of prospective students or for the administration to prospective students of a nationally recognized standardized or industry-developed test measuring the aptitude of prospective students to complete successfully the program for admission to which they have applied.

(Authority: 20 U.S.C. 1058 *et al.* and 1091(d))

[FR Doc. 87-20645 Filed 9-4-87; 12:23 pm]

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CFR CHECKLIST

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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
40-49	12.00	Apr. 1, 1987
50-299	14.00	Apr. 1, 1987
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	10.00	July 1, 1987
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
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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:		
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200–End	19.00	July 1, 1986
37	12.00	July 1, 1986
38 Parts:		
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18–End	15.00	July 1, 1986
***39**	13.00	July 1, 1987
40 Parts:		
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7	6.00	[5] July 1, 1984
8	4.50	[5] July 1, 1984
9	13.00	[5] July 1, 1984
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44	17.00	Oct. 1, 1986
45 Parts:		
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1–40	13.00	Oct. 1, 1986
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200–499	19.00	Oct. 1, 1986
500–End	9.50	Oct. 1, 1986
47 Parts:		
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15–End	22.00	Oct. 1, 1986
49 Parts:		
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178–199	19.00	Oct. 1, 1986
200–399	17.00	Oct. 1, 1986
400–999	21.00	Oct. 1, 1986
1000–1199	17.00	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.